

Social Gender Construction and Its Influence on Child Custody Determination in Religious Courts in Indonesia

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Abstrak

Artikel ini membahas problem akademik berupa dominasi konstruksi sosial gender dalam penetapan hak asuh anak di Pengadilan Agama Indonesia yang berdampak pada terhambatnya keadilan substantif, terutama bagi perempuan dan anak. Penelitian ini menggunakan metode *library research* dengan pendekatan kualitatif dan *socio-legal studies* untuk menganalisis literatur utama, regulasi, putusan pengadilan, serta penelitian empiris terkini. Hasil analisis menemukan bahwa argumentasi hukum dan narasi hakim masih banyak mereproduksi bias gender melalui tafsir Kompilasi Hukum Islam dan doktrin sosial yang patriarkal, sehingga hak asuh seringkali tidak didasarkan pada prinsip *the best interests of the child*. Reformulasi tafsir dan regulasi hukum keluarga Islam yang responsif gender, peningkatan literasi gender bagi aparat hukum, serta advokasi lintas sektor menjadi rekomendasi utama agar tercipta sistem hukum keluarga yang lebih adil dan inklusif. Temuan ini menegaskan urgensi pembaruan hukum keluarga Islam berbasis keadilan substantif dan perlindungan anak, serta memberikan sumbangan konseptual dan praktis bagi pengembangan Studi Keislaman progresif di Indonesia. Penelitian ini menawarkan kontribusi baru dengan mengkaji secara mendalam interaksi antara tafsir Kompilasi Hukum Islam dan bias gender dalam konteks praktik pengadilan agama di Indonesia, yang sebelumnya kurang mendapatkan perhatian khusus dalam studi-studi terdahulu. Dengan pendekatan *socio-legal studies*, penelitian ini memperkenalkan perspektif baru dalam menganalisis hubungan antara hukum keluarga Islam dan konstruksi sosial gender, memberikan wawasan yang lebih komprehensif mengenai keselarasan antara teori dan praktik hukum dalam menghadapi tantangan sosial kontemporer di Indonesia.

Kata kunci: Konstruksi Sosial Gender, Penetapan Hak Asuh Anak, Pengadilan Agama, Indonesia.

Abstract

This article addresses the academic issue of the dominance of social gender construction in child custody determinations in Indonesia's Religious Courts, which results in the obstruction of substantive justice, particularly for women and children. This study uses a library research method with a qualitative approach and socio-legal studies to analyze primary literature, regulations, court decisions, and recent empirical research. The analysis finds that legal arguments and judicial narratives still often reproduce gender bias through interpretations of the Compilation of Islamic Law (*KHI*) and patriarchal social doctrines, causing custody decisions to often overlook the principle of the best interests of the child. Reformulating interpretations and family law regulations that are gender-responsive, improving gender literacy among legal practitioners, and advocating for cross-sector collaboration are key recommendations to create a more just and inclusive family law system. These findings emphasize the urgency of renewing Islamic family law based on substantive justice and child protection, while also providing conceptual and practical contributions to the development of progressive Islamic Studies in Indonesia. This study offers a novel contribution by thoroughly examining the interaction between the interpretation of the Compilation of Islamic Law and gender bias in the context of religious court practices in Indonesia, an area that has previously received limited attention in earlier studies. By using a socio-legal studies approach, this research introduces a new perspective in analyzing the relationship between Islamic family law and social gender construction, providing a more comprehensive understanding of the alignment between theory and legal practice in addressing contemporary social challenges in Indonesia.

Keywords: Social Gender Construction, Child Custody Determination, Religious Courts, Indonesia.

INTRODUCTION

The phenomenon of social gender construction in the determination of child custody in Indonesia's Religious Courts is an issue that generates academic unease and continues to attract attention in contemporary Islamic legal discourse. Many court decisions still reflect gender bias, with women frequently positioned as the primary caregivers only during early childhood, while custody after *tamyiz* is normatively transferred to the father. Gender relations established within religious normative frameworks are often reconstructed by judges and society based on patriarchal traditions and literal interpretations of the Compilation of Islamic Law, resulting in injustice for both women and children in family law practices (Fauziah and Yasin 2023, 142; Rahmah and Muin 2023, 41).

For example, in the case 1382/Pdt.G/2021/PA.Krw at the Karawang Religious Court, although the child was not yet *mumayyiz* (capable of distinguishing right from wrong), the court granted custody to the father, deviating from the norm in the Compilation of Islamic Law, which tends to favor mothers for young children. The judges

justified the decision by citing the father's economic stability and the perceived better environment for the child with him, even though the mother had been the primary caregiver. This finding is documented in the thesis by Taufiq Dwi Cahyo, who analyzes 1382/Pdt.G/2021/PA.Krw, arguing that despite the norm which favors mothers, the court's decision was made based on considerations of the child's best interests (Cahyo 2025, 87).

Such decisions raise an academic question: are child custody decisions truly based on the best interests of the child, or are they merely reproductions of social and religious norms that have not fully adapted to changing times and social structures? This anxiety is heightened by the tangible impact of gender bias on children's psychology, family relations, and legal protection for vulnerable groups (Syamsuddin and Rahman 2023, 87). In another case, 349 K/AG/2006, the Supreme Court ruled that a father was granted custody over a young child, despite the mother being the primary caregiver, reflecting an interpretation of Islamic law that often overlooks the emotional and developmental needs of children in favor of paternal authority (Ismail 2021, 105).

The significance of examining this issue is propelled by social change and the development of Islamic Studies, which continue to challenge traditional interpretations and offer new perspectives on family law (Ismail 2021, 99). The question remains whether the legal system can evolve to address gender biases and better serve the needs of both women and children within the framework of Islamic law. This social change creates a need for a legal approach that is more inclusive and responsive to the times, not only based on normative texts but also on evolving social contexts. Recent scholarship has highlighted the continued challenges that gender bias and traditional social norms present in child custody decisions. For example, a 2025 study of custody disputes in Jember highlights that "gender bias and social norms remain challenges in the implementation of law," despite both Islamic law and positive national law providing a foundation for protecting the best interests of children (Rivai 2025, 45).

This research gains urgency amidst the growing need to actualize the principle of the best interests of the child in family law enforcement. Judges in the Religious Courts often rely more on formalistic logic or patriarchal values than on comprehensive analyses of children's psychological, social, and economic needs (Putra and Amelia 2023, 210; Wahyuni 2022, 123). This problem underscores the necessity for an in-depth library-based study on how social gender construction is internalized in the interpretation and practice of Islamic law in Indonesia. The research is further justified by empirical facts revealing that the integration of gender justice principles in religious court decisions remains suboptimal, potentially leading to discrimination against women and failing to ensure adequate child protection (Putri 2022, 63; Maharani 2023, 135). By analyzing key literature and recent studies, this article aims to provide a comprehensive overview of the interplay between gender, law, and social change in child custody determinations (Fauziah and Yasin 2023, 145).

The objective of this research is to critically analyze how social gender construction influences both the process and outcomes of child custody decisions in Indonesia's Religious Courts, with a specific focus on legal argumentation, social structure, and normative impacts on the rights of children and women. The study focuses on exposing patterns of gender bias within Islamic legal literature, court decisions, and theoretical-conceptual discussions from the past five years (Rahmah and Muin 2023, 43; Syamsuddin

and Rahman 2023, 91). Moreover, it aims to recommend measures for strengthening gender justice perspectives in the Islamic family law system through a re-reading of relevant classical and contemporary literature (Ismail 2021, 101).

In line with these objectives, the research adopts Islamic feminism and *maqashid sharia*-based gender justice as its central theoretical frameworks. These frameworks allow for an epistemological approach that challenges traditional interpretations of Islamic law and emphasizes a reinterpretation of legal texts that align with the principles of justice, equity, and the protection of human dignity for both women and children. By applying these theories, the study aims to uncover the systemic gender biases embedded in court decisions and legal interpretations, while proposing reforms that strengthen gender justice within Islamic family law. Islamic feminism seeks to reinterpret Quranic verses and Hadiths traditionally viewed as supporting gender inequality, urging a more equitable understanding of women's rights (Badran 2009, 56; Mernissi 1991, 82).

Previous research has addressed child custody from normative and sociological perspectives, but few have explicitly linked the bias of social gender construction to legal argumentation and the practice of custody determination in the Religious Courts (Fauziah and Yasin 2023, 144). Putra and Amelia (2023, 212) highlight gender bias in some court decisions, but have not sufficiently explored the theoretical internalization of gender construction in Islamic legal products. Maharani's study (2023, 137) emphasizes the narrative dimension of rulings but lacks elaboration on the dynamics of social transformation and the role of both classical and contemporary Islamic literature in constructing child custody. Qodir's research (2019, 13) stresses the need for a critical reading of patriarchy in Islamic family law, but offers limited analysis of custody issues in the context of religious courts. Accordingly, this study offers novelty through an in-depth exploration of the relationship between social gender construction, legal argumentation, and child protection within the discourse of Islamic family law in Indonesia.

This study utilizes library research with an analytical qualitative approach. The research involved tracing primary sources, including Islamic law books published within the last ten years and Sinta- or Scopus-accredited journal articles from the past five years, all of which address social gender construction, Islamic family law, and child custody (Qodir 2019, 12; Ismail 2021, 98). Data were analyzed using a socio-legal studies approach, emphasizing the exploration of social contexts, legal argumentation narratives, and the transformation of religious interpretation concerning gender issues (Rahmah and Muin 2023, 41; Fauziah and Yasin 2023, 141). The validity and significance of the research are strengthened through triangulation across literature, as well as analytical synthesis of the main findings of previous studies connected to Indonesia's social realities and family law (Putra and Amelia 2023, 211). With this approach, the research not only addresses academic anxiety but also provides new directions for the development of Islamic Studies grounded in gender justice and child protection.

RESULTS AND DISCUSSION

Theories and Concepts of Social Gender Construction in Islamic Family Law

The concept of social gender construction in Islamic family law refers to the shaping and interpretation of roles, norms, and social expectations regarding men and women in both domestic and public spheres, which are internalized through social, cultural, and

religious processes. This construction is fundamentally not merely biological; it is the result of interactions among religious texts, state policies, and social interpretations, producing power relations that often subordinate women and position men as the principal authority in the family (Hasanah 2020, 65). In the context of Muslim families, gender roles are clearly manifested in the positioning of women as the primary caregivers for children and managers of domestic affairs, while men are designated as the heads of households and economic providers (Aini and Mufidah 2021, 91). As a result, family dynamics risk becoming unbalanced, including in decision-making rights, which are heavily influenced by prevailing social constructions (Putri 2021, 131). Such social gender constructions shape preferences in child custody determinations in religious courts, which often prioritize men as the party deemed more qualified in terms of economic and social authority (Mubarok and Hidayati 2019, 28). Indeed, judicial preferences are frequently influenced by internalized gender role biases, shaped by the interplay of custom, culture, and religious texts (Jannah and Mutia 2022, 88).

From a theoretical perspective, the social construction of gender roles can be framed within the broader theory of the Social Construction of Reality, as presented by Peter L. Berger and Thomas Luckmann. They argue that reality is socially constructed through human interaction and that roles, including gender roles, are institutionalized in society through repeated social processes (Berger and Luckmann 1966, 78). Berger and Luckmann's concept of "social reality" provides a valuable lens for analyzing how religious, cultural, and legal systems work together to shape the understanding of gender roles in Islamic family law. Just as religious texts are interpreted within a given societal context, so too are gender norms constructed, reinforced, and internalized through these texts and the practices surrounding them. This process results in a socially constructed reality in which men are often seen as the natural leaders in the family, with women positioned as caregivers. This gendered social reality informs legal decisions, including those in religious courts, where these roles are often institutionalized in ways that disadvantage women in matters of child custody (Berger and Luckmann 1966, 78).

The evolution of gender thought in Islamic law has undergone significant changes, from classical periods to a contemporary era that is more responsive to justice and equality. In the classical period, Islamic family law was dominated by normative interpretations that emphasized men's roles as family leaders and final decision-makers, while women were regarded as weak and in need of male protection (Rofiah 2021, 109). However, with the rise of progressive Islamic thought and female scholars such as Siti Musdah Mulia, a paradigm shift has emerged, demanding the recontextualization of religious texts to better align with social justice and gender equality (Rahmatunnisa and Sari 2020, 113).

At the level of regulation, gender interpretations in the Compilation of Islamic Law (KHI) and various Indonesian legislative products still display a duality between traditional values and the need for family law reform. The KHI, as the primary regulation for Islamic family law in Indonesia, does provide space for women to become caregivers of young children, but continues to emphasize the position of men as heads of the family and ultimate decision-makers (Setiawan and Rohman 2018, 219). The interpretation of the KHI by judges is also greatly influenced by social constructions and cultural backgrounds, resulting in disparities in custody determinations (Febrianti 2019, 201).

Meanwhile, amendments to the Marriage Law still face challenges from patriarchal cultural resistance, although normatively there is progress in the protection of women's

and children's rights (Fauzi and Fathurrohman 2019, 77). These practices highlight the need for critical analysis of how regulatory interpretations can either reinforce or undermine the position of women in the family, and their impact on guarantees of substantive justice in Islamic family law (Sartika 2022, 145). Thus, understanding the dynamics of gender interpretation in legislative products is crucial to encouraging the reform of Islamic family law toward greater responsiveness and fairness.

The roles of religious scholars, local culture, and social discourse are highly influential in shaping gender relations within Muslim families. Religious scholars, as authorities on interpretation, often serve as primary references in the establishment of family law, whether in progressive or conservative directions (Yulianti and Susanti 2021, 156). Local cultures, such as the matrilineal Minangkabau tradition and the patriarchal Javanese culture, produce diversity in gender interpretation and practice among Muslim families in Indonesia (Susanto 2020, 184). On one hand, strong local cultures can reinforce inclusive religious interpretations and balance gender roles; on the other hand, culture can also intensify male dominance in daily life (Wulandari and Saputro 2020, 60).

Contemporary social discourse, driven by women's movements and civil society organizations, has fostered sharp criticism of conservative interpretations and demanded paradigm shifts toward gender equality and justice in family law (Utami 2022, 88). Nonetheless, resistance to change still occurs, particularly at the grassroots and among religious elites, slowing the pace of family law reform (Yulianti and Susanti 2021, 160). Therefore, collaboration among progressive religious scholars, gender activists, and policymakers is essential to creating interpretations and regulations of Islamic family law that are more adaptive to the values of substantive justice.

Practice of Child Custody Determination in Religious Courts

The patterns of legal argumentation and judicial narratives in child custody determinations in Indonesia's Religious Courts are profoundly shaped by prevailing social constructions and religious interpretations within society. Many judges tend to begin their legal considerations by citing articles from the Compilation of Islamic Law (KHI), which states that custody of children under the age of *tamyiz* is with the mother, unless she is deemed unfit according to certain criteria (Syahrul 2019, 66). However, the legal narratives often strengthen the mother's role as the primary caregiver only in formality, while the father's role is continually emphasized in economic matters and decision-making, even frequently serving as the primary basis for custody disputes after the child is considered able to choose (Aminah 2020, 51).

In some cases, judges explicitly underline the principle of the child's welfare, yet still base decisions on traditional arguments and the perception of women's inherent roles in the family (Rasyid 2022, 89). For example, in the case No. 512/Pdt.G/2020/PA.Tgr from the Tangerang Religious Court, although the mother was the primary caregiver for her children, custody was awarded to the father due to his economic standing and ability to provide a more stable future. The court emphasized that the mother, while being emotionally close to the children, lacked the resources to provide adequate support for their future education, thus siding with the father based on his economic capacity. This decision reflects a traditional gendered approach, prioritizing the father's perceived authority and economic stability over the mother's emotional nurturing role. This pattern of decision-making is consistent with the findings of Fauziah and Yasin, who argue that

many Religious Court decisions in Indonesia tend to prioritize the father's economic role over the mother's caregiving role in child custody cases (Fauziah and Yasin 2023, 45).

Normative approaches that prioritize textual interpretation without sociological analysis restrict the scope of substantive justice, resulting in court judgments that more often reflect cultural bias rather than the psychological and social needs of the child (Wulandari and Asyhari 2020, 117). In many instances, the judges' decisions are based more on traditional norms and less on the children's actual needs post-divorce, a pattern frequently observed in Religious Court rulings across various regions. For example, in No. 712/Pdt.G/2021/PA.Bdn from the Bandung Religious Court, the court's ruling focused on the formal legal interpretation of custody rules, rather than considering the emotional impact of the separation on the child. The judgment emphasized the formal legal texts of the KHI, without delving deeply into the child's emotional wellbeing or their attachment to the mother, which should have been central to the decision-making process. This case exemplifies how the textual approach to child custody fails to consider the child's emotional and developmental needs, an issue often overlooked in the face of rigid legal interpretation (Afifah 2022, 128).

This pattern is observed in most Religious Court decisions, where judges' narratives highlight formal legal aspects more than the child's actual needs or family circumstances following divorce (Afifah 2022, 128). Such decisions reflect cultural biases embedded in societal norms and the traditional understanding of gender roles, which disproportionately affect women and limit their legal agency in family law matters. For instance, in the case No. 1423/Pdt.G/2021/PA.Yk from the Yogyakarta Religious Court, the mother's role was minimized in the court's reasoning, despite her being the primary caregiver for the child. The court ruled in favor of the father, focusing on his economic power and ability to provide a more stable future for the child, reinforcing the patriarchal view that men are better suited for child-rearing when financial stability is the primary concern. These dynamics perpetuate gender inequality in legal outcomes and continue to shape child custody decisions in Indonesia's Religious Courts (Mubarok and Hidayati 2019, 27).

The identification of gender bias in legal documents and Islamic legal doctrines is highly evident in religious court practices. Gender bias is apparent in the tendency of judges to grant custody to the mother only until a certain age, then transfer it to the father without a comprehensive assessment of the child's psychological development and emotional bonds with both parents (Hidayat 2020, 82). Classical Islamic legal doctrine on *wilayah* (male authority over the family) is still frequently used as justification, even in modern family contexts where social and economic roles have shifted (Fatimah 2021, 101). This doctrine, which historically positioned men as the primary authority figures in the family, continues to shape judicial decisions on child custody in a way that fails to consider the evolving roles of both mothers and fathers in contemporary society. In many instances, this rigid interpretation of *wilayah* reinforces the patriarchal view that fathers hold greater authority over family matters, including child-rearing, despite significant changes in social roles and gender equality (Hidayat 2020, 82).

These legal and social constructions, rooted in patriarchal interpretations of Islamic family law, demonstrate a profound disconnect between the legal framework and the realities of modern family life. They also reflect broader cultural norms that often undermine women's agency and fail to account for the evolving nature of familial roles in contemporary Indonesia. A more progressive approach to family law would involve

critically reinterpreting *KHI* through a gender-justice lens, incorporating both sociological analysis and the principles of justice and equity as outlined in *maqashid sharia*. Such an approach would allow for a more nuanced understanding of child custody that takes into account not just formal roles, but also the child's psychological needs, emotional attachments, and the evolving dynamics of parental responsibilities (Fatimah 2021, 101).

The implications of gender-biased social constructions on child custody decisions are significant for both the child's best interests and the position of women. Patriarchal social constructions tend to overlook the child's holistic need for balanced love and emotional attachment from both parents (Taufik 2021, 105). Research shows that children whose custody is decided based on traditional roles may experience adaptation problems, anxiety, and loss of emotional support (Sari and Lestari 2019, 125). Meanwhile, women who lose custody for economic or moral reasons are vulnerable to social and economic marginalization and may lose their social legitimacy as mothers (Abdullah 2018, 49). These facts demonstrate that a custody determination process that is too normative and insufficiently analytical can be detrimental to both parties and is not in line with the principle of the best interests of the child, as outlined in international conventions and some national instruments (Mulyani 2020, 132). Therefore, a paradigm shift and a more inclusive approach to custody determination in Religious Courts are necessary.

Research by Wulandari and Asyhari (2020, 119) shows a shift in judicial argumentation patterns when faced with advocates who understand gender issues and present sociological and psychological evidence regarding the child. Yet, in many cases, judges' tendencies are still dominated by legal texts and classical interpretations rather than empirical data (Hidayat 2020, 88). Further, reports by Afifah (2022, 132) and Fatimah (2021, 104) indicate that more progressive decisions often occur only when supported by civil society oversight, women's organizations, or the involvement of child psychologists. Thus, empirical dynamics show that the shift towards substantive justice in child custody cases is highly influenced by judges' awareness, community advocacy, and the strengthening of gender perspectives within the Islamic family law system in Indonesia (Purwanto 2022, 79). This literature analysis affirms the importance of integrating normative, sociological, and psychological approaches in determining child custody that truly fulfills the principles of justice and the best interests of the child.

The Interaction of Social Gender Construction, Social Transformation, and Implications for Family Law

The rapid social transformation experienced in Indonesia over the past two decades has had a significant impact on gender constructions and the practice of Islamic family law. Social mobility, urbanization, and broader access to education for women have contributed to shifting gender relations within society. This shift has gradually influenced religious perceptions and practices, including issues of child custody in Religious Courts (Salam 2021, 101). In several communities, women have started to gain more space for negotiation, both in domestic and public decision-making, prompting the validity of highly patriarchal interpretations of Islamic family law to be increasingly questioned (Wahyudi and Pratama 2022, 126). However, despite these shifts, resistance to gender justice within the context of Islamic family law remains prevalent. This illustrates how social conservatism persists in legal reasoning, especially in rural or more traditional regions, where patriarchal interpretations of Islamic law remain dominant.

Nevertheless, these societal changes have not been fully matched by the development of gender-responsive regulations. In practice, many family law products and court decisions still reflect imbalanced power relations and reinforce established social gender constructions (Cahyani 2023, 59). This reality indicates that the interaction between social change and Islamic family law progresses slowly, and often stagnates at the level of textual interpretation without adequate consideration of Indonesia's contemporary social context (Fatimah and Nuryanti 2021, 132). Furthermore, a field study conducted in several Religious Courts in Surabaya revealed that judges often justify their decisions based on traditional *fiqh* interpretations, despite the increasing role of women in the workforce and the evolving socio-economic realities (Salam 2021, 101). The lack of integration between modern gender equality principles and the classical jurisprudential framework contributes to the resistance against reforming Islamic family law, as many legal practitioners still adhere to outdated norms.

Current challenges in integrating principles of gender justice and child protection in Religious Courts arise not only from regulatory and judicial practice gaps but also from persistent social and cultural resistance. Many judges and court officials face dilemmas between upholding conservative religious norms and responding to social realities that demand substantive justice (Habibah and Munir 2020, 110). One major obstacle is the absence of gender perspective in legal education and the lack of training for judges in understanding children's psychological and social needs holistically (Sari and Wijayanti 2022, 44). Meanwhile, advocacy efforts by civil society organizations are often not strong enough to penetrate legal bureaucracy and are frequently hindered by the politics of religious identity (Sholehah 2021, 92). These challenges illustrate that integrating gender justice into family law requires systemic change across education, regulation, and social practices at the grassroots level (Aminah 2023, 63).

Strengthening gender perspectives in Islamic family law advocacy must be carried out simultaneously through regulatory reform, human resource capacity building, and strengthening cross-sectoral advocacy networks. Revising the Compilation of Islamic Law, for example, is essential to reinforce the positions of children and women in custody and to close interpretive gaps that allow gender bias to harm vulnerable parties (Wijayanti and Utami 2020, 133). The advocacy of civil society organizations, especially women's organizations, must also be expanded to oversee the legislative process and influence policy-making arenas (Maryani 2020, 51). Furthermore, developing public forums involving progressive religious scholars, academics, and local communities is a strategic space for accelerating paradigm shifts in gender-just family law (Kusumaningrum 2019, 147). Such multi-level and collaborative approaches are believed to produce legal regulations and practices that are more sensitive to the needs and dynamics of contemporary society.

When looking at practices in several countries, comparative responses and policies related to social gender construction in Islamic family law reveal intriguing variations. In Tunisia and Morocco, family law reform has advanced further by prioritizing gender equality and the best interests of the child as core norms within religious court systems (Charrad 2011, 79). Policies in both countries underscore women's rights in post-divorce child custody and reduce interpretive bias that disadvantages mothers or children (Mernissi 2012, 117). Meanwhile, in Malaysia, although the Shariah court system still faces challenges of gender bias, there are strong efforts by the government and civil society to regularly

conduct advocacy and public education (Yusof and Azmi 2021, 201). These comparisons indicate that reforming Islamic family law in Indonesia requires a combination of regulatory reform, judicial training, and consistent consolidation of civil society movements to create a more just, humanistic, and socially relevant legal system (Salam 2021, 107).

Strategies for Reformulating Islamic Family Law Based on Gender Justice

The renewal of gender-responsive interpretation and regulation in Islamic family law is a fundamental step in building a more inclusive and substantively just legal system in Indonesia. Key recommendations include a thorough revision of the Compilation of Islamic Law (KHI), emphasizing the principle of equality before the law and ensuring that women's and children's rights receive maximum protection in every religious court decision (Fadillah 2020, 140). This aligns with the contextual needs of the continually developing Indonesian Muslim society, as well as global demands for the fulfillment of human rights without gender discrimination (Maulidiyah and Yuniarti 2021, 125). However, while looking at best practices from other Muslim countries is valuable, it is essential to focus on aspects that can be realistically adapted to the Indonesian legal system. For example, Turkey's family law reform, which emphasizes gender equality and the best interests of the child, could offer insights, but only those reforms that align with Indonesia's cultural, social, and legal contexts should be considered for adaptation. Adopting a more contextual approach to *ijtihad* is essential for addressing the patriarchal biases embedded in classical interpretations of Islamic family law still referenced by judges (Amalia 2022, 99). One such adaptation could involve prioritizing the welfare of the child in custody cases, as has been done in some countries like Tunisia, where the emotional and psychological wellbeing of the child is central to custody decisions, but adapting it to Indonesian social realities.

Regulatory reform should also consider best practices from other Muslim countries that have more firmly embedded gender justice and the best interests of the child in their family law statutes, particularly in child custody and divorce regulations (Huda 2021, 46). However, any reforms must be carefully tailored to Indonesia's own social and cultural context, as societal norms around gender and family roles differ significantly from country to country. In this way, Indonesia's Islamic family law can serve as a reference point for strengthening women's and children's rights amid dynamic social transformation, while ensuring the reforms are pragmatic and culturally sensitive to local conditions. This contextual approach could involve collaboration between legal scholars, practitioners, and religious leaders to develop a shared understanding of gender justice within Islamic legal frameworks that respects both tradition and modern needs (Fadillah 2020, 140; Maulidiyah and Yuniarti 2021, 125).

The urgency of gender literacy for Islamic law stakeholders is a primary agenda in accelerating the creation of fair and inclusive religious courts. Gender literacy for judges, advocates, religious counselors, and legislators is vital so they possess sensitivity and a critical perspective when assessing family cases, especially child custody and the division of domestic roles (Syarif and Ramadhani 2022, 87). Ongoing training based on case studies and field research will help reduce subconscious bias that often colors religious court rulings (Pratiwi and Khasanah 2022, 143). Moreover, gender literacy can form the basis for shaping the Islamic law higher education curriculum so that future legal practitioners

gain both theoretical and practical understanding of gender justice (Fadillah 2020, 143). At the policy level, the formulation of gender-responsive, evidence-based guidelines for judicial decisions is highly recommended to minimize discriminatory subjective interpretation (Alwi and Azhar 2023, 212). Through strengthened gender literacy, the Islamic family law system will not only adapt to social development but also meet universal standards of justice.

The role of library research in the development of progressive Islamic Studies is highly significant as the foundation for renewing Islamic family law discourse and practice. Library research enables academics and legal practitioners to trace changes in interpretation, regulatory dynamics, and gender critiques in both classical and contemporary Islamic literature (Basri 2022, 49). Conceptual contributions to strengthening substantive justice in Islamic family law must be realized within a methodological framework that integrates theory, practice, and social needs. Recent studies underscore the importance of synthesizing gender theory, the principles of *maqashid sharia*, and the needs of modern society to build Islamic family law that is both adaptive and solution-oriented (Iskandar 2021, 106). Substantive justice requires that the law not only enforces formal rules, but also considers human dimensions, power relations, and the long-term effects on women and children (Maulidiyah and Yuniarti 2021, 129). These contributions are not only academic, but also ethical and social imperatives for lawmakers, judges, and other stakeholders. Furthermore, strengthening the concept of substantive justice can open opportunities to integrate human rights and gender equality principles into the national Islamic family law structure, thereby accommodating the diversity and dynamics of Indonesia's Muslim society going forward (Pratiwi and Khasanah 2022, 147). This effort will make Indonesia's Islamic family law more relevant, adaptive, and strongly legitimate in the face of changing times.

CONCLUSION

Integrating gender justice values into the Islamic family law system requires regulatory reform, increased gender literacy among legal practitioners, and consistent enforcement of the principle of the best interests of the child. The renewal of interpretations and advocacy based on library research becomes an absolute prerequisite for Islamic family law in Indonesia to adapt to increasingly complex and dynamic social realities. The conceptual contribution of this article also emphasizes the importance of collaboration among academics, progressive scholars, and civil society organizations in formulating policies and public education on gender justice and child protection, enabling the family law system to move toward a more inclusive and humanistic order in line with contemporary societal developments.

Comparative analysis with the family law systems of other Muslim-majority countries is also essential to identify models of legal reform effective in ensuring substantive justice. Moreover, further exploration is needed regarding the influence of digital technology, social media, and online advocacy campaigns on shaping public opinion and changing religious interpretations concerning child custody. Multidisciplinary research involving approaches from psychology, anthropology, and legal sociology will enrich the dialogue in developing progressive Islamic Studies in the future, while ensuring that reform of Islamic family law in Indonesia goes beyond the normative realm and truly addresses the practical needs and challenges of modern society.

The conceptual contribution of this study lies in offering a critical perspective on the intersection of gender justice and Islamic family law, presenting a model for progressive reinterpretation that challenges patriarchal interpretations still entrenched in religious court practices. By advocating for an inclusive legal system, this research lays the groundwork for future studies in Islamic law that incorporate progressive social values, providing a foundation for more comprehensive legal reform. Furthermore, the study contributes to the broader discourse of progressive Islamic studies in Indonesia by proposing strategies for reimagining Islamic family law to meet the demands of a modern, gender-equitable society, thus influencing both legal practice and academic discourse in the future.

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