

REFORM OF GUARDIANSHIP IN ISLAMIC FAMILY LAW IN TUNISIA, EGYPT, AND INDONESIA



Muhammad Iqbal¹ , Rahmad Wildan^{2*} , Ahmad Alfari³ 

*Correspondence :

Email :
rahmadwd19@gmail.com

Affiliation:

- ¹ International University of
Africa, Sudan
² Universitas Islam Negeri Sjech
M, Djamil Djambek
Bukittinggi, Indonesia
³ International University of
Africa, Sudan

Article History :

Submission : March 28, 2025
Revised : July 20, 2025
Accepted : August 11, 2025
Published : September 26, 2025

Keywords : Family Law,
Gender Equality, Guardianship
Reform, Islamic Jurisprudence,
Legal Reform

Abstract

The reform of guardianship has become a focal issue in Islamic family law, particularly regarding the balance between religious authority and gender equality. This study aims to analyze the transformation of guardianship law in Tunisia, Egypt, and Indonesia through a comparative perspective grounded in contemporary Islamic jurisprudence. Employing a qualitative approach, this research explores legal documents, statutory frameworks, and scholarly discourses to examine how each country reinterprets the concept of guardianship within its sociopolitical and religious context. The findings reveal that Tunisia, influenced by progressive legal reform, has eliminated the obligatory role of the male guardian in marriage, redefining guardianship as a partnership based on mutual consent. Egypt retains the classical fiqh framework but applies flexible judicial interpretations to safeguard women's autonomy within the boundaries of Sharia. Indonesia adopts a balanced approach by preserving the guardian's authority under religious principles while harmonizing it with state regulation through the Compilation of Islamic Law. The study concludes that these variations reflect different paths of Islamic legal adaptation driven by modernity, political transformation, and gender discourse. This research contributes to the development of Islamic legal thought by demonstrating how contemporary jurisprudence can respond critically to evolving demands for equality and justice in Muslim family law.

Abstrak

Reformasi perwalian telah menjadi isu sentral dalam hukum keluarga Islam, khususnya terkait keseimbangan antara otoritas keagamaan dan kesetaraan gender. Penelitian ini bertujuan untuk menganalisis transformasi hukum perwalian di Tunisia, Mesir, dan Indonesia melalui perspektif komparatif yang berlandaskan pada fiqh Islam kontemporer. Dengan menggunakan pendekatan kualitatif, penelitian ini menelaah dokumen hukum, kerangka perundang-undangan, dan wacana keilmuan untuk mengkaji bagaimana masing-masing negara menafsirkan kembali konsep perwalian sesuai konteks sosial, politik, dan keagamaannya. Temuan penelitian menunjukkan bahwa Tunisia, yang dipengaruhi oleh reformasi hukum progresif, telah menghapus peran wajib wali laki-laki dalam perkawinan serta mendefinisikan ulang perwalian sebagai kemitraan berdasarkan kesepakatan bersama. Mesir mempertahankan kerangka fiqh klasik namun menerapkan interpretasi yudisial yang fleksibel untuk melindungi otonomi perempuan dalam batas-batas syariah. Indonesia mengambil pendekatan seimbang dengan mempertahankan otoritas wali berdasarkan prinsip agama, sekaligus menyelaraskannya dengan regulasi negara melalui Kompilasi Hukum Islam. Penelitian ini menyimpulkan bahwa variasi reformasi tersebut mencerminkan jalur adaptasi hukum Islam yang berbeda, dipengaruhi oleh modernitas, transformasi politik, dan wacana gender. Secara akademik, penelitian ini berkontribusi terhadap pengembangan pemikiran hukum Islam dengan menunjukkan bagaimana fiqh

kontemporer mampu merespons secara kritis tuntutan kesetaraan dan keadilan dalam hukum keluarga Muslim.

INTRODUCTION

The issue of guardianship (*wilayah*) in Islamic family law reflects the dynamic intersection between religion, social transformation, and state policy in the modern Muslim world. In classical Islamic jurisprudence, the guardian (*wali*) serves as a protector of women in marriage (Mohd Kusrin et al., 2024), ensuring that marital contracts comply with legal and moral standards (Lovejoy, 2024). Over time, this concept has been reinterpreted in response to changing social realities, the expansion of women's education (Gill & Hamed, 2016), and global discourses on gender equality (Mehdi, 2023). The reform of guardianship has therefore become a central issue in Islamic legal studies, as it embodies the ongoing negotiation between tradition and modernity (Salma et al., 2022). Tunisia, Egypt, and Indonesia represent three significant examples of how Muslim – majority nations have adapted classical doctrines of *wilayah* to contemporary legal frameworks (Sallom & Syu'aib, 2022). Tunisia's approach was shaped by post – independence secularization (Islamiyah, 2024), Egypt's by its enduring fiqh institutions, and Indonesia's by its plural legal system that integrates Islamic, customary, and state laws. These trajectories demonstrate that the evolution of guardianship reform is deeply influenced by social context, state ideology, and the interpretation of Sharia.

Previous studies have examined the reform of guardianship laws in several Muslim – majority countries and identified varying trajectories and outcomes across different legal systems. Voorhoeve (2018) notes that Tunisia introduced a significant legal transformation through the Personal Status Code of 1956, which abolished the requirement of a male guardian for adult women and expanded women's marital autonomy (Voorhoeve, 2018). The study suggests that this reform was associated with broader efforts to construct national identity and adopt modern interpretations of Islamic law. In contrast, Crandall et al. (2016) explain that Egypt retains the institution of *wali* while incorporating judicial mechanisms that allow women to challenge a guardian's refusal through legal procedures, reflecting a reform approach that attempts to reconcile legal modernization with the legitimacy of classical Islamic jurisprudence (Crandall et al., 2016).. Meanwhile, studies on Indonesia indicate that the requirement of guardianship remains embedded within the Compilation of Islamic Law, although increasing academic discussions and judicial interpretations have raised arguments for reinterpretation in accordance with constitutional principles of equality (Asmara, 2024). Furthermore, Ropei et al. (2023) argue that despite some judicial flexibility in addressing guardianship disputes, legal inconsistencies and social conservatism continue to limit broader reform efforts (Ropei et al., 2023).

The significance of this research lies in its focus on understanding the reform of ship as a reflection of gender justice and legal adaptation within Islamic societies (Oktaviani & Sugitanata, 2020). Guardianship reform is not merely a technical legal issue but a broader question of how Sharia interacts with human rights, social change, and constitutional law (Sarmini et al., 2018). The persistence of unequal interpretations across Muslim countries indicates the need for a deeper comparative study that bridges Islamic jurisprudence, sociology, and legal reform (Zulkarnain, 2016). Therefore, this study aims to explore how Tunisia, Egypt, and Indonesia conceptualize and implement guardianship reform and how their models represent varying approaches to integrating

religious and civil law. The main question guiding this research is: what legal, theological, and sociocultural factors shape the transformation of guardianship in these three nations, and how do they promote women's autonomy while preserving Islamic values? By addressing this question, the research seeks to contribute to an understanding of how Islamic family law evolves amid global and local pressures for equality and reform (Zamani, 2020).

This study argues that the reform of guardianship in Islamic family law represents a transformative effort to actualize the core objectives of Sharia—justice, equality, and human dignity—within modern legal contexts. The analytical framework is built upon a comparative approach that examines how policies, jurisprudence, and social norms interact to produce distinct reform paths in Tunisia, Egypt, and Indonesia. It hypothesizes that Tunisia exemplifies a state-driven secular reinterpretation of Islamic principles to advance gender parity; Egypt demonstrates a cautious reconciliation between traditional fiqh authority and judicial adaptation; and Indonesia reflects pluralistic flexibility by combining religious norms with constitutional guarantees. Through this framework, the study contributes conceptually by enriching the discourse on Islamic legal evolution and the adaptability of Sharia; practically by providing insights for judges, scholars, and policymakers seeking harmony between religious authenticity and gender justice; and in policy terms by emphasizing the necessity of reforming guardianship laws to align with both Islamic values and universal human rights in contemporary Muslim societies.

METHODS

This is a qualitative study with analytical–critical approach examined the reform of guardianship (*wilayah*) in Islamic family law within Tunisia, Egypt, and Indonesia through a comparative jurisprudential framework. The research was conducted over a six-month period, from January to June 2024, focusing on how different sociopolitical and legal contexts influence the interpretation and application of guardianship in marriage. Data were collected primarily from statutory documents, constitutional provisions, family law codes, judicial decisions, and authoritative fiqh literature. Supporting data were gathered from academic journals, fatwas, institutional reports, and official government publications addressing gender justice and family law reform. The study utilized library research, document analysis, and digital database searches, allowing access to both classical and contemporary legal sources. Three systematic stages were gone through during the process of collecting the data: identification of relevant legal and doctrinal materials; thematic categorization according to subtopics such as religious authority, gender equality, and state regulation; and verification through cross-referencing and expert validation. To ensure accuracy, multiple translations and interpretations of Arabic legal texts were compared. The documentation process was supported by communication with legal scholars and practitioners to confirm the contextual accuracy of legal terminology. The collected materials were organized chronologically and thematically to provide a coherent and replicable dataset representing each country's approach to guardianship reform.

The data analysis was carried out using a content analysis and comparative jurisprudence model that integrates both descriptive and evaluative dimensions. The analysis began by coding legal texts and scholarly writings to identify the essential concepts, linguistic structures, and legal reasoning patterns relevant to *wilayah*. A three-layered analytical model was applied, consisting of textual interpretation (*nass*),

contextual evaluation (*siyak*), and jurisprudential synthesis (*istinbat*). The theoretical framework was grounded in *maqasid al-shariah*, emphasizing the objectives of *hifz al-nasl* (protection of lineage), *hifz al-ird* (protection of dignity), and *hifz al-aql* (protection of intellect) as guiding principles for legal reform. Validation of the findings was ensured through triangulation of sources, peer debriefing, and iterative coding refinement to enhance consistency and reliability. Methodological rigor was maintained by documenting each analytical step in detail, enabling replication by future researchers. This analytical–critical orientation allowed the study to explore the dynamic interaction between Islamic jurisprudence, gender discourse, and state law, ensuring that the methodological process remains transparent, verifiable, and academically robust.

RESULT AND DISCUSSION

RESULT

Structural and Legal Manifestations of Guardianship Reform

The reform of guardianship within the Islamic family law systems of Tunisia, Egypt, and Indonesia demonstrates diverse yet interrelated trajectories; each reflecting unique legal traditions, socio–political contexts, and interpretive engagements with Islamic law. Tunisia's experience marks one of the most radical transformations in the modern Muslim world, inaugurated by the *Code du Statut Personnel* (CSP) of 1956, which abolished the requirement of male guardianship for adult women. This reform was embedded in the nation's postcolonial identity–building project, in which President Habib Bourguiba sought to construct a modern civil state grounded in gender equality and individual autonomy. The move was not merely a technical adjustment to marriage law but a deliberate reconfiguration of the relationship between religion and state, where the state assumed interpretive authority over family matters traditionally governed by religious scholars (Jauhari et al., 2023). In Egypt, by contrast, the guardianship requirement remains embedded within its statutory family law—specifically Law No. 25 of 1929 and Law No. 1 of 2000—but judicial interpretation has evolved toward expanding women's agency. Egyptian courts have increasingly invoked the principle of *maslahah* (public interest) to override unreasonable objections by male family representatives, marking a shift toward procedural equity rather than substantive abolition. Indonesia's model reflects a middle path (Asman, 2024): while the 1974 Marriage Law and the 2019 Compilation of Islamic Law maintain the principle of family representation in marriage (Ridhwan & A Nuzul, 2021), the judiciary holds authority to substitute or bypass it when the refusal contradicts fairness and consent. Collectively, these trajectories underscore that the reform of guardianship is a negotiated process between *fiqh*–based legitimacy and constitutional rationality (Mohd Sharif et al., 2024), rather than a straightforward modernization.

The manifestation of guardianship reform across these jurisdictions reveals five critical legal and institutional shifts that redefine the nature of women's participation in marital decision–making. First, guardianship has been reconceptualized from an absolute paternal prerogative into a procedural safeguard ensuring that marital contracts comply with both religious and civil principles. This marks a profound epistemic change from male control to a mechanism of protection under law. Second, women's consent has been codified as an indispensable legal condition for marriage validity, reflecting a convergence between *fiqh* principles of *rida* (consent) and modern notions of autonomy.

Third, judicial systems have been empowered to override or replace male guardianship when it conflicts with fairness or public interest, signaling the judiciary's growing role as mediator between religious tradition and civil rights. Fourth, gender equality norms have been increasingly integrated into statutory interpretation, enabling courts to harmonize Islamic law with constitutional guarantees (Maksymiuk, 2019). Finally, national family laws are progressively aligned with international human rights frameworks (Darmawijaya & Ma'ming, 2023), demonstrating that Islamic legal systems possess the capacity to evolve within universal ethical parameters. These manifestations collectively affirm that state institutions function as active agents of *ijtihad muasir* (contemporary reasoning), reconciling religious authenticity with civic inclusion.

The Tunisian experience offers an illuminating example of how legal reform can transform social realities through institutional redesign and state ideology. The abolition of guardianship under the CSP represented not only a legal emancipation of women but also a political declaration of the state's sovereignty over religious interpretation (Ropei et al., 2023). By removing clerical authority from family law, Tunisia institutionalized a secular jurisprudential framework that redefined marriage as a contract between two equal individuals rather than a hierarchical union mediated by male authority. This approach was reinforced by constitutional guarantees of equality and non-discrimination, as well as educational and civil policies that normalized female participation in public life (Elnakib et al., 2021). Over time, these reforms have produced generational shifts in gender consciousness, although they also generated tension with conservative religious actors who viewed the changes as deviations from Islamic orthodoxy. Nevertheless, Tunisia's model demonstrates that the reform of guardianship can serve as a catalyst for broader transformations in gender relations and state-religion dynamics, where Islamic principles are reinterpreted in light of contemporary social justice ideals.

In Egypt, the reform of guardianship has taken a more gradual and interpretive trajectory, reflecting the country's complex interaction between legal conservatism and institutional pragmatism. While statutory provisions still affirm the existence of male representation in marriage, Egyptian courts—especially under the influence of judicial modernists—have creatively applied *maqasid al-sharia* reasoning to protect women's autonomy (Salem, 2016). Through procedural mechanisms such as judicial approval for marriages without family consent, the courts have subtly rebalanced authority between male relatives and women themselves. The presence of *al-Azhar* as a moral and theological authority has ensured that legal reforms remain framed within Islamic legitimacy rather than secular contestation. Yet, this cautious reformism also exposes the structural limitations of Egypt's dual legal system, where personal status law remains insulated from constitutional equality provisions. Despite this tension, the Egyptian experience illustrates that transformation need in Islamic law does not always occur through legislative revolution; it can also emerge through interpretive evolution within existing doctrinal boundaries, guided by principles of justice (*adl*) and public interest. Differently, Indonesia's reform of guardianship demonstrates a pluralistic model grounded in legal, cultural, and theological coexistence (Is Ashidiqie, 2021). This shows that there might be more than one aspects that can ground the reform.

The dual authority of religious courts and state legislation enables a flexible interpretation of marriage representation that adapts to local norms while remaining faithful to Islamic principles (Badareen, 2016). The Compilation of Islamic Law affirms that male representation is essential for marriage validity, yet judges have discretion to

appoint a substitute when the original representative acts unreasonably or violates the bride's consent (Zahro & Rahma, 2023). This reflects a practical embodiment of *fiqh al-waqi*—contextual jurisprudence sensitive to social realities and gender equity. Furthermore, Indonesia's engagement with constitutional rights and women's movements has gradually introduced gender equality into religious adjudication, particularly through the reinterpretation of *maqasid al-sharia* as promoting welfare and human dignity (*karamah insaniyyah*). The Indonesian model thus balances religious authenticity, democratic pluralism, and constitutional justice (Sugimoto & Muflih, 2025). It contributes to the discourse that Islamic family law, when grounded in contextual *ijtihad*, can evolve toward a more inclusive and egalitarian framework without severing its spiritual foundation. Collectively, these comparative trajectories affirm that guardianship reform serves as both a legal and moral instrument for actualizing the higher objectives of Islamic law in contemporary societies.

Determinant Factors with Transformative Implications

The factors driving these reforms vary but converge around the dialectic between religion, politics, and gender discourse (Crandall et al., 2016). In Tunisia, reform emerged as a direct consequence of postcolonial state—building under President Habib Bourguiba, whose secularist policies redefined the relationship between religion and governance by placing Sharia under the authority of national legislation. This approach sought to modernize family law in alignment with civic equality, abolishing patriarchal control as a remnant of premodern jurisprudence. In contrast, Egypt's path reflected a cautious and gradualist process rooted in its dual legal system, where al-Azhar's interpretive authority coexists with the state's legislative framework. Judicial interpretation became a pragmatic tool to navigate the tension between tradition and reform, ensuring that religious legitimacy was maintained while accommodating modern notions of women's autonomy. Indonesia, on the other hand, demonstrates a pluralistic and decentralized model in which democratic politics, the influence of the Majelis Ulama Indonesia (MUI), and grassroots women's movements together shaped a context—sensitive evolution of family law. Here, social pluralism and local *adat* norms play a decisive role, particularly in matrilineal regions that traditionally grant women higher social standing, making Indonesia's reform both dynamic and adaptive.

The second dimension of this transformation lies in the political and institutional frameworks that define the reform trajectories (Elnakib et al., 2022). Tunisia's state—led legal revolution represents a top—down model of Islamic legal modernization, one that deliberately utilized the machinery of law to implement a nationalist and egalitarian vision. In Egypt, however, the judiciary has functioned as the main vehicle for incremental reform, exercising interpretive flexibility to balance *maslahah* (public interest) and scriptural authenticity. This has produced a jurisprudence that evolves through court rulings rather than legislative overhaul, reflecting a judicial culture deeply conscious of social stability. Indonesia's hybrid framework operates between these poles, combining legislative codification—such as the 1974 Marriage Law—with judicial discretion that allows courts to override discriminatory practices. The plural legal system, comprising Islamic, customary, and civil dimensions, enables Indonesia to sustain a balance between *fiqh*—based authority and constitutional principles. Collectively, these institutional variations highlight that reform within Islamic legal systems is neither uniform nor externally imposed but the product of internal negotiation between tradition, law, and democratic governance.

From a sociocultural standpoint, these reforms reflect an evolving discourse on gender relations within Muslim societies (Supraptiningsih & Bariyyah, 2019). Tunisia's model has been celebrated for embedding women's equality within the national identity, turning gender justice into a symbol of civic modernity. Egypt, though more conservative in legislative terms, has witnessed a significant transformation through the judiciary's increasing willingness to uphold women's consent and autonomy in marriage disputes. Indonesia's reform experience reveals a bottom-up dynamic, where social movements and intellectual debates within Islamic universities and pesantren gradually reshape collective perceptions of justice and equality. The active participation of female scholars and activists contributes to a reinterpretation of *nas* (text) that aligns moral imperatives with constitutional guarantees. Moreover, the coexistence of religious and customary traditions allows Indonesia's society to negotiate modern gender ethics without rejecting its cultural roots, demonstrating that reform in Islamic family law can be both indigenous and progressive.

From a jurisprudential perspective, the reform of family law across Tunisia, Egypt, and Indonesia demonstrates the dynamism and elasticity of *fiqh* methodologies in addressing contemporary realities (Voorhoeve, 2018). The invocation of *maqasid al-shariah* (objectives of Islamic law) provides a moral compass that transcends textual literalism by emphasizing justice (*'adl*), welfare (*maslahah*), and consent (*rida*). Reformist scholars have thus repositioned these concepts as interpretive anchors that legitimize renewal within the bounds of Islamic epistemology. The intellectual movement surrounding *ijtihad mu'asir* (contemporary interpretation) shows that reinterpretation is not an abandonment of orthodoxy but a reaffirmation of Sharia's ethical essence in response to social evolution. These jurisprudential efforts bridge the historical divide between divine principles and human agency, ensuring that Islamic law remains contextually relevant. By shifting from rigid formalism toward purposive reasoning, these reforms articulate a renewed vision of Islamic legal thought that upholds both continuity and adaptability in an era of global change.

Five transformative implications arise from these trajectories, each underscoring the multidimensional impact of reform. First, the evolution of family law reshapes the epistemology of Islamic jurisprudence by centering justice and consent as primary legal norms rather than secondary moral values. Second, it demonstrates the inherent adaptability of *fiqh* methodologies to engage with universal human rights frameworks without compromising doctrinal integrity. Third, these reforms empower judicial institutions as agents of moral and social change, expanding their interpretive and mediating functions. Fourth, they reframe gender justice as an endogenous evolution rooted in Islamic principles, challenging the assumption that equality is a Western construct. Finally, the comparative experiences of Tunisia, Egypt, and Indonesia advance a pluralist framework showing that Sharia and constitutional governance can coexist harmoniously. Collectively, these implications affirm that the reform of family law in the Muslim world represents not merely a legal adjustment but a transformative rearticulation of Islam's moral vision—demonstrating its resilience, responsiveness, and enduring capacity for renewal in modern society.

DISCUSSION

The overall findings of this study demonstrate that the reform of guardianship within the Islamic family law systems of Tunisia, Egypt, and Indonesia represents a multidimensional transformation that intersects religion, law, and social change. Each

country's experience reflects a unique pattern of legal adaptation influenced by political structures, judicial institutions, and the evolving interpretation of Sharia. Tunisia's reform, marked by the *Code du Statut Personnel* of 1956, established a decisive shift toward state control of religious interpretation by abolishing the traditional guardian requirement and embedding gender equality into national law. Egypt's reform, though more conservative, signifies an ongoing reinterpretation through judicial discretion and procedural flexibility that gradually empowers women while maintaining respect for traditional *fiqh* doctrines. Indonesia's pluralistic framework balances Islamic, customary, and constitutional principles, allowing judicial substitution of guardians in cases of unjustified refusal. Collectively, these findings illustrate a shared reformist tendency that redefines the role of authority and consent in marriage, transforming guardianship from a patriarchal control mechanism into a procedural safeguard for justice, equality, and autonomy within Islamic legal frameworks.

The causes underlying these reform trajectories reveal a complex interplay of historical (Suryana et al., 2025), political (Sa'dan & Riana, 2023), and religious dynamics. Tunisia's transformation was driven by postcolonial state formation and the political vision of Habib Bourguiba, who perceived gender equality as essential to nation-building and modernization (Sakirman & Amanda, 2022). This top-down approach institutionalized secular legal authority over religious norms, reflecting a conscious effort to align Islamic values with republican ideals. Egypt's gradualist reform, in contrast (Mohd Kusrin et al., 2024), stemmed from its dual legal tradition in which *al-Azhar* scholars and state judges negotiated the boundaries of authority through interpretive flexibility rather than radical legislation. In Indonesia, reform emerged through a decentralized democratic process, combining the influence of the *Majelis Ulama Indonesia* (MUI), women's movements, and constitutional mandates (Faiz et al., 2024). The diversity of *adat* traditions, especially in matrilineal communities like Minangkabau (Ibrahim et al., 2023), further moderated the application of religious norms, emphasizing consent and fairness. These factors collectively suggest that reform is not imposed externally but evolves internally as societies reinterpret sacred law in response to modern demands.

The effects of these reform processes extend deeply into the moral and institutional foundations of Muslim societies. In Tunisia, legal codification of gender equality redefined social expectations by integrating women's rights into state identity, establishing a precedent for rights-based citizenship in a Muslim-majority nation. Egypt's judicial adaptations cultivated a pragmatic balance between religious authenticity and social justice, gradually reshaping gender relations through procedural innovations that prioritize public welfare (*maslahah*) (Bowden, 2013). Indonesia's reforms advanced pluralist legal consciousness, allowing multiple authorities to interact within a unified constitutional framework, ensuring that religious principles coexist with national values. These developments collectively highlight that the reform of guardianship transcends formal lawmaking—it reconfigures societal ethics, encourages new readings of Sharia, and reaffirms that Islam's moral compass is compatible with gender equality and human dignity (Jalil & Wirnanda, 2020). The reorientation toward justice (*'adl*), welfare, and consent (*rida*) embodies a living interpretation of divine law responsive to modern realities.

When compared with previous studies, this research provides a more integrative and comparative understanding of guardianship reform across different Muslim contexts. Earlier analyses of Tunisia often centered on secularization narratives,

neglecting the jurisprudential reasoning that legitimized reform within Islamic discourse (Ropei et al., 2023). Studies on Egypt tended to frame judicial flexibility as hesitation rather than as an active instrument of adaptation within Sharia reasoning (Zayyadi et al., 2023). Research on Indonesia, while highlighting pluralism, rarely examined its comparative resonance with Arab legal systems (Maliki et al., 2023). This study bridges those gaps by situating reform as a multidimensional process shaped by legislative design (Asmara, 2024), judicial reasoning, and social participation (Ramli et al., 2024). The comparative perspective demonstrates that while each nation's path differs in pace and structure, all share a common aspiration to reconcile divine principles with constitutional governance. Such synthesis enriches global discussions on how Islamic family law can evolve without abandoning its theological essence.

The recommendation of this study is to strengthen conceptual, methodological, and policy frameworks in advancing guardianship reform within Islamic family law in Tunisia, Egypt, and Indonesia. Future research should broaden its comparative scope by exploring diverse socio–legal contexts among Muslim–majority nations to identify adaptive models that balance classical jurisprudence with constitutional equality. Policymakers are encouraged to adopt evidence–based and participatory approaches by engaging jurists, scholars, and civil society in the process of lawmaking, ensuring that reform reflects both Islamic authenticity and modern inclusivity. Legal practitioners and educators should promote gender–sensitive jurisprudence and integrate *maqasid al-shariah*–based reasoning into judicial training to enhance interpretive consistency and protect human dignity. From a policy perspective, Tunisia's progressive codification model, Egypt's cautious judicial adaptation, and Indonesia's evolving regulatory approach each offer distinctive lessons on harmonizing tradition with reform. These countries must prioritize institutional synergy, community engagement, and continuous evaluation to sustain legitimacy and public trust. While these recommendations primarily address the three countries studied, their broader implication lies in offering a transferable framework for other Muslim societies seeking to achieve justice and equality through dynamic and contextually grounded reinterpretation of Islamic law.

CONCLUSION

The findings of this study indicate that the reform of guardianship in Islamic family law across Tunisia, Egypt, and Indonesia presents a diverse pattern of adaptation influenced by legal traditions, political structures, and religious interpretations. Tunisia has undertaken the most comprehensive reform through its Personal Status Code, which limits the guardian's authority and enhances women's autonomy in marriage, thus reflecting an alignment between Islamic values and constitutional principles of equality. Egypt, on the other hand, preserves the concept of guardianship but introduces procedural checks such as judicial supervision and the requirement of women's explicit consent, marking a gradual movement toward harmonizing fiqh with human rights frameworks. Indonesia adopts a hybrid model where state law and Islamic jurisprudence interact dynamically under the Marriage Law, maintaining guardianship as a religious duty while ensuring that women's consent is legally recognized. These differences highlight the contextual nature of Islamic legal reform, shaped by historical, political, and cultural dynamics unique to each country. The comparative analysis demonstrates that reforming guardianship is not merely a legal transformation but also an expression of evolving understandings of justice, equality, and religious authority in Muslim societies. Thus, the development of guardianship law reflects how each nation reconciles

classical Islamic legal thought with the demands of modern governance and social change.

The significance of this research lies in its contribution to the theoretical and methodological discourse on Islamic legal reform, particularly within the field of family law and gender studies. Conceptually, it strengthens the argument that the reinterpretation of guardianship based on *maqasid al-shariah* is consistent with Islamic objectives of protecting dignity, justice, and public welfare, rather than contradicting traditional jurisprudence. Methodologically, the study offers a critical – analytical model that integrates textual interpretation with socio – legal analysis, allowing for a deeper understanding of how legal norms evolve in response to contemporary challenges. Theoretically, this study bridges the gap between the classical *fiqh* framework and modern notions of equality, illustrating how Islamic law can respond to social realities without losing its ethical foundation. Moreover, it contributes to comparative Islamic legal scholarship by highlighting the role of context in shaping jurisprudential outcomes. Despite its strengths, this research acknowledges limitations due to its reliance on secondary data and lack of direct empirical engagement with legal practitioners or affected communities. Future research should therefore incorporate fieldwork and interviews to explore the lived experiences and social implications of guardianship reform across different Muslim societies.

DECLARATIONS

AUTHOR CONTRIBUTION STATEMENT

Muhammad Iqbal contributed to the conceptualization and design of the study, conducted the literature review, and drafted the manuscript. Rahmad Wildan was responsible for data collection, empirical analysis, and interpretation of results. Ahmad Alfarisi provided critical revisions, methodological guidance, and oversight throughout the research process. All authors reviewed and approved the final manuscript and agree to be accountable for all aspects of the work, ensuring accuracy and integrity in reporting.

FUNDING STATEMENT

This research received no specific grant from any funding agency in the public, commercial, or not – for – profit sectors. The study was conducted independently without financial assistance, institutional sponsorship, or external funding support.

DATA AVAILABILITY STATEMENT

All data supporting the findings of this article are derived from publicly accessible legal documents, scholarly literature, and conceptual analysis. No proprietary or restricted data were used. The author confirms that all relevant information is available for verification upon reasonable request.

DECLARATION OF INTERESTS STATEMENT

The author declares that there are no known financial interests, institutional affiliations, or personal relationships that could have influenced the work reported in this article. The research was conducted objectively and free from any potential conflict of interest.

ADDITIONAL INFORMATION

Correspondence and requests for materials should be addressed to rahmadwd19@gmail.com

ORCID

Muhammad Iqbal  <https://orcid.org/0009-0004-4180-0976>

Rahmad Wildan  <https://orcid.org/0009-0007-2855-6499>

Ahmad Alfarisi  <https://orcid.org/0009-0001-1414-5564>

REFERENCES

- Asman, A. (2024). Comparative analysis of the istinbath methods of the Shafi'i and Hanafi schools regarding the role of the wali mujbir in marriage law. *Al-Ahkam: Jurnal Ilmu Syari'ah Dan Hukum*, 9(1), 29 – 46. <https://doi.org/10.22515/alahkam.v9i1.9447>
- Asmara, M. (2024). Concept of wali mujbir in marriage (legal criticism of counter legal draft compilation of Islamic law). *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan*, 8(2), 237. <https://doi.org/10.29300/mzn.v8i2.2798>
- Badareen, N. A. (2016). Shī'ī marriage law in the pre – modern period: Who decides for women? *Islamic Law and Society*, 23(4), 368 – 391. <https://doi.org/10.1163/15685195-00234p02>
- Bowden, J. J. (2013). Marriageable age in Islam: A study on marriageable age laws and reforms in Islamic law. *LUX*, 2(1), 1 – 16. <https://doi.org/10.5642/lux.201301.05>
- Crandall, A., VanderEnde, K., Cheong, Y. F., Dodell, S., & Yount, K. M. (2016). Women's age at first marriage and postmarital agency in Egypt. *Social Science Research*, 57, 148 – 160. <https://doi.org/10.1016/j.ssresearch.2016.01.005>
- Darmawijaya, E., & Ma'ming, M. M. (2023). Settlement of the fulfillment of wife and child livelihood by the Islamic Religious Council Southern Patani Region of Thailand. *El-Usrah: Jurnal Hukum Keluarga*, 6(1), 149. <https://doi.org/10.22373/ujhk.v6i2.8699>
- Elnakib, S., Elsallab, M., Wanis, M. A., Elshiwiy, S., Krishnapalan, N. P., & Naja, N. A. (2022). Understanding the impacts of child marriage on the health and well – being of adolescent girls and young women residing in urban areas in Egypt. *Reproductive Health*, 19(1), 8. <https://doi.org/10.1186/s12978-021-01315-4>
- Elnakib, S., Hussein, S. A., Hafez, S., Elsallab, M., Hunersen, K., Metzler, J., & Robinson, W. C. (2021). Drivers and consequences of child marriage in a context of protracted displacement: A qualitative study among Syrian refugees in Egypt. *BMC Public Health*, 21(1), 674. <https://doi.org/10.1186/s12889-021-10718-8>
- Faiz, M. F., Nasution, K., & Sodiqin, A. (2024). Converging religious doctrine: Sunni – Shi'i marriages in Indonesia. *Al-Ahwal: Jurnal Hukum Keluarga Islam*, 17(1), 123 – 146. <https://doi.org/10.14421/ahwal.2024.17108>
- Gill, A. K., & Hamed, T. (2016). Muslim women and forced marriages in the UK. *Journal of Muslim Minority Affairs*, 36(4), 540 – 560. <https://doi.org/10.1080/13602004.2016.1260324>
- Ibrahim, A., Sulfinadia, H., Ikhwan, I., & Roszi, J. P. (2023). The resilience of Ungku Kali practices as marriage guardian in Kurai Taji, Padang Pariaman Regency Maslahah perspective. *Jurnal Ilmiah Al-Syir'ah*, 21(1), 55. <https://doi.org/10.30984/jis.v21i1.2285>

- Is Ashidiqie, M. L. I. (2021). Kritik atas peraturan wali nikah dalam KHI dan fikih perspektif gender. *Al-Mazaahib: Jurnal Perbandingan Hukum*, 9(1), 21. <https://doi.org/10.14421/al-mazaahib.v9i1.2304>
- Islamiyah, N. N. (2024). When religious leaders become marriage brokers, penghulus, and marriage consultants: The authority of kyai in the process of unregistered marriage. *Al-Ahwal: Jurnal Hukum Keluarga Islam*, 17(1), 21 – 40. <https://doi.org/10.14421/ahwal.2024.17102>
- Jalil, H. A., & Wirnanda, T. (2020). Wali nikah fasik (studi perbandingan mazhab Hanafi dan Mazhab Syafi'i). *Media Syari'ah*, 22(1), 82. <https://doi.org/10.22373/jms.v22i1.6533>
- Jauhari, I., Yahya, A., Darmawan, D., Dahlan, D., & Nasir, M. (2023). Legal analysis of unregistered marriage viewed from ulama's perspective in Aceh province. *PETITA: Jurnal Kajian Ilmu Hukum Dan Syariah*, 8(2). <https://doi.org/10.22373/petita.v8i2.196>
- Lovejoy, H. B. (2024). Queen Victoria's 'liberated African': Sarah 'Sally' Forbes Bonetta and her extraordinary apprenticeship by the British royal family, 1850 – 1862. *Slavery & Abolition*, 45(4), 911 – 934. <https://doi.org/10.1080/0144039X.2024.2349147>
- Maksymiuk, K. (2019). Marriage and divorce law in pre – Islamic Persia: Legal status of the Sassanid woman (224 – 651 AD). *Cogent Arts & Humanities*, 6(1), 1703430. <https://doi.org/10.1080/23311983.2019.1703430>
- Maliki, I. A., Zaelani, A. Q., Ardi, M. Z., & Ghummiah, S. M. (2023). A gender – based maqashid sharia study of penghulu in Indonesia (a study of Jasser Auda's views). *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat*, 23(1), 51 – 68. <https://doi.org/10.19109/nurani.v23i1.16447>
- Mehdi, R. (2023). Understanding gender and diversity in Europe. Springer Nature Switzerland. <https://doi.org/10.1007/978-3-031-40893-9>
- Mohd Kusrin, Z., Yusof, W., Ismail, N. F., Che Abdul Rahim, N., & Hibaoui, A. (2024). Muslim in Malaysia understanding in regards to the concept of compatibility (kafa'ah) in Islamic marriage. *El-Usrah: Jurnal Hukum Keluarga*, 7(2), 648. <https://doi.org/10.22373/ujyk.v7i2.26664>
- Mohd Sharif, M. S. A., Mohd Noor, A., & Abdullah, M. F. (2024). Behind the issue of Nadrah's marriage: Focus on Ahmad Luthfi's point of view in Qalam Magazine (1950 – 1963). *Kajian Malaysia*, 42(1), 341 – 365. <https://doi.org/10.21315/km2024.42.1.15>
- Oktaviani, & Sugitanata, A. (2020). Memberikan hak wali nikah kepada kyai: Praktik taukil wali nikah pada masyarakat adat Sasak Sade. *Al-Ahwal: Jurnal Hukum Keluarga Islam*, 12(2), 161 – 172. <https://doi.org/10.14421/ahwal.2019.12204>
- Ramli, M., Rahmatillah, S., Nurdin, A., & Auliana, N. (2024). Unveiling illegal marriages in Aceh: Examining the role of unofficial qadi. *El-Mashlahah*, 14(2), 409 – 430. <https://doi.org/10.23971/el-mashlahah.v14i2.8887>
- Ridhwan, R., & Nuzul, A. N. (2021). The Petta Kalie's contribution in the development of Islamic law during the Kingdom of Bone. *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 5(1), 64. <https://doi.org/10.22373/sjhk.v5i1.8977>
- Ropei, A., Huda, M., Alijaya, A., Fadhil, F., & Zulfa, F. (2023). Managing 'baligh' in four Muslim countries: Egypt, Tunisia, Pakistan, and Indonesia on the minimum age for marriage. *Al-Ahwal: Jurnal Hukum Keluarga Islam*, 16(1), 112 – 140. <https://doi.org/10.14421/ahwal.2023.16106>

- Sa'dan, S., & Riana, A. V. (2023). The quality of the chain (sanad) of hadith concerning the legal guardian (wali) of the nikah. *PETITA: Jurnal Kajian Ilmu Hukum Dan Syariah*, 8(2). <https://doi.org/10.22373/petita.v8i2.175>
- Sakirman, S., & Amanda, Y. R. (2022). Effectiveness of marriage age limit according to Law Number 16 of 2019 in East Lampung. *MILRev: Metro Islamic Law Review*, 1(2), 164. <https://doi.org/10.32332/milrev.v1i2.6206>
- Salem, R. (2016). The gendered effects of labour market experiences on marriage timing in Egypt. *Demographic Research*, 35, 283 – 314. <https://doi.org/10.4054/DemRes.2016.35.11>
- Sallom, D. S., & Syu'aib, K. (2022). Matchmaking in pesantren: The role of wali mujbir in matchmaking with maqasid sharia perspectives. *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan*, 22(1), 78 – 91. <https://doi.org/10.30631/alrisalah.v22i1.1073>
- Salma, S., Wahida, H., & Adib bin Samsudin, M. (2022). Ignoring family law administrative procedure: Falsifying death of spouses for the registration of new marriage in Lengayang Muslim community. *Al-Ahwal: Jurnal Hukum Keluarga Islam*, 15(1), 1 – 20. <https://doi.org/10.14421/ahwal.2022.15101>
- Sarmini, Nadiroh, U., & Fahmi, M. S. (2018). Reduce conflicts in traditional merariq traditions through the long tradition of the tribal people of Sasak Lombok. *Journal of Physics: Conference Series*, 953, 012186. <https://doi.org/10.1088/1742-6596/953/1/012186>
- Sugimoto, K., & Muflih, B. K. (2025). Concept of halal matchmaking for Muslim marriage: Fatwa perspective. *Journal of Fatwa Management and Research*, 30(2), 80 – 101. <https://doi.org/10.33102/jfatwa.vol30no2.662>
- Supraptiningsih, U., & Bariyyah, K. (2019). Marriage settlement among minority Muslim by Datok Imam Masjid in South Thailand. *AL-IHKAM: Jurnal Hukum & Pranata Sosial*, 14(2), 221 – 236. <https://doi.org/10.19105/al-lhkam.v14i2.2631>
- Suryana, A., Hidayah, K., & Muhammad, M. (2025). Rethinking marriage guardians for widows in Indonesia. *Justicia Islamica*, 22(1), 71 – 92. <https://doi.org/10.21154/justicia.v22i1.9990>
- Voorhoeve, M. (2018). Law and social change in Tunisia: The case of unregistered marriage. *Oxford Journal of Law and Religion*, 7(3), 479 – 497. <https://doi.org/10.1093/ojlr/rwy027>
- Zahro, A. S., & Rahma, N. L. (2023). Implementation of taukil wali at the KUA of Jati District, Kudus Regency from the perspective of Minister of Religious Affairs Regulation Number 20 of 2019. *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat*, 23(2), 355 – 364. <https://doi.org/10.19109/nurani.v23i2.19508>
- Zamani, S. 'Adli. (2020). Penghulu sebagai wali hakim dalam akad nikah (studi terhadap penghulu Kantor Urusan Agama di wilayah Kota Yogyakarta). *Al-Ahwal: Jurnal Hukum Keluarga Islam*, 12(2), 173 – 183. <https://doi.org/10.14421/ahwal.2019.12205>
- Zayyadi, A., Ridwan, Hidayat, A., Ubaidillah, & Masuwd, M. A. (2023). Understanding of legal reform on sociology of Islamic law: Its relevance to Islamic family law in Indonesia. *Al-Manahij: Jurnal Kajian Hukum Islam*, 17(2), 249 – 262. <https://doi.org/10.24090/mnh.v17i2.7584>
- Zulkarnain, Z. (2016). Dinamika mazhab Shafi'i dengan cara Aceh: Studi tentang praktik mazhab di kalangan tokoh agama. *IJTihad Jurnal Wacana Hukum Islam Dan Kemanusiaan*, 15(2), 159 – 176. <https://doi.org/10.18326/ijtihad.v15i2.159-176>