

PROTECTION OF WOMEN AND CHILDREN IN ISLAMIC FAMILY LAW: GAPS AND PROPOSED REFORMS IN THE MALAYSIAN SHARIA LEGAL SYSTEM

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ABSTRACT

The protection of women and children within Malaysia's Islamic family law system faces serious challenges due to the gap between progressive legal norms and weak enforcement practices. Although the Islamic Family Law Enactments (IFLE) across various states regulate rights to maintenance (nafkah), child custody (ḥaḍānah), and protection from domestic violence, empirical realities reveal high numbers of complaints by women concerning failure to provide maintenance, gender-based violence, and the weak execution of Syariah Court judgments. Regulatory fragmentation among states, limited institutional capacity, and state policies that emphasize moral-individual approaches such as the Qawwam Men Initiative (ILQ) further exacerbate substantive injustice for vulnerable groups. This study aims to analyze the forms and causes of the protection gap affecting women and children in Malaysia's Islamic family law, to examine how the principles of *maqāṣid al-syarī'ah* and the values of Malaysia Madani are employed in reform discourse, and to formulate a more just and responsive model of legal and policy reform. The research adopts a qualitative methodology with an in-depth document study approach, employing critical thematic analysis and discourse analysis of Islamic family law enactments, Syariah Court decisions, state policy documents, human rights institution reports, as well as academic and civil society discourses. The findings indicate a systemic tripodal failure consisting of regulatory fragmentation, weak implementation of court decisions, and misalignment of national policies. The ILQ is shown to represent the paradox of "responsible patriarchy," reinforcing traditional gender norms without addressing the structural roots of the problem. This study recommends a holistic reform through regulatory harmonization, the strengthening of victim-centered law enforcement, and the operationalization of progressive *maqāṣid al-syarī'ah* and Malaysia Madani values to realize substantive justice for women and children.

Keywords: *Islamic family law, protection of women and children, Maqāṣid al-Syarī'ah, Malaysia Madani, syariah law reform.*

Introduction

Malaysia's Islamic family law system is at a critical juncture between traditional normative demands and the insistence of modernity that emphasizes substantive justice for vulnerable groups (Wan Ismail et al., 2021). In the last decade, significant transformations have taken place, especially in the public discourse on the protection of women and children. These changes are not only a response to the modernization of the law, but also the result of the penetration of contemporary social values that promote equality, human rights, and comprehensive protection (Nurozi, 2022). In the midst of the state's commitment to build a civil society based on sustainability, welfare, and compassion, the issue of protecting women and children has shifted from the private domestic realm to an urgent public policy agenda.

However, behind these reform efforts, the gap between normative guarantees in legal texts and empirical realities on the ground remains a complex structural challenge.

The main issue of this research is rooted in empirical data that reveals the fragility of the protection system in Malaysian Islamic family law. Official statistics show that women are still the most affected parties in family disputes. Data from the Malaysian Islamic Marriage Management System (SPPIM) for the 2020-2022 period noted that out of a total of 13,971 family complaints, 9,824 (70.3%) were filed by women, with the main cause being negligent or failed husbands to provide maintenance. More concerningly, the 2021 domestic violence statistics issued by the Department of Social Welfare revealed that 1,157 out of 1,234 cases (93.7%) were committed by male perpetrators. This phenomenon is exacerbated by the high divorce rate, where 11 Muslim couples are divorced every hour, as well as variations in Islamic family law regulations in thirteen countries and three federal territories that create legal uncertainty (I. Ismail et al., 2020). This reality shows that despite the existing legal framework, the effectiveness of its enforcement at the Syariah Court level particularly in the execution of alimony, hadhanah rights, and protection from violence is still a serious issue that comes at the expense of the substantive rights of women and children.

The novelty of this research lies in a three-dimensional approach that integrates legal structural analysis, value transformation, and socio-political dynamics in one coherent analytical framework (Reza & Max, 2005). First, the research does not only focus on the normative-doctrinal aspects of family law, but conducts a critical reading of state policy initiatives such as the "Qawwam Man Initiative" (ILQ) launched by JAKIM. ILQ represents the state's efforts to respond to the family crisis through strengthening the role of men as responsible leaders, but at the same time perpetuating the patriarchal paradigm that places women as objects of protection (Anwar, 2009). Second, this research offers a contextual and progressive application of the *maqāṣid al-syārī'ah* framework. In contrast to the traditional approach that often discusses *maqāṣid* theoretically, this study operationalizes the principles of *hifz al-nafs* (protection of the soul), *hifz al-nasl* (preservation of heredity), and *hifz al-'ird* (honor) as an analytical knife to criticize the legal gap and formulate an applicable reform model.(Auda, 2008) Third, this study includes the vision of Malaysia Madani as an ethical-social framework that influences the discourse of legal reform. The analysis will test the extent to which Madani principles such as justice, respect, and courtesy can be integrated into the sharia justice system to create a more humane and responsive protection mechanism (Alamgir, 2014).

The research gap to be filled by this research is multidisciplinary and methodological. Substantively, although many studies have addressed Islamic family law in Malaysia, most are still boxed into three separate tendencies: normative comparative legal studies, technical analysis of sharia justice, or gender critiques isolated from Malaysia's socio-legal context.(S. Z. Ismail & Awang Mat, 2016) Research that comprehensively links regulatory gap analysis, *maqāṣid*-based legal interpretation transformation, and state policy evaluation such as ILQ in one discussion is still very limited (Fadani & Adib, 2024). Methodologically, previous research has tended to rely on doctrinal analysis or limited interviews, without incorporating socio-legal studies approaches that link law to political power, social movements, and public discourse (Mokhtar, 2023). This research seeks to fill this gap by examining law as a living social practice, shaped by the interaction between state actors (judges, JAKIM, state governments), civil society actors (women's NGOs, academics), and impact recipients (women and children seeking justice).

An important aspect of this research includes three interconnected layers of analysis. First, at the regulatory and institutional levels, the research will map variations and inconsistencies in the Islamic Family Law Enactment between countries, as well as evaluate the capacity and procedures of the Sharia Court in handling protection cases (Trakic & Tajuddin, 2021). Second, at the level of interpretation and value, the research will analyze

discursive shifts in the use of *maqāṣid al-syarī'ah* by various stakeholders, including how the concepts of justice ('adl) and benefit (*maslahah*) are reinterpreted to address contemporary issues. Third, at the policy and advocacy level, the research will critique the effectiveness of top-down policies such as ILQ and explore the potential of bottom-up reform models driven by civil society organizations and victims' voices. These three aspects are analyzed within the framework of Malaysia's unique dynamics, namely a country that practices dualism of law (civil and sharia), has a commitment to civil society development, and faces global pressure to meet human rights standards such as CEDAW and the Convention on the Rights of the Child.

Based on the description above, this research was formulated to answer three key questions. First, the research aims to uncover how the gap between Islamic family law norms and the practices of women and child protection is manifested, particularly in the variation in inter-state regulations, weaknesses in enforcement capacities and procedures in the Sharia Courts, and socio-economic factors that hinder access to justice. Second, the research will analyze how the principles of *maqāṣid al-syarī'ah* and the values of Malaysia Madani are interpreted and used by various stakeholders ranging from judges, scholars, policymakers, to civil society organizations to criticize existing gaps and build reform discourses. Third, this study intends to formulate the structural and policy reform models needed to create a more effective, equitable, and responsive protection system. The proposal will consider criticism of existing approaches such as the Qawwam Men's Initiative, as well as draw on lessons learned from national and comparative best practices. Overall, this study aims to provide a comprehensive mapping of legal challenges, analyze the ongoing value transformation, and ultimately produce reform recommendations that are contextual, evidence-based, and aligned with the spirit of substantive justice in Islam and the ideals of civil society.

Research Methods

This study uses a qualitative approach with an in-depth documentary study design that focuses on textual analysis of primary and secondary sources to understand the construction of discourse, policy, and legal gaps. Data collection was carried out through critical content analysis of four main document corpuses: Official Legal and Policy Documents: Comparative analysis of Islamic Family Law Enactments from different countries, Sharia Court procedures, and strategic policy documents such as the Qawwam Men's Initiative (JAKIM, 2023) and the Islamic Social Action Plan (PTSI). Judicial and Administrative Records: A study of selected decisions of the Sharia Court (from the JKSM/JAIN website) in the case of alimony, hadhanah, and fasakh, as well as the annual reports and statistics of the Sharia Court and the Social Welfare Department. Public Discourse and Academic Documents: Analysis of policy statements, position papers, and campaign materials from civil society organizations (e.g. Sisters in Islam, WAO), as well as journal articles and academic theses discussing family law reform in Malaysia. Media Reports and Official Publications: A review of major media reports (mainstream news) on the issue of the protection of women and children, as well as reports from national and international institutions (e.g. SUHAKAM, CEDAW Malaysia report).

Data analysis was carried out in a thematic manner (critical thematic analysis) and discourse analysis (discourse analysis) (Fairclough, 2003). Texts from various corpuses will be coded to identify key themes such as "the narrative of the failure of the qawwam man", "the *maqāṣid* discourse in reform", and "criticism of institutions". Furthermore, discourse analysis will be used to explore how problems, causes, and solutions are represented by different actors (states, NGOs, academics), as well as how power relations shape the legal discourse. (Foucault, 2012) By triangulating between documents, this study will build a solid argument about gaps and a map of the ongoing reform discourse (Creswell & Creswell, 2017).

Research Findings

Based on an in-depth analysis of primary and secondary documents, this study uncovers three key interrelated findings regarding the protection gap and the dynamics of Islamic family law reform in Malaysia.

Tripodal Systemic Gaps: Regulatory Weaknesses, Implementation, and Policy

A comparative analysis of EUKI in different countries (Selangor, Pahang, etc.) confirms the substantive fragmentation that is a source of procedural injustice, such as variations in fasakh conditions that affect the access of victims of domestic violence to justice. However, an in-depth analysis of the texts of the Selangor 2003 and Pahang 2005 EUKIs reveals that the biggest problem is not the absence of protection rules because the two EUKIs contain many progressive provisions (controlled polygamy, fasakh, secenary property) but the acute gap between formal law and the reality of implementation.

The main evidence of this implementation gap is systemic failures in maintenance enforcement. SPPIM data (cited in ILQ) showing that 70.3% of complainants are women related to alimony arrears, reinforced by the broader context of the 2023 SUHAKAM Report on 649 complaints of access to inflammation for vulnerable groups, illustrates the failure of bureaucracy and inter-agency coordination. More critically, the analysis of the 2023 ILQ document as a national policy response shows a paradigmatic disalignment. Although it diagnoses problems accurately, ILQ offers an educational-individual solution (improving men) that does not touch at all the root of the structural problem in the form of reform of the enforcement mechanism in the Sharia Court. Thus, the protection gap is a tripodal system that locks into each other: (1) different rules, (2) weak enforcement, and (3) misguided policies.

The Qawwam Man Initiative As A Real Manifestation Of The Paradox Of "Responsible Patriarchy" Reform

The 2023 ILQ document is perfect primary evidence that materializes the findings about the paradox of state policy. An analysis of the discourse against the text explicitly shows:

- i. Data-based diagnosis of male role crisis (domestic violence, non-maintenance).
- ii. Solutions focused on fostering the morals and character of individual men, through campaigns, workshops, and moral education.
- iii. A patriarchal gender narrative, which continues to position women as passive objects (protected) and reinforces men as the sole protector (qawwam).
- iv. Total avoidance of substantive or procedural legal reform proposals, as stipulated in the Selangor or Pahang EUKI.

Thus, ILQ is not just an ineffective policy. It is an instrument of symbolic legitimacy that uses religious discourse to stabilize traditional gender power structures, while diverting attention and resources from the demands for transformative reforms put forward by the women's movement and the human rights framework (SUHAKAM). The ILQ represents "reform without change" an attempt to maintain the status quo with progressive moral rhetoric.

The Battle of Discourse in Three Arenas: Maqāṣid, Madani, and Human Rights

An analysis of these documents reveals that the fight for the future of Islamic family law takes place in three intersecting arenas of discourse:

1. The Religious Arena (*Maqāṣid al-Syārī'ah*)

It is contested between a conservative interpretation that emphasizes *hifz al-nasl* (preservation of the family/lineage) to strengthen traditional structures, and a progressive interpretation that places *'adl* (justice) and *hifz al-nafs* (protection of the soul) as the central *maqṣad* to defend victims of violence and neglect.

2. Arena of Nationalism (Malaysia Madani)

The meaning of the core values is contested. ILQ defines "well-being" and "sustainability" in the context of traditional social stability. Meanwhile, reformist actors can use the principles of "courtesy" and "respect" from Madani's vision to push for procedural ethics in courts that are more humane, speedy, and victim-centered.

3. Global Arena (Human Rights)

Represented by the SUHAKAM Report and international conventions, the framework offers a universal language of justice, non-discrimination, and child protection that is often at odds or used to criticize an overly rigid approach to religious interpretations alone.

This fight is not an abstract debate, but rather a concrete policy direction. The dominance of conservative interpretations in the ILQ document explains why the state's response ignores structural reforms. On the contrary, the possibility of reform will open up if a progressive interpretation of *Maqāṣid* and the operationalization of Madani's values of justice succeed in building alliances and influencing mainstream policy discourse.

Reflective Criticism of Malaysia's Islamic Family Law System

This research does not only describe written legal norms, but analyzes law as a living social practice (living law) shaped by the attraction of political, economic, and religious discourse. Through the lens of legal pluralism and Islamic legal feminism, this analysis seeks to understand why despite both countries having majority Muslim populations and inheriting cognate Islamic legal traditions, the responses and challenges in protecting women and children in family law show different patterns while also having fundamental similarities.

The study's first findings reveal a tripod architecture of systemic failure. At the most basic layer, there is a fragmentation of substantive regulation between thirteen countries that creates a hierarchy of access to justice that depends on geographic location. A woman victim of psychological violence in Selangor faces a heavier burden of proof to obtain *fasakh* than in the Federal Territories, due to differences in interpretations of what constitutes "tyranny" or "harm" in marriage (Wan Ismail et al., 2020) This variation is reminiscent of the situation in Indonesia before the 1991 Compilation of Islamic Law (KHI), where the interpretation of family law is highly dependent on the locality and school of judges. However, a more crucial finding lies precisely in the second layer: the acute gap between formal law and implementation. An analysis of the Selangor (2003) and Pahang (2005) Islamic Family Law Enactments shows that these two regulations have contained many normatively progressive provisions, such as strict requirements for polygamy, recognition of joint property, and the *fasakh* mechanism.

However, the existence of this rule is useless in the face of the reality of a paralyzed enforcement infrastructure. Data from the Malaysian Islamic Marriage Management System (SPPIM) collected in the Qawwam Men Initiative (ILQ) document itself—which shows that 70.3% of thousands of complaints are related to alimony arrears—is the most damning evidence of this systemic failure. Maintenance judgments from the Sharia Court, although legally valid and binding, often turn into uncollectible *judgment debts* because the enforcement mechanism relies on cooperation with law enforcement officials in the general legal system (Royal Malaysian Polis), an inter-agency coordination that is often bureaucratically stalled. The third layer of this systemic failure is the misalignment of national policies. This is where the analysis of the Qawwam Men's Initiative (ILQ) 2023 document becomes key. ILQ, as

JAKIM's official policy document, accurately diagnoses social symptoms such as high rates of domestic violence and child abuse. However, the response it offers does not touch on the previous two layers of the problem at all. Instead of proposing the harmonization of the EUKI or radical reforms of the execution procedures in the Sharia Courts, ILQ opted for an educational-persuasive approach that focused on fostering the character and morals of individual men. In other words, state policies instead ignore the need to fix broken systems and choose to treat symptoms with an individualized moral approach. This tripodal failure fragmentation of rules, weak implementation, and misguided policies forms a cycle in which the law formally recognizes rights, but substantively denies justice.

The findings of the second study crystallized in the form of the Qawwam Men Initiative document itself, which is a tangible manifestation of a paradox of state policy that can be called "responsible patriarchy". Through the analysis of critical discourse on ILQ texts, complex narrative constructions are revealed. On the one hand, this document uses statistical data and the language of social problems in a modern way to diagnose the crisis, suggesting that the state is aware of the failure of traditional gender roles. On the other hand, the solutions it offers actually reinforce and revitalize the traditional patriarchal framework itself (Haleshappa & Zaidi, n.d.). His narrative centers on fostering "good men" who are qawwam, just, and enforceable as the sole solution. In this narrative, women are consistently positioned as "protected," "defended," and "supported."

This construction reaffirms hierarchical power relations and places women as passive subjects whose well-being depends on the goodness and responsibility of men. Furthermore, by focusing solutions on the moral and educational domains of the individual, ILQ effectively depoliticizes structural issues such as economic inequality, procedural bias in the courts, and the absence of post-divorce social security. This approach serves as a form of symbolic legitimacy; The state is seen acting through campaigns and programs aligned with dominant religious values, while distracting from demands for more radical substantive legal reforms and potentially disrupting established power structures. From an Indonesian perspective, this phenomenon bears similarities to the dominant "sakinah family" discourse in the New Order era, where the rhetoric of family harmony is often used to depoliticize gender injustice and place the burden of problem-solving on the private and moral realms (Hadjar, 2025).

The study's third findings map the battleground of discourse in which the future of Malaysian Islamic family law is being fought. This fight doesn't take place in a vacuum, but rather in three overlapping arenas, each with its own logic and authority. The first arena is the religious arena, which centers on the interpretation of *Maqāṣid al-Syarī'ah*. Here, there is a struggle to define the ultimate goal of sharia. The conservative-institutional camp, represented by official narratives such as in the ILQ, emphasizes *hifz al-nasl* (preservation of the lineage/family) and *hifz al-dīn* (religion) as the primary maqāṣid. This emphasis is used to reinforce the importance of stability and the integrity of traditional family structures, where complementary and hierarchical gender roles are seen as guarantors of these benefits. Instead, the progressive-reformist camp which includes academics, NGO activists such as Sisters in Islam, and the cleric segment recontextualizes maqāṣid. They put forward 'adl (justice) as the central guiding principle and expanded the meaning of *hifz al-nafs* (protection of the soul) to include salvation from physical, psychological, and economic neglect. For them, a system that allows a mother and child to live in post-divorce poverty due to failure to enforce alimony is a violation of *hifz al-nafs* itself.

The second arena is the state arena, which is played with the vocabulary "Malaysia Madani". The government's vision of nationalism, with principles such as civilisation, welfare, *ihsan*, respect, and belief, has become a contested new lexicon. The conservative narrative interprets "well-being" and "harmony" within the framework of the maintenance of existing social order, family stability, and traditional values. Meanwhile, reformist actors are trying to operationalize the principles of "*ihsan*" (kindness, mercy) and "respect" into concrete

procedural ethics for the justice system. They argue that the convoluted procedures of the Sharia Court, non-private courtrooms, and interrogations that corner victims of domestic violence are contrary to the spirit of "ihsan" and "respect" that is the soul of civil society. The third arena is the global arena of human rights, represented by institutional frameworks such as SUHAKAM and international conventions (CEDAW, CRC). The framework offers universal language on equality, non-discrimination and child protection, which is often used by NGOs to criticize and exert external pressure on domestic policies. These three arenas interact with each other, sometimes compete, sometimes intersect. An activist may use the language of human rights in international forums, the language of Maqāṣid in the presence of religious communities, and the language of Madani in advocating to the government. The struggle for meaning in these three arenas will determine the direction of policy: whether Malaysia's Islamic family law will move towards a more egalitarian and responsive interpretation, or will it become more rigid within a patriarchal framework protected by religious and national discourse.

From Indonesia's perspective, this analysis of the Malaysian system provides valuable lessons as well as a point of reflection. The main weakness of the Malaysian system lies in the rigid legal dualism and fragmentation of authority due to the federal system, which hinders the creation of national standards and coordinated reforms (Harding, 2002). In contrast, Indonesia, with its integrated judicial system (where the Religious Courts are part of the Supreme Court) and the existence of a nationally applicable Compilation of Islamic Law, has a legal infrastructure that theoretically favors uniformity and systematic reform. However, the problem of weak implementation and enforcement, as well as a strong patriarchal culture at the level of society and the judicial bureaucracy, are acute joint challenges in both countries. The findings on ILQ as an instrument of state-sponsored patriarchy also warn of the risks when the state is too active in intervening and regulating religious discourse for specific political purposes, which can reduce the complexity and dynamics of religious interpretations living in society (Othman, 2005).

This research shows that effective and equitable Islamic family law reform cannot be achieved through sectoral or partial approaches. It requires a multi-level and integrative strategy that simultaneously addresses: (1) Harmonization and substantive legal reform to ensure justice and equality; (2) Institutional and procedural transformation in the Sharia Court to create effective access to justice with a victim's perspective; and (3) Intervention in the discourse battle to win a progressive, inclusive, and contentious justice interpretation of religious (Maqāṣid) and national values (Madani). Only with a frontal attack on these three fronts can the cycle of systemic failure that protects women and children be broken, both in Malaysia and in its reflection on Islamic family law reform efforts in Indonesia and the wider Muslim world.

Holistic Reform Model of Malaysia's Islamic Family Law System

Based on an in-depth analysis of research findings that reveal the architecture of systemic failures in the protection of women and children, the synthesis of this reform model is formulated as a multi-level and integrative response that simultaneously targets three layers of identified problems: structural gaps, policy paradoxes, and discourse battles. This model is not only normative-academic, but is designed with Malaysia's political, institutional, and socio-cultural realities in mind, while drawing on lessons from the comparative experience of Indonesia and other Muslim countries.

The Philosophical Foundations of Models: From Patriarchy to Equitable Partnerships

This model departs from the criticism of the "responsible patriarchy" paradigm that underlies the Qawwam Men's Initiative (ILQ) document. This paradigm, while trying to improve the behavior of individual men, essentially reinforces hierarchical structures and ignores the root of systemic problems (Johns, 2021). Alternatively, this model carries the paradigm of "adl-based family partnership", which emphasizes: (1) substantive equality (musawah) in rights and responsibilities, (2) victim-centered protection, and (3) institutional accountability of the state in upholding rights. This paradigm seeks its legitimacy not only from international conventions, but especially from the contextual reinterpretation of Maqāṣid al-Syarī'ah and the operationalization of Malaysian Madani values (Anwar, 2009).

Level 1: Structural and Institutional Reform – Addressing Systemic Gaps

The study's first findings reveal tripodal failures: regulatory fragmentation, crippled implementation, and misguided policies. Therefore, reforms at this level must be constitutional, procedural, and financial.

a. Harmonization of Regulation Through the Federal Model Act

The first and most fundamental step is to address the variation of the Islamic Family Law (EUKI) Enactment between states that create injustices of access. The proposed technical solution is the Federal Model Islamic Family Law Act.(Shuaib, 2003) In contrast to previous harmonization efforts that were voluntary, this Model Deed should be designed as a binding instrument. This can be done through two constitutional channels: (1) the Federal Parliament uses its residual power under Article 76(1)(b) of the Federal Constitution to legislate for the "security, order, or welfare" of the Federation, arguing that uniformity of family law is a prerequisite for national welfare; or (2) All states voluntarily refer their powers to Parliament through Article 76(4).⁴ The Model Act should standardize critical provisions that directly affect protection, such as:

1. The minimum age of marriage is 18 years absolute without the exception of judges, in line with the Children Act 2001 and the Convention on the Rights of the Child.
2. The uniform and expanded definition for "tyranny" (dhurār) in fasakh, which explicitly includes psychological, economic, and threatening violence.
3. A clear formula and indexation of child support, based on the country's living costs and educational needs, eliminates the judge's discretion that is too broad.
4. Stricter polygamy requirements, including the written consent of the first wife as a mandatory procedural requirement, and the requirement for a social impact assessment report by JKM before the application is considered by the court.

b. Radical Transformation of Syariah Court Infrastructure

The existence of good laws does not mean without institutions capable of enforcing them. Therefore, reforms must include capacity building and procedural changes in the Sharia Courts. First, the establishment of an Integrated One-Stop Crisis Center (OSCC). The successful OSCC model in hospitals needs to be adapted within the Syariah Court. The "Shariah-friendly" OSCC will be an integrated treatment centre that provides forensic medical assistance, trauma counselling, immediate legal assistance, and crisis financial support in one location. It should be jointly managed by JKSM, the Social Welfare Department (JKM), and specialist NGOs such as WAO or WCC. Its existence will cut the bureaucratic chain that often makes victims of domestic violence desperate.

Second, an automated and effective maintenance enforcement system, the failure of maintenance enforcement is the most obvious evidence of the system's weaknesses. The solution requires technological integration and institutional coordination. The Syariah Court's database system should be integrated with the Government Human Resource Information System (HRMIS) for automatic salary deduction for civil servants, and with the Department of Insolvency Malaysia to freeze assets on behalf of defaulters. For non-government husbands, cooperation with Bank Negara Malaysia and financial institutions should be strengthened for attachment orders. Third, mandatory and transformational gender and child sensitivity training. Training for judges, sharia lawyers, and registrants should not be just ad hoc. It must be a prerequisite for promotion and achievement assessment (Surya, 2023). The curriculum should be interdisciplinary, combining: contemporary munakahat fiqh, trauma and child development psychology, gender awareness, and non-judgmental victim interviewing techniques (trauma-informed interviewing).

Level 2: Policy and Paradigm Reform – Answering the ILQ Paradox

The second finding shows that the state, through ILQ, is actually part of the problem with its counter-productive policies. Reforms at this level aim to correct the direction of state policies and build new accountability.

a. Revision and Repositioning of the Qawwam Men's Initiative (ILQ)

The ILQ does not need to be canceled, but it must be fundamentally changed from within. The goal is to transform it from a moral governance instrument into a blueprint for systemic reform. Name Change and Focus: Becoming "Keluarga Madani Initiative: Strengthening Justice and Protection in Muslim Families". This change shifted the focus from "men" as the object of policy to "family" and "justice" as the goal.

New Rights-Oriented Components: The revised ILQ must include concrete components such as: (1) the Emergency Maintenance Fund which provides advance payments to children and mothers when maintenance is overdue, with state billing rights against the husband; (2) Automatic Legal Aid Scheme for all fasakh and alimony applicants under certain income lines; (3) Economic and Vocational Recovery Programs for post-divorce women. Outcome-Based Performance Indicators: Replacing old indicators such as "number of workshop participants" with metrics such as "percentage of alimony judgments fully executed within 90 days" or "reduction in average lead time for fasakh cases".

b. Establishing an Independent Accountability and Monitoring System

To prevent policies from becoming mere rhetoric, a strong check and balance mechanism is needed. Independent Monitoring Committee on Islamic Family Law Reform: Formed under Parliament or directly under the Prime Minister's Department, whose membership consists of representatives of SUHAKAM, women's and children's rights NGOs, sharia bar associations, academics, and representatives of the Ministry of Women and Family Development. This committee has the power to call for evidence, review data, and issue annual evaluation reports tabled in Parliament.

i. Transparent Public Reporting: JKSM is required to publish an Annual Report on Gender Disaggregated Performance that is publicly accessible. This report should contain data not only on the number of cases, but the quality of the results: the average amount of alimony decided vs. received, the duration of the process from complaint to execution, and the results of consumer satisfaction surveys.

- ii. Specific Complaints and Remedial Mechanisms: Establish a dedicated complaint channel for procedural violations or biases in the Syariah Courts, which is managed by a separate body (possibly under SUHAKAM or the Anti-Corruption Body), with the power to recommend disciplinary action or procedural correction.

Level 3: Discourse and Knowledge Reform – Answering the Discourse Battle

The third finding reveals that the future of law is determined in the battlefield of meaning. Therefore, reform must actively intervene and shape public and religious discourse.

a. Conceptualizing and Operationalizing Progressive Maqāṣid

To counter the conservative narrative that uses maqāṣid for the status quo, a collective intellectual project is needed to build a progressive and applicative interpretation of maqāṣid. Establishment of the Centre for Maqāṣid Studies and Gender Justice: An interdisciplinary study centre at leading universities (such as UKM, UM, or IIUM) tasked with producing studies, modules, and interpretive guidelines for judges and policymakers. These guidelines should explain, for example, how the principle of hifż al-nafs requires the state to provide shelter for victims of domestic violence, or how 'adl in the context of polygamy requires the free and informed consent of the first wife (Auda, 2008).

- i. Production of "Fatwas of Progress": Collaborate with progressive scholars and institutions such as the Institute of Islamic Understanding Malaysia (IKIM) to issue contextual fatwas, such as fatwas affirming the necessity of the wife's consent to polygamy as part of 'adl, or fatwas on the right of children out of wedlock to receive sustenance and identity without stigma (Clarke, 2022).
- ii. Integration into the Educational Curriculum: Incorporating contemporary munakahat fiqh with a gender justice perspective into the compulsory curriculum in religious secondary schools, colleges, and sharia faculties.

b. Making Malaysia Madani a Procedural Ethical Framework

The Madani vision launched by the Unity Kingdom must be translated from political slogans into operational standards for the judiciary. "Civil Sharia Court" Service Charter: Develop and implement a service charter that outlines the principles of "courtesy", "respect", and "confidence" in concrete actions: such as the guarantee of maximum processing time, a separate and secure waiting room for the conflicting party, the right to be accompanied by a trusted companion, and clear and non-condescending communication from all court employees.

- i. Public Campaign "Civilized Justice": A national media campaign that targets not only men, but the entire society, to change public expectations of how the family justice system should work. The campaign should feature a true story (with consent) and emphasize the value of respect, speed, and substantive justice (Bicchieri, 2016).

Implementation Strategy: The Realpolitik of Reform

This ambitious model will only be an academic document without a smart and tiered implementation strategy. Therefore, a three-phase approach with clear actors and targets is proposed.

a. Phase 1: Consensus Building and Pilot Project (Years 1-2)

- 1) Main Activity: Organize a National Dialogue on Islamic Family Law Reform involving all stakeholders, including representatives from the State Legislative Assembly. The result was a multi-stakeholder White Paper.

- 2) Selected Pilot: Implement Shariah-Friendly OSCC pilot projects in the Federal Territories, Selangor, and Kelantan (as states with different governments) to test models and develop evidence of success.
- 3) Legislative Advocacy: Establish a Multi-Party Parliamentary Caucus for Family Justice to build trans-partisan political support.

b. Phase 2: Legislation and Capacity Building (Years 2-4)

- 1) Drafting of the Model Act and efforts to gain the support of the states.
- 2) Large-scale training of judges and employees of the Sharia Court with a new curriculum.
- 3) Development of integrated IT systems for case management and maintenance execution.

c. Phase 3: Full Implementation and Monitoring (4 years onwards)

- 1) Full implementation of the Model Act in all countries.
- 2) OSCC operations and execution systems across the country.
- 3) Strict monitoring by independent committees and civil society, with ongoing adaptation mechanisms.

The success of this model relies heavily on the ability to build a broad coalition of reforms that transcend religious and political lines, as well as transformational leadership within key institutions such as JAKIM, JKSM, and the Ministry in the Prime Minister's Office (Religious Affairs).

This synthesis of the model offers a way out of the systemic impasse by proposing a coordinated attack on three fronts: legal structure, state policy, and the field of discourse. He acknowledged that Islamic family law is not a static monolith, but rather a dynamic arena of contestation in which justice for women and children must be constantly fought for and realized through a combination of a bold vision of justice and a pragmatic political strategy.

Conclusion

This research reveals that the crisis of protection of women and children in the Malaysian Islamic family law system is not an individual moral failure, but a systematized structural failure. The tripod problems regulatory fragmentation, lame implementation, and counter-productive policies are not accidental, but the result of an institutional design that perpetuates inequality. The Qawwam Men initiative, while well-intentioned, is an example of how the state can use religious discourse to reinforce the status quo rather than encourage substantive transformation. The battle of discourse over Maqāṣid, Madani, and human rights shows that the future of family law is an arena of political contestation. Here, the meanings of justice, family, and protection are contested between conservative, conservative, preservation-oriented visions and progressive visions that emphasize substantive justice. Reform is only possible if progressive interpretations succeed in dominating public discourse and policy.

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