

## Islamic Legal Reform and Gender Justice: Reinterpreting Fiqh in the Context of Contemporary Muslim Societies

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Artikel Information	Abstract
<p><b>Keywords:</b> Islamic legal reform, gender justice, fiqh reinterpretation, maqasid al-shariah, ijtihad, Muslim family law.</p>	<p>Debates surrounding gender justice within Muslim societies continue to shape contemporary Islamic legal discourse. While classical fiqh developed within specific socio-historical contexts, modern realities demand renewed interpretative engagement to ensure compatibility with principles of justice, equality, and human dignity. This article examines the role of Islamic legal reform in advancing gender justice through the reinterpretation of fiqh within contemporary Muslim societies. Using a qualitative normative approach combined with socio-legal analysis, this study explores the application of maqasid al-shariah, contextual ijtihad, and hermeneutical reinterpretation in reforming family law provisions. The findings demonstrate that Islamic legal tradition contains methodological flexibility that allows reinterpretation without undermining doctrinal authenticity. However, political resistance, institutional conservatism, and sociocultural norms remain significant obstacles. The article argues that sustainable reform requires a balanced paradigm integrating classical legal methodology with contemporary human rights discourse while maintaining theological legitimacy.</p>

### 1. Introduction

Gender justice has become one of the most debated issues in contemporary Islamic legal discourse. Questions surrounding marriage, divorce, inheritance, guardianship, and legal testimony often reveal tensions between classical juristic interpretations and modern human rights standards. While some critics perceive Islamic law as inherently resistant to reform, many Muslim scholars argue that the issue lies not in the foundational sources of Shariah, but in historically conditioned interpretations of fiqh.

Classical fiqh was developed in socio-political contexts markedly different from present-day realities. Juristic reasoning reflected prevailing social structures, economic systems, and gender roles. As Muslim societies undergo modernization, urbanization, and educational

transformation, legal frameworks rooted in earlier socio-historical contexts require critical reassessment.

This article focuses specifically on the reinterpretation of fiqh in the domain of gender justice, particularly within Muslim family law. Rather than addressing all aspects of Islamic law, the discussion centers on methodological reform, maqasid-based reasoning, and contextual hermeneutics as tools for sustainable legal development.

## **2. Theoretical Framework**

### **2.1. Maqasid al-Shariah and Gender Justice**

The maqasid al-shariah framework emphasizes the protection of religion, life, intellect, lineage, and property. Contemporary scholars have expanded these objectives to include justice (adl), dignity (karamah), and equality as fundamental ethical values embedded within Islamic law.

Gender justice can be understood as a manifestation of these objectives. If legal interpretations result in systemic harm or discrimination, maqasid-based reasoning allows re-evaluation of juristic conclusions. This approach does not abandon classical scholarship but situates it within broader ethical goals of Shariah.

From a maqasid-oriented perspective, justice (adl) is not merely a procedural concept but a substantive ethical imperative that governs the entire structure of Islamic law. Classical jurists consistently affirmed that the ultimate objective of Shariah is the realization of welfare (maslahah) and the prevention of harm (mafsadah). Therefore, when certain gender-based rulings are applied in ways that produce systemic inequity or social harm, maqasid analysis permits critical reassessment of their contemporary implementation while preserving fidelity to foundational texts.

Moreover, the principle of human dignity (karamah), explicitly affirmed in the Qur'anic worldview, reinforces the moral equality of men and women as vicegerents (khalifah) on earth. Although functional distinctions historically existed within particular legal rulings, these distinctions must be interpreted within their socio-historical context rather than treated as absolute hierarchies. Contemporary maqasid scholarship increasingly emphasizes that dignity and moral agency are universal attributes that transcend gender classifications.

In addition, expanding maqasid discourse to include gender-sensitive analysis strengthens the epistemological legitimacy of reform efforts. Rather than importing external normative frameworks, reform grounded in maqasid demonstrates that gender justice emerges organically from within Islamic legal theory itself. This internal coherence is essential for ensuring both scholarly credibility and broader societal acceptance of legal reform initiatives in Muslim-majority contexts.

### **2.2. Fiqh, Ijtihad, and Legal Reform**

It is essential to distinguish between Shariah as divine guidance and fiqh as human interpretation. Fiqh is historically contingent and therefore open to reinterpretation through ijtihad. Legal reform within Islamic tradition has historically occurred through mechanisms such as maslahah (public interest), istihsan (juristic preference), and urf (custom).

Contemporary reform movements emphasize contextual ijtihad that considers socio-economic changes, women's educational participation, and evolving social structures.

In addition, the epistemological distinction between Shariah and fiqh provides a crucial foundation for constructive legal development. While Shariah embodies divine objectives and moral

principles, fiqh represents juristic efforts to translate those principles into applicable rules within specific historical contexts. Recognizing this distinction prevents the sacralization of juristic opinions and opens space for responsible reinterpretation grounded in established methodologies of *usul al-fiqh*.

Furthermore, the revival of *ijtihad* in contemporary scholarship does not imply unrestricted reinterpretation but rather disciplined reasoning within the boundaries of recognized legal sources. Contemporary jurists increasingly employ collective *ijtihad* (*ijtihad jama'i*) through academic councils and fatwa institutions to address complex modern issues, including gender relations in family law. This collaborative model strengthens legitimacy while ensuring that reform remains anchored in scholarly consensus and methodological rigor.

Finally, contextual legal reform must consider the transformation of social realities, particularly in relation to education, economic participation, and public engagement of women. As societal structures evolve, rigid adherence to historically conditioned applications may undermine the broader objectives of justice and welfare embedded within Islamic law. Therefore, adaptive interpretation, when conducted through principled juristic methods, represents continuity with Islamic legal tradition rather than departure from it.

### **3. Research Methodology**

This study employs a qualitative normative approach combined with socio-legal analysis. Primary sources include classical fiqh literature and contemporary Islamic legal scholarship. Secondary sources consist of peer-reviewed journal articles (2020-2024) and recent books on Islamic legal theory and gender studies (published within the last 10 years).

The study analyzes doctrinal flexibility within Islamic jurisprudence and evaluates reform practices in selected Muslim-majority jurisdictions.

To strengthen analytical depth, this research applies a doctrinal analysis of selected legal provisions within contemporary Muslim family law, focusing on areas where gender-related debates are most prominent, such as guardianship, divorce rights, and marital obligations. These provisions are examined comparatively in order to identify patterns of reinterpretation and the methodological tools employed by reform-oriented scholars and legislators. The comparative element enables a clearer understanding of how Islamic legal principles are operationalized in diverse socio-political environments. In addition, a socio-legal perspective is incorporated to assess how legal reforms interact with broader societal dynamics, including public perception, institutional authority, and political structures. Legal texts are not analyzed in isolation but situated within their regulatory and cultural contexts. This approach allows the study to evaluate not only the doctrinal validity of reinterpretation but also its practical implications for gender justice within Muslim societies.

Finally, methodological triangulation is employed by synthesizing classical jurisprudential theory, contemporary academic discourse, and statutory developments in selected jurisdictions. This triangulated framework enhances the credibility and coherence of the analysis, ensuring that conclusions are grounded in both normative legal reasoning and empirical socio-legal realities.

## **4. Reinterpreting Classical Fiqh: Contemporary Approaches**

### **4.1. Contextual Hermeneutics and Gender**

Contemporary Islamic hermeneutics emphasizes historical contextualization of Qur'anic verses and hadith related to gender. Scholars argue that many gender-specific rulings reflected socio-economic realities of early Islamic society rather than immutable theological mandates.

Contextual interpretation seeks to distinguish between universal principles and historically specific applications. For example, guardianship (*wilayah*) provisions may be reassessed in light of women's educational and economic independence.

In this regard, contemporary hermeneutical approaches often employ a thematic (*mawdu'i*) reading of the Qur'an, whereby verses related to gender are analyzed holistically rather than in isolation. By situating specific legal texts within the broader Qur'anic ethical vision of justice, mutual consultation (*shura*), and compassion (*rahmah*), scholars attempt to prevent literalist readings that disregard overarching moral objectives. This integrative reading reinforces the argument that legal norms must be interpreted in harmony with the Qur'an's universal commitment to equity and human dignity.

Moreover, attention to the historical circumstances of revelation (*asbab al-nuzul*) provides important insight into the socio-political realities that shaped early legal directives. Understanding the economic vulnerability, tribal structures, and social hierarchies of seventh-century Arabia allows contemporary scholars to differentiate between context-bound regulatory measures and enduring normative principles. Such differentiation is essential for ensuring that reinterpretation remains rooted in methodological integrity rather than ideological preference.

Additionally, gender-sensitive hermeneutics emphasizes the inclusion of women's lived experiences as part of interpretative reflection. By acknowledging how legal norms affect contemporary Muslim women in diverse socio-economic contexts, scholars can better evaluate whether certain applications align with the *maqasid al-shariah*. This approach does not negate textual authority but seeks to ensure that interpretation remains responsive to justice-oriented objectives embedded within Islamic legal tradition.

### **4.2. Reform in Family Law: Case Developments**

Several Muslim-majority countries have undertaken reforms in marriage, divorce, and inheritance laws. These reforms often expand women's rights in divorce proceedings, regulate polygamy more strictly, and strengthen procedural safeguards.

Such reforms demonstrate that reinterpretation is institutionally feasible when supported by legislative authority and scholarly legitimacy.

In several jurisdictions, reform initiatives have focused on procedural justice as a mechanism to enhance substantive gender equity. By introducing judicial oversight in divorce proceedings, mandatory mediation processes, and stricter evidentiary standards for polygamous marriages, legislators have sought to balance classical legal doctrines with contemporary safeguards. These procedural adjustments often operate within the framework of recognized juristic opinions, thereby maintaining doctrinal continuity while addressing modern social concerns.

Additionally, reform processes frequently rely on the principle of *maslahah* (public interest) to justify regulatory intervention. Where unregulated practices have led to demonstrable harm—such as

economic insecurity for divorced women or unequal access to legal remedies-state authorities have invoked maqasid-based reasoning to recalibrate legal provisions. This illustrates how Islamic legal theory itself contains internal mechanisms that support adaptive legislation in response to evolving social realities.

Furthermore, the role of constitutional frameworks and judicial interpretation has become increasingly significant in shaping family law reform. Courts in some Muslim-majority contexts have engaged in purposive interpretation of statutory provisions to ensure consistency with constitutional guarantees of equality and non-discrimination. This judicial engagement demonstrates that reform is not limited to legislative amendment but may also emerge through interpretative development within existing legal structures.

## **5. Institutional and Socio-Legal Challenges**

Despite methodological flexibility, reform efforts encounter resistance from conservative scholars who fear doctrinal dilution. Political instrumentalization of religious authority also complicates reform processes.

Moreover, public perception often equates reform with Westernization, creating sociocultural tensions. Therefore, reform must be articulated within Islamic epistemological frameworks rather than external normative models.

Another significant challenge lies in the fragmentation of religious authority within many Muslim-majority societies. The absence of centralized interpretative institutions often leads to divergent legal opinions, creating uncertainty regarding the legitimacy of reform initiatives. Competing fatwa bodies, academic scholars, and state-sponsored religious councils may issue differing interpretations, which can generate public confusion and weaken the social acceptance of gender-sensitive reforms.

In addition, educational disparities in legal literacy influence how reform efforts are received at the community level. Limited public understanding of the distinction between Shariah and fiqh frequently results in the perception that any modification of juristic rulings constitutes a rejection of divine law. Strengthening public education on Islamic legal methodology, including the historical evolution of jurisprudence, is therefore essential to fostering informed engagement with reform discourse.

Furthermore, socio-economic inequalities can indirectly shape resistance to reform. In contexts where patriarchal structures are intertwined with economic dependency, legal change may be perceived as threatening established power relations. Consequently, institutional reform must be accompanied by broader social policies that promote educational access, economic participation, and inclusive dialogue, ensuring that legal transformation is supported by parallel social development.

## **6. Discussion: Toward a Balanced Reform Paradigm**

A sustainable reform paradigm requires:

- Methodological grounding in *usul al-fiqh*
- Integration of maqasid-based reasoning
- Institutional engagement between scholars and legislators
- Gradual socio-cultural dialogue

Gender justice within Islamic law is not achieved through rejection of tradition, but through principled reinterpretation anchored in Islamic legal methodology.

In operationalizing this balanced reform paradigm, the role of interdisciplinary collaboration becomes increasingly significant. Islamic legal scholars, sociologists, policymakers, and gender studies experts must engage in sustained intellectual exchange to ensure that reform proposals are both doctrinally sound and socially responsive. Such collaboration prevents reductionist interpretations and encourages comprehensive legal reasoning that accounts for ethical, social, and institutional dimensions simultaneously.

Moreover, reform efforts should adopt a gradualist approach that prioritizes legal clarity and social stability. Sudden or radical modifications to family law provisions may generate backlash and undermine long-term reform objectives. Incremental adjustments-supported by scholarly consensus, public education initiatives, and transparent legislative processes-allow communities to internalize reform as part of an evolving Islamic legal tradition rather than as an externally imposed transformation.

Ultimately, a balanced paradigm affirms that Islamic law possesses internal mechanisms for renewal (tajdid) without compromising its foundational sources. By harmonizing methodological rigor, maqasid-oriented ethics, and contemporary socio-legal realities, gender justice can be pursued as a legitimate expression of Islamic legal development rather than as a departure from it.

## **7. Conclusion**

Islamic legal reform in the context of gender justice represents a dynamic engagement between tradition and modernity. The reinterpretation of fiqh through maqasid al-shariah and contextual ijihad offers doctrinally legitimate pathways toward equitable legal frameworks. While institutional and sociopolitical challenges persist, the internal resources of Islamic jurisprudence provide sufficient flexibility to accommodate evolving gender realities without compromising theological integrity.

Beyond doctrinal reinterpretation, the sustainability of Islamic legal reform depends on continuous scholarly engagement and institutional commitment. Reform should not be perceived as a one-time legislative adjustment, but as an ongoing intellectual process that responds to evolving social contexts while remaining anchored in established jurisprudential methodology. This dynamic engagement ensures that Islamic law retains both its normative authority and its practical relevance in contemporary societies.

Furthermore, strengthening academic research and curriculum development in Islamic legal studies is essential to cultivating future scholars capable of navigating complex gender-related issues. Universities, research institutions, and religious seminaries play a critical role in fostering methodological literacy in maqasid al-shariah, usul al-fiqh, and socio-legal analysis. By investing in rigorous scholarship, Muslim societies can sustain reform efforts through informed and principled discourse rather than reactive debate.

Ultimately, the pursuit of gender justice within Islamic legal reform reflects a broader aspiration to harmonize faithfulness to tradition with responsiveness to human dignity. When grounded in ethical coherence and methodological discipline, reform becomes an expression of continuity rather than rupture-affirming that Islamic jurisprudence possesses enduring capacity for renewal in the face of changing social realities.

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