

## **Balancing Formalism and Purposivism in the Development of Islamic Family Law in Indonesia**

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### **ABSTRACT**

This research investigates the challenges and adjustments within this legal domain, focusing on how these interpretative approaches applied and reconciled in contemporary Indonesian jurisprudence. The aim is to analyze the balance between adhering to the strict textual interpretations of Islamic law (formalism) and considering the broader objectives and social contexts (purposivism) in legal decision-making. Scholarship on this issue points to an evolving interaction between religious continuity and social transformation, influenced by Indonesia's legal pluralism, cultural diversity, and the indigenization of Islamic legal norms. This study employs a qualitative literature review and content analysis to examine the tension between formalism and purposivism in the development of Islamic family law in Indonesia. The findings highlight that while formalism provides a necessary structure and stability, purposivism offers flexibility and responsiveness to contemporary issues such as gender equality and technological advancements. The study reveals that Indonesian judges and legal frameworks increasingly favor a purposive approach, allowing for more context-sensitive and equitable outcomes. In conclusion, the study underscores the importance of a balanced interpretative approach to Islamic family law in Indonesia, advocating for ongoing reforms and educational initiatives to enhance understanding and application of these principles. This balance is crucial for ensuring that the legal system remains relevant and effective in addressing the needs of Indonesia's diverse Muslim population while respecting its religious.

### **Introduction**

Islamic family law in Indonesia represents a complex interplay of Islamic principles, local customs, and remnants of Dutch colonial law, reflecting the nation's rich cultural and religious diversity. The legal framework is primarily influenced by Roman-Dutch law, which has been adapted to incorporate local customs and Islamic law, making it a unique system that addresses the specific needs of Indonesian society (Aditya et al., 2023). The historical roots of Islamic law in Indonesia can be traced back to the establishment of the Priest Court for Java and Madura in 1882, which recognized the coexistence of *Adat* law alongside Islamic law, thereby laying the groundwork for the current legal landscape (Hamida, 2022). Most of the Indonesia's population, approximately 87.2%, adheres to Islam, which significantly influences the legal system (Aditya et al.,

2023). This demographic reality allows Islamic law to play a crucial role in shaping family law, particularly in matters such as marriage, inheritance, and divorce. The integration of Islamic law into the national legal framework has led to a distinctive form of family law that diverges from traditional Arab practices, adapting instead to local customs and societal norms (Susanti & Sebastian, 2017).

In interpreting Islamic family law, two predominant legal philosophies emerge: formalism and purposivism. Formalism emphasizes strict adherence to the literal text of the law, often neglecting the broader context or intended purpose behind legal provisions. This approach can lead to rigid applications of the law that may not account for the diverse cultural contexts within Indonesia (Murdan, 2016). Conversely, purposivism advocates for a more flexible interpretation that considers the law's objectives and societal implications, allowing for adaptations that reflect the evolving cultural landscape (Bowen, 2000). The application of Islamic family law in Indonesia is further complicated by the presence of *Adat*, which governs many aspects of family life and varies significantly across different ethnic groups (Arfiansyah, 2021). This legal pluralism necessitates a careful balancing act between Islamic principles and local customs, as judges and legal practitioners navigate the complexities of applying multiple legal frameworks in family law cases (Hamida, 2022). In conclusion, Islamic family law in Indonesia is a dynamic and evolving system that reflects the country's unique cultural and religious context. The interplay between Islamic law, local customs, and colonial legal remnants creates a rich tapestry of legal practices that continue to adapt to the needs of Indonesian society.

Although Islamic family law in Indonesia has been widely discussed in relation to legal pluralism, *Adat*, and the integration of Islamic principles into the national legal system, existing studies have not sufficiently examined how the tension between formalism and purposivism shapes its interpretation and development. Previous scholarship tends to emphasize either the historical evolution of Islamic family law or its adaptation to local customs and contemporary social needs. However, limited attention has been given to how strict textual interpretation and purpose-oriented interpretation interact in resolving family law issues within Indonesia's diverse socio-cultural context. This gap is significant because the imbalance between formalism and purposivism may produce inconsistencies in legal reasoning and application, particularly in matters affecting individual rights, gender justice, and social equity. Therefore, this study addresses this gap by analyzing how Islamic family law in Indonesia can balance religious authenticity, local cultural values, and modern legal demands through a more contextual and purposive interpretive approach (Zayyadi, 2023).

In this regard, the study aims to explore the implications of formalism and purposivism on the development and application of Islamic family law in Indonesia. By analyzing this tension, the study seeks to provide insights into how legal interpretations can be harmonized to better serve the needs of Indonesian society. Understanding this balance is crucial for ensuring that Islamic family law remains relevant and effective in addressing contemporary issues, such as women's rights and social justice. This analysis is particularly

important in a rapidly changing world where legal systems must adapt to new challenges while maintaining their foundational principles.

## METHOD

This study adopts a qualitative doctrinal legal research approach, supported by literature review and content analysis (Creswell, 2007). The doctrinal approach is used to examine legal norms, statutory regulations, Islamic legal doctrines, and scholarly interpretations related to Islamic family law in Indonesia. The primary legal materials include relevant Indonesian family law instruments, such as the Marriage Law of 1974, Law Number 7 of 1989 on Religious Courts, and the Compilation of Islamic Law. Secondary materials include academic books, journal articles, and previous studies discussing Islamic law, *Adat* law, legal pluralism, formalism, and purposivism. Content analysis is employed to identify recurring themes, interpretive patterns, and tensions between textual and purposive approaches in the development of Islamic family law. Rather than analyzing a single judicial case, this study treats Indonesia as a legal context in which Islamic law, *Adat*, and national law interact dynamically.

## RESULTS AND DISCUSSION

### Harmonizing Jurisprudential Theories: The Dynamics of Islamic Family Law in Indonesia

The interplay of Islamic family law, *Adat* law, and national law in Indonesia creates a unique legal landscape that accommodates the country's cultural diversity and societal needs. This pluralistic framework is essential for addressing family law issues in a manner that is both culturally sensitive and contextually relevant. The integration of these legal systems allows for a flexible and inclusive approach to family law, ensuring that legal interpretations remain effective in addressing contemporary challenges, as shown in the following table.

Table 1:  
The Interplay of Islamic Family Law, *Adat* Law, and National Law in Indonesia

Table	Aspect	Description
Fiqh and Islamic Law	Fiqh	Central to Islamic family law, Fiqh is the human interpretation of Sharia. It is adapted to align with local customs and societal needs, reflecting Indonesia's cultural diversity. For example, in the Sasak community, Islamic legal principles are adapted to local customs, influencing marriage and adoption practices (Jumarim, 2024).

	Theological Interpretations	Theological interpretations significantly impact family law. In Makassar City, a moderate understanding of theology leads to a flexible application of Islamic law, while rigid interpretations can result in extremist views and higher divorce rates (Abdullah et al., 2024).
<i>Adat</i> Law and Cultural Integration	<i>Adat</i> Law	Represents the traditional customs of Indonesian communities and often intersects with Islamic law. This integration is crucial for creating a legal system that honors both religious and cultural norms.
	Cultural Integration	In Aceh, the enforcement of Islamic law in commerce reflects a blend of national and Islamic legal principles, ensuring that local customs are respected within the legal framework (Yani et al., 2024).
Legal Pluralism and National Law	Legal Pluralism	Indonesia's legal system is characterized by legal pluralism, where national law, Islamic law, and <i>Adat</i> law coexist. This framework allows for a flexible and inclusive approach to family law, accommodating the diverse needs of Indonesian society.
	Adaptability and Challenges	The prioritization of life over religious practices during the Covid-19 pandemic demonstrates the adaptability of Islamic legal interpretations to contemporary challenges (Hasyim, 2024). The rapid growth of sectors like Islamic fintech highlights the need for regulatory frameworks that support innovation while respecting religious and cultural norms (Fidhayanti et al., 2024).

The table above demonstrates the dynamic and culturally sensitive nature of Indonesia's legal landscape, showing how these integrated legal systems effectively address contemporary challenges while honoring the country's diverse cultural context.

### **Integrating Tradition and Modernity: The Evolution of Islamic Family Law in Indonesia**

The development of Islamic family law in Indonesia is a complex process influenced by historical, cultural, and political factors. This evolution reflects the interplay

between Islamic principles and local customs (*Adat*), as well as the impact of colonial and post-colonial governance. The integration of Islamic law with *Adat* has resulted in a unique form of jurisprudence that continues to adapt to contemporary societal needs. This answer explores the historical context, the role of political dynamics, and the influence of social movements on the evolution of Islamic family law in Indonesia as shown in the following table:

Table 2:  
 Colonial Legacies, Legal Evolution, and the Quest for Gender Justice in Indonesia

Theme	Aspect	Details
Historical Context and Colonial Influence	Pre-Colonial Integration	Islamic law was harmoniously integrated with local customs, creating a unique form of jurisprudence distinct from traditional Arab interpretations (Abbas & Hasballah, 2023).
	Colonial Era	The Dutch administration established a dual legal system, recognizing the coexistence of Islamic and <i>Adat</i> laws. The 1882 Royal Decree, which instituted the Priest Court for Java and Madura, was a significant milestone (Manse, 2023).
Political Dynamics and Legal Reforms	Post-Independence Evolution	Indonesia's legal system evolved to incorporate Islamic principles into national legislation. Law Number 7 of 1989 formalized Islamic law in civil matters, particularly marriage, divorce, and inheritance (Alvian & Ardhani, 2023).
	Moderate Islam Discourse	Political leaders have balanced international pressures and domestic contestations, influencing the application and interpretation of Islamic family law, as seen in the varying approaches of different administrations (Alvian & Ardhani, 2023).
Social Movements and Gender Justice	Women's Movement Advocacy	The Indonesian women's movement has been pivotal in advocating for family law reforms, particularly in marriage and divorce, addressing gender justice within Islamic family law (Abbas & Hasballah, 2023).

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Customary Practices in South Aceh	Inheritance practices blend Islamic law with local customs, promoting gender equity by allowing equal inheritance shares for male and female heirs (Abbas & Hasballah, 2023).
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This table provides a structured overview of the key themes and developments in the context of Islamic family law in Indonesia, highlighting the historical, political, and social factors that have shaped its evolution. While the evolution of Islamic family law in Indonesia has been shaped by these factors, challenges remain. The rise of Islamic conservatism poses significant implications for democracy and diversity, potentially influencing the interpretation and application of Islamic law in ways that may not align with progressive reforms (Zulfadli, 2023). This underscores the ongoing tension between traditional interpretations and contemporary societal needs.

The Marriage Law of 1974 and Law Number 7 of 1989 were pivotal in shaping the legal framework for marriage and family law in Indonesia, integrating Islamic principles with national legal standards. These laws aimed to unify marriage regulations and formalize the role of Islamic law within the Indonesian legal system. The introduction of the Compilation of Islamic Law further standardized Islamic family law practices (Amin et al., 2023). However, the application and interpretation of these laws have been influenced by various socio-cultural factors, including religious conservatism and customary practices. The rise of Islamic conservatism in Indonesia has significantly impacted the interpretation and application of Islamic family law. This movement has shifted Indonesian Islam from an inclusive-moderate to an exclusive-literal orientation, affecting societal attitudes towards marriage and family law (Zulfadli, 2023). Religious conservatism has also influenced the legal landscape by promoting stricter adherence to Islamic principles, which can sometimes conflict with national legal standards and democratic values (Ritonga et al., 2024).

In regions like South Aceh, customary inheritance practices often diverge from Islamic law, reflecting a preference for gender equity and socio-economic considerations. This highlights the flexibility and adaptability of customary law in addressing local needs (Abbas & Hasballah, 2023). The Dayak Ngaju community in Central Kalimantan exemplifies legal pluralism, where customary law coexists with national and Islamic legal systems. This coexistence can lead to conflicts but also offers opportunities for harmonization and integration of diverse legal traditions (Syaikhu et al., 2023). In Banjarmasin, the Tionghoa Muslim community demonstrates a blend of Islamic and customary inheritance practices, prioritizing family harmony and kinship over strict legal adherence. This reflects the community's effort to balance religious diversity within families (Muzainah & Mansyuroh, 2022).

Religiosity plays a crucial role in marital satisfaction, acting as a mediator between personality traits and marital outcomes. This underscores the importance of integrating

religious values into personal and family life, aligning with the broader goals of Islamic family law (Bukhari et al., 2023). While the Marriage Law of 1974 and subsequent legal developments aimed to unify and standardize family law in Indonesia, the reality is more complex. The interplay between religious conservatism, customary practices, and legal pluralism continues to shape the application and interpretation of Islamic family law, reflecting Indonesia's diverse cultural and religious landscape (Rohman, 2022).

### **Bridging Traditions: Globalization's Influence on Islamic Family Law in Indonesia**

Globalization and modernization have significantly reshaped family structures and legal practices in Indonesia, particularly in the realm of Islamic family law. As Indonesia integrates more deeply into the global community, traditional family dynamics are evolving under the influence of increased mobility, technological advancements, and exposure to diverse cultural norms. The rise of long-distance relationships, often resulting from economic migration, has introduced complexities in family law that traditional Islamic frameworks may not adequately address (Sportel, 2017). These complexities include challenges in maintaining familial obligations and harmony, which are central tenets of Islamic family law (Ramadhan, 2024). The Indonesian women's movement has emerged as a crucial advocate for reforms in family law, particularly concerning marriage, divorce, and inheritance rights. This movement seeks to align Islamic family law with contemporary understandings of gender equality and human rights, reflecting a broader societal shift towards recognizing women's rights within the legal framework (Aditya et al., 2023). The interplay between globalization and local cultural practices has prompted calls for legal reforms that address gender disparities, emphasizing the need for a legal system that is responsive to modern realities while respecting traditional values (Choirunnisak & Mahriadi, 2022)

Indonesia's legal system is characterized by legal pluralism, where Islamic law coexists with national and *Adat* (customary) laws. This pluralistic framework allows for flexibility in legal interpretations, enabling the legal system to adapt to modern societal needs. However, this flexibility also necessitates continuous adaptation and reform to address the challenges posed by globalization and modernization (Jamal, 2023). The exposure to international norms and human rights standards has pressured Indonesia to reform its family law to better align with global expectations, including ratifying international conventions like the Convention on the Rights of the Child (CRC), albeit with reservations to ensure compatibility with Islamic principles (Maulida et al., 2022).

The tension between traditional Islamic principles and modern societal needs presents a central challenge in the application of Islamic family law in Indonesia. This tension is particularly evident in interpretative conflicts between formalists, who advocate for strict adherence to traditional texts, and purposivists, who support interpretations that consider broader objectives and contemporary contexts of the law. Such conflicts significantly affect areas like polygamy, divorce, and inheritance, complicating the legal landscape (Cholil & Sudirman, 2019). Efforts to reform Islamic family law often encounter resistance from conservative groups who perceive these changes as threats to traditional

values, complicating the implementation of progressive legal reforms (Cammack et al., 2015).

Furthermore, the coexistence of multiple legal systems can lead to inconsistencies in legal outcomes, as the application of Islamic law by religious courts may differ from interpretations by national courts. This divergence can result in confusion and potential conflicts, underscoring the need for a nuanced approach that balances traditional Islamic values with the evolving needs of Indonesian society (Jamal, 2023). In summary, contemporary challenges in Islamic family law in Indonesia are shaped by the dynamic interplay between globalization, societal changes, and the need to reconcile traditional values with modern legal and social demands. Addressing these challenges requires a flexible and inclusive approach that respects both the historical roots and the future aspirations of Indonesian society (Ramadhan, 2024).

### **Balancing Formalism and Purposivism in Indonesian Islamic Family Law**

The tension between legal formalism and purposivism is a significant aspect of jurisprudence, influencing judicial interpretations and outcomes in various legal systems, including Indonesia. Legal formalism adheres strictly to established rules and texts, while purposivism considers the broader intent behind laws, allowing for interpretative flexibility. This dynamic is evident in Indonesian legal developments, particularly in the interaction between Islamic law, national law, *Adat* law, and judicial reasoning in family law matters.

In Indonesia, the balance between formalism and purposivism is particularly evident in the Constitutional Court's handling of case related to religious freedom and minority rights. A notable example is the Court's decision regarding the Blasphemy Law in 2010. While a formal approach might have upheld the law based solely on its text and historical context, the Court adopted a purposive interpretation, considering the broader implications for religious harmony and societal stability. Ultimately, the Court upheld the law but emphasized the necessity for its careful application to protect minority rights and prevent misuse (Hasani & Halili, 2022). Another significant case is the 2017 Judicial Review of the Marriage Law, which addressed the minimum age for marriage. The law was challenged on the grounds that it discriminated against women and violated children's rights. The Court took a purposive approach, considering international human rights standards and the broader intent to protect children's welfare. It ruled to raise the minimum marriage age for women, aligning the law with contemporary understandings of gender equality and child protection (Crouch, 2012). This decision illustrates how the Court balances formalism with purposivism to address evolving societal values and needs.

However, the application of purposivism in Indonesia's legal landscape is not without challenges. The coexistence of multiple legal systems Islamic law, national law, and customary law can lead to inconsistencies in legal outcomes. The application of Islamic law by religious courts may differ from interpretations by national courts, resulting in confusion and potential conflicts (Parahita & Yulianto, 2020). Additionally, efforts to

reform laws often face resistance from conservative groups who view such changes as threats to traditional values, complicating the implementation of progressive legal reforms (Indrayanti & Saraswati, 2022). In Indonesia, the Constitutional Court's decisions reflect a nuanced approach that seeks to balance traditional values with modern legal and social demands. Addressing the challenges posed by globalization and societal changes requires a flexible and inclusive legal framework that respects both historical roots and future aspirations (Tulaseket, 2024).

### **Harmonizing Law: Navigating Formalism and Purposivism for Justice**

Balancing formalism and purposivism in legal practice require a nuanced approach that respects both the letter and the spirit of the law. This involves understanding the context of laws, developing strong analytical skills, and embracing flexibility to adapt to new societal challenges. Legal practitioners must engage in continuous learning and effective communication to align their interpretations with both the letter and the spirit of the law. Legal practitioners must delve into legislative history and societal issues to align interpretations with the law's intended purpose. This involves understanding the broader implications of legal texts and precedents, which can be enhanced through interdisciplinary approaches such as legal geography. Legal geography explores how social and environmental changes influence law and vice versa, providing insights into the dynamic relationship between law and societal contexts (Gillespie & O'Donnell, 2023). Encoding legislation into machine-executable code highlights the importance of legal alignment, ensuring that encoded provisions reflect the true meaning of statutes as determined by courts. This process requires a combination of legal, technical, and interdisciplinary expertise to address interpretive difficulties and enhance the congruence between encoded rules and statutory interpretation (Witt et al., 2024).

Engaging in research projects during legal education can enhance analytical skills, allowing lawyers to critically evaluate legal texts and precedents. Interactive and adaptive educational tools, such as the YAI4Edu software, can help students explore teaching materials in a pedagogically productive way, improving their understanding of legal reasoning and writing (Witt et al., 2024). Legal practitioners should embrace flexibility, as formalism provides a stable framework, but purposive interpretations may be necessary to avoid unjust outcomes. This is particularly important in the face of new societal challenges and technological advancements, which require continuous learning and adaptation to emerging issues like liability and privacy (Sery, 2022). While balancing formalism and purposivism is crucial, it is also important to recognize the potential challenges and limitations of each approach. Legal pragmatism, as discussed in Holmes's "The Path of the Law," emphasizes the necessity of pragmatism in legal judgment, highlighting the rhetorical character of legal reasoning and the tension between legality and morality (Sery, 2022). This perspective underscores the importance of adaptability and the need for legal practitioners to navigate the complexities of law in a rapidly changing world.

Education and awareness are crucial in balancing formalism and purposivism in legal interpretation. Legal education should integrate courses that emphasize both

approaches, encouraging students to explore the tension between these perspectives through practical applications like case studies and moot courts. Professional development programs should offer workshops on the latest legal developments and interpretative strategies, while public awareness initiatives can enhance understanding of legal processes. Interdisciplinary learning and ethical training are also essential to inform more holistic legal interpretations. By focusing on these strategies, the legal profession can better navigate the complexities of balancing formalism and purposivism, leading to more just and effective legal outcomes (Alberstein, 2012). The study on the behavior of University of Jordan students highlights the importance of legal awareness in preventing illicit activities, such as cybercrime. This underscores the need for legal education to incorporate awareness programs that address both formalism and purposivism, helping students understand the implications of their actions within legal frameworks (Sovrano et al., 2024). The application of contextual pedagogy in legal education can enhance students' understanding of the rule of law. By using reinforcement learning, students can develop a nuanced awareness of legal rights, obligations, and procedures, which is essential for balancing formalism and purposivism (Yan, 2023).

A systematic review of public awareness initiatives in healthcare suggests that passive delivery methods have limited success. This indicates that legal education and professional development should incorporate active and engaging methods to effectively communicate the nuances of formalism and purposivism to practitioners and the public (Tian et al., 2024). Teaching human rights in psychiatry has been shown to enrich students' understanding of systemic and structural influences on legal interpretations. Ethical training should emphasize the responsibilities of lawyers to uphold justice and the rule of law, considering the broader impact of their interpretations (MacSorley et al., 2023). While the focus on education and awareness is pivotal, it is also important to recognize the challenges in implementing these strategies effectively. The complexity of legal systems and the diverse needs of different stakeholders can make it difficult to achieve a perfect balance between formalism and purposivism. Additionally, the rapid evolution of technology and societal norms requires continuous adaptation and innovation in educational approaches. By acknowledging these challenges, the legal profession can strive to develop more dynamic and responsive educational frameworks that address the evolving landscape of legal interpretation.

## CONCLUSION

The exploration of Islamic family law in Indonesia reveals a complex interplay between traditional Islamic principles and an evolving legal landscape molded by local customs and state regulations. Historically, the application of Islamic law has been shaped by significant decrees like the 1882 Royal Decree, which established a Priest Court for Java and Madura, acknowledging the dual influence of Islamic and customary laws. Over time, the Compilation of Islamic Law (*Kompilasi Hukum Islam*) was developed to provide clarity on personal law and inheritance, reflecting a blend of various Islamic schools of thought and comparative legal practices. The Indonesian state has also played a crucial role

in shaping Islamic family law through significant legislation such as the Marriage Law, aiming to unify legal practices for Muslims within a secular framework. This underscores the secular nature of these laws, even as they address religious matters. Furthermore, the post-Soeharto era has seen reforms driven by the women's movement, facilitating liberalization and democratization, empowering women, and sparking discussions on further legal changes.

Looking forward, the future of Islamic family law in Indonesia is poised for continued evolution, influenced by both internal dynamics and external pressures. Balancing traditional Islamic principles with modern societal needs remains a challenge, necessitating a flexible legal framework that can adapt to changing social dynamics while respecting religious values. Judges and legal practitioners will play a pivotal role in interpreting Islamic family law, balancing formalism with purposivism to ensure that legal decisions reflect both the letter and spirit of the law. This approach is essential in addressing contemporary issues like gender equality and technological advancements. Continued legal reforms are anticipated, focusing on enhancing women's rights and addressing gaps in the current system while considering the diverse needs of Indonesia's Muslim population. Additionally, increasing education and public awareness about Islamic family law will be vital, ensuring both legal professionals and the public understand its historical context, current frameworks, and future developments. By embracing a balanced approach to legal interpretation and reform, Indonesia can continue to develop a legal system that honors its cultural heritage while addressing the needs of its diverse population.

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