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Contemporary Fiqh as an Evaluative Framework for Indonesian Family Law: Mixed Marriages, Citizenship Protection, and Joint Marital Property

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Abstract: Indonesian family life has been reshaped by social change, digital mobility, and cross-border relationships, intensifying disputes around mixed marriages, citizenship status, child protection, and the division of joint marital property. This article examines the relevance of contemporary fiqh—understood as an ijtihād-oriented mode of reasoning—in evaluating and strengthening Indonesian family-law governance. Using normative (doctrinal) legal research with a qualitative library-based design, the study analyzes primary legal materials (Law No. 1 of 1974 on Marriage, Law No. 12 of 2006 on Citizenship, and the Compilation of Islamic Law/KHI) alongside peer-reviewed scholarship on private international law and family disputes. The analysis integrates *maqāṣid al-sharīʿah* and *maṣlaḥah* as evaluative criteria to assess whether existing rules and institutional practices deliver protection and prevent harm in mixed-nationality marriages and property disputes. The findings show that many problems arise not from marital validity alone but from downstream consequences—administrative complexity in citizenship governance, unequal vulnerability of women and children, evidentiary asymmetry in asset claims, and enforcement gaps in joint property division. The article argues that contemporary fiqh can serve as a principled bridge between Islamic legal values and Indonesia's regulatory needs by prioritizing protection of lineage and child welfare (*ḥifẓ al-nasl*), dignity (*ḥifẓ al-nafs*/*ʿirḍ*), property security (*ḥifẓ al-māl*), and harm prevention (*dafʿ al-ḍarar*). It concludes with regulatory and

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adjudicative implications focused on child-centered protection, accessible marital agreements, improved evidentiary infrastructure, and enforceable remedies.

Keywords: Contemporary Fiqh; Indonesian family law; mixed marriage; citizenship; joint marital property

Abstrak: Perubahan sosial, mobilitas digital, dan relasi lintas negara telah membentuk ulang kehidupan keluarga di Indonesia, sekaligus meningkatkan sengketa terkait perkawinan campuran, status kewarganegaraan, perlindungan anak, serta pembagian harta bersama. Artikel ini menganalisis relevansi fiqh kontemporer—sebagai cara bernalar yang berorientasi ijtihād—dalam mengevaluasi dan memperkuat tata kelola hukum keluarga Indonesia. Dengan metode penelitian hukum normatif (doktrinal) berbasis studi pustaka, kajian ini menelaah bahan hukum primer (UU No. 1 Tahun 1974 tentang Perkawinan, UU No. 12 Tahun 2006 tentang Kewarganegaraan, dan KHI) serta literatur ilmiah bereputasi mengenai HPI dan sengketa keluarga. Analisis mengoperasionalkan *maqāṣid al-sharīʿah* dan *maṣlaḥah* sebagai kriteria evaluatif untuk menguji sejauh mana aturan dan praktik kelembagaan benar-benar memberi perlindungan dan mencegah mudarat pada perkawinan campuran lintas kewarganegaraan dan sengketa harta. Temuan menunjukkan bahwa banyak problem muncul bukan semata dari validitas perkawinan, melainkan dari konsekuensi turunannya: kompleksitas administrasi kewarganegaraan, kerentanan yang tidak merata bagi perempuan dan anak, asimetri pembuktian dalam klaim aset, serta problem eksekusi putusan harta bersama. Artikel ini menegaskan bahwa fiqh kontemporer dapat menjadi jembatan normatif antara nilai-nilai hukum Islam dan kebutuhan regulasi Indonesia dengan memprioritaskan perlindungan nasab dan kesejahteraan anak (*ḥifẓ al-nasl*), perlindungan martabat (*ḥifẓ al-nafs/ʿirḍ*), keamanan harta (*ḥifẓ al-māl*), dan pencegahan mudarat (*dafʿ al-ḍarar*). Implikasi yang diajukan menekankan perlindungan berpusat pada anak, akses perjanjian perkawinan yang inklusif, penguatan infrastruktur pembuktian, serta pemulihan yang efektif dan dapat dieksekusi.

Kata Kunci: fiqih kontemporer; hukum keluarga Indonesia; perkawinan campuran; kewarganegaraan; harta bersama.

الملخّص

أدّت التحوّلاتُ الاجتماعيةُ، والحركيّةُ الرقميةُ، والعلاقاتُ العابرةُ للحدود إلى إعادة تشكيل الحياة الأسرية في إندونيسيا، كما زادت النزاعاتُ حول الزواج المختلط، ووضعُ الجنسية، وحمايةُ الطفل، وتقسيمُ المال المشترك بين الزوجين. تتناول هذه الدراسة مدى ملاءمة الفقه المعاصر—بوصفه نمطًا استدلاليًا قائمًا على الاجتهاد—في تقويم حوكمة قانون الأسرة الإندونيسي وتعزيزها. واعتمدت الدراسةُ منهجَ البحث القانوني المعياري القائم على المراجعة المكتبية، من خلال تحليل المواد القانونية الأساسية (قانون الزواج رقم ١ لسنة ١٩٧٤، وقانون الجنسية رقم ١٢ لسنة ٢٠٠٦، ومدوّنة الأحكام الإسلامية KHI) إلى جانب الأدبيات العلمية المحكمة حول تنازع القوانين والنزاعات الأسرية. وتُفعِّل الدراسةُ مقاصد الشريعة والمصلحة بوصفهما معيارين تقويميين لقياس مدى قدرة القواعد والممارسات المؤسسية على تحقيق الحماية ومنع الضرر في الزواج المختلط عبر الجنسية ونزاعات المال. وتُظهر النتائجُ أنّ كثيرًا من الإشكالات لا تنبع من مسألة صحة الزواج فحسب، بل من آثاره اللاحقة: تعقيد الإجراءات الإدارية المرتبطة بالجنسية، وتفاوت هشاشة النساء والأطفال، ولا تكافؤ عبء الإثبات في منازعات الأموال، وصعوبات تنفيذ أحكام قسمة المال المشترك. وتخلص الدراسة إلى أنّ الفقه المعاصر يمكن أن يشكّل جسرًا معياريًا بين قيم الفقه الإسلامي ومتطلبات التنظيم القانوني في إندونيسيا، عبر إعطاء الأولوية لحفظ النسب ومصلحة الطفل (حفظ النسل)، وصون الكرامة (حفظ النفس/العِرض)، وحماية المال (حفظ المال)، ودفع الضرر (دفع الضرر). وتقدّم الدراسةُ دلالاتٍ تنظيميةً وقضائيةً تركّز على حماية الطفل، وتيسير الوصول إلى اتفاقات الزواج، وتعزيز بنية الإثبات، وضمان سُبل إنصاف فعّالة قابلة للتنفيذ.

الكلمات المفتاحية: الفقه المعاصر؛ قانون الأسرة الإندونيسي؛ الزواج المختلط؛ الجنسية؛ المال المشترك.

Introduction

Family life in Indonesia has undergone significant transformation because of social, economic, and technological changes. Within this context, issues such as interfaith or

transnational marriage, child custody, and the management of joint marital property have become increasingly pertinent and call for fiqh-based guidance that aligns with the realities of modern society. Contemporary fiqh offers a flexible ijtihād-oriented approach, allowing Islamic law to adapt to the challenges faced by families today. In this sense, fiqh is not treated as a frozen legacy, because "fiqh has always been constructed as an evolving and renewable product, not static and rigid" (Sulthon et al., 2024).

Under Indonesian statutory law, mixed marriage is defined in Law No. 1 of 1974 on Marriage. Article 57 stipulates: "In this law, what is meant by a mixed marriage is a marriage between two persons who are subject to different laws in Indonesia due to their nationality, and in which one of the parties is an Indonesian citizen" (Indonesia, 1974, Art. 57). Regulations on citizenship in the context of mixed marriages are more appropriately read through the framework of the Citizenship Law No. 12 of 2006, which repealed the earlier 1958 law and provides the contemporary legal basis for citizenship status and protection issues affecting children in mixed-marriage contexts. Over time, however, scholarship has noted that the legal framework may disproportionately accommodate adults entering mixed marriages while leaving gaps in protection for wives and children (Fauzi, 2018). In the interfaith marriage debate, legal uncertainty is reinforced by the observation that "the interfaith marriage is not regulated in the 1974 Marriage Law" (Hedi et al., 2017), which helps explain why administrative and judicial practices often vary.

Mixed marriages entail complex legal problems, as spouses often come from differing cultural and religious backgrounds. According to Law No. 1 of 1974, in the absence of a prenuptial agreement, property acquired during the marriage is generally treated as joint marital property (Indonesia, 1974, Art. 35). In practice, however, the division of such property frequently gives rise to disputes, particularly in relation to private international law considerations and evidentiary challenges in court practice. Recent legal debates on marital agreements also show adaptive tendencies in positive law, "*perjanjian perkawinan ... dapat dibuat ... baik sebelum ataupun selama perkawinan berlangsung*" (Purbasari & Rijal, 2023), a shift that invites renewed fiqh reasoning on maṣlaḥah, fairness, and legal certainty.

Child custody has become an increasingly complex issue in the modern era. National statistics report a rise in divorce cases from 447,743 in 2021 to 516,334 in 2022, making the determination of custody and post-divorce obligations a frequent source of contention. From the perspective of court practice, the problem is not only custody allocation but also enforceable child maintenance; one empirical-normative study notes that "most of the decisions on divorce do not mention any stipulation about child maintenance" (Nasution & Muchtar, 2020), indicating gaps between regulatory intent and judicial outcomes.

The management of joint marital property also constitutes a critical issue in present-day family dynamics. In Indonesia, the doctrine of *harta bersama* is shaped by statutory and institutional practice; notably, scholarship observes that the term is not explicitly regulated in the Qur'an or Hadith and has strong roots in customary law (*'urf*), while the basic fiqh conception of property tends toward separate ownership (Purbasari & Rijal, 2023). This doctrinal tension helps explain why confusion and contestation often arise in its division in divorce cases, especially when spouses' contributions differ. In many instances, couples fail to discuss financial planning prior to marriage, leading to uncertainty and conflict later. Hence, it is important for couples to develop a clear understanding of their respective rights and, where necessary, to conclude a prenuptial agreement.

Contemporary fiqh offers solutions through ijtihād-based approaches that seek to reconcile Islamic law with current social realities. Such an approach enables Muslim jurists (ʿulamāʾ) to consider modern contexts when issuing *fatwās* on family matters such as mixed marriage and child custody. A recent family-law analysis on marriage agreements explicitly frames regulatory change as *ijtihād* in action: the application of *taghayyur al-fatwā* and *al-muḥāfaẓah* in PMA 19/2018 "reflects an effort of ijtihad" to balance continuity and change (Ulfazah et al., 2025).

This article builds upon earlier doctrinal scholarship on mixed/transnational marriages in Indonesia that largely examines statutory rules and private international law questions (e.g., applicable law, procedure, and legal consequences) (Arliman S., 2017; Dewi & Syafitri, 2022). However, related works addressing the status of children and marital assets in mixed-marriage contexts,

and even studies that move closer to court practice, such as evidentiary issues in disputes over joint marital property, still tend to operate within a predominantly positive-law frame (Pertiwi et al., 2019; Dwisana & Resen, 2021).

The novelty of the present study is therefore to move beyond descriptive statutory/HPI analysis by integrating contemporary fiqh as an ijtihād-oriented framework, operationalizing *maqāṣid al-sharīʿah/maṣlaḥah* as evaluative criteria (fairness, protection of spouses/children, harm prevention), and deriving regulatory and adjudicative implications for Indonesian family-law governance (including how these principles can inform interpretation, policy design, and dispute resolution on mixed marriage, custody, and joint property).

Methods

This study uses normative (doctrinal) legal research with a qualitative, library-based design. Following Indonesian debates on doctrinal research, normative inquiry is treated as "law as a practical discipline" that systematizes rules, principles, and concepts to resolve ambiguity and gaps in positive law (Negara, 2023; Benuf & Azhar, 2020). The research question is addressed by integrating contemporary fiqh as an ijtihād-oriented framework and operationalizing maqāṣid al-sharīʿah/maṣlaḥah as evaluative criteria to assess whether Indonesian family-law regulation delivers protection and prevents harm in mixed-marriage, citizenship, and property disputes. Source triangulation is used to keep prescriptive claims anchored in authoritative materials.

Primary legal materials include Law No. 1 of 1974 on Marriage, Law No. 12 of 2006 on Citizenship, and the KHI disseminated through Instruction of the President No. 1 of 1991 (Republic of Indonesia, 1974, 1991, 2006). Secondary materials comprise peer-reviewed scholarship on private international law, mixed marriages, citizenship, and joint marital property. Analysis proceeds in four steps: (1) mapping issues and extracting relevant norms; (2) historical–comparative reading of "mixed marriage" from colonial pluralism to codification; (3) doctrinal synthesis of statutory, KHI, and scholarly interpretations; and (4) maqāṣid/maṣlaḥah evaluation

to derive regulatory and adjudicative implications, emphasizing child welfare, fairness, and enforceability.

Result and Discussion

Marriage (Nikāḥ) as a Normative Institution and a Regulatory Object

In contemporary Indonesian debates on family law, marriage (nikāḥ) must be read in two simultaneous registers: (i) as a Sharīʿah-sanctioned covenant with moral and spiritual teleology, and (ii) as a legal institution that generates enforceable rights and duties under national law. This dual character clarifies why "contemporary fiqh" is relevant for Indonesia: it provides an ijtihād-oriented method for translating enduring Islamic legal values into regulatory design and adjudication in a society shaped by mobility, digital communication, changing gender roles, and rising family litigation (Daniswara & Faristiana, 2023). In this view, fiqh is not treated as a frozen legacy; rather, it is historically produced reasoning that can be renewed through disciplined methods, especially when social realities change (Sulthon et al., 2024).

Within Indonesian Islamic legal governance, the Compilation of Islamic Law (Kompilasi Hukum Islam/KHI) is pivotal because it supplies operational definitions and doctrinal starting points for the Religious Courts (Peradilan Agama) and administrative practice. KHI defines marriage as a mīthāqan ghalīẓan (a solemn and strong covenant) and explicitly frames it as worship (ʿibādah), while positioning the family ideal as the pursuit of sakīnah, mawaddah, and raḥmah (Republic of Indonesia, 1991). Although the wording is normative, its function in governance is practical: it creates a benchmark that can be operationalized into legal principles—welfare, protection, fairness, and harm prevention—when judges and policymakers confront contemporary disputes. This operational function is crucial because the hardest family-law problems are rarely about theology in abstraction; they emerge as downstream consequences: citizenship status, child identity and welfare, enforceability of maintenance, evidentiary asymmetry in assets, and cross-border administration.

At the level of national statutory law, Law No. 1 of 1974 on Marriage embeds religion into marriage validity via Article 2(1) and establishes important consequences such as joint marital property

(harta bersama) by default (Republic of Indonesia, 1974). The regulatory logic is clear: marriage is not merely private. It is a public-legal act whose validity and consequences are conditioned by religious and administrative recognition. This statutory embedding of religion becomes a key point of tension in interreligious marriage disputes, and it also becomes a point of coordination in mixed-nationality marriages where religion is not the only relevant connector (citizenship, domicile, conflict-of-laws rules, and land/property restrictions).

Contemporary fiqh does not replace statutes; rather, it interprets and evaluates them. Its relevance lies in supplying a principled evaluative framework—especially maqāṣid al-sharīʿah (objectives of the law) and maṣlaḥah (welfare/harm-prevention reasoning)—for answering what the law should protect when statutes are under-determined, contested, or produce unintended harms (Busriyanti et al., 2025; Sulthon et al., 2024). Indonesia's family governance increasingly fits this condition: digital mobility facilitates cross-border relationships; administrative systems mediate marriage and civil status; and courts are pressured to secure child welfare, fairness, and certainty under new patterns of dispute (Daniswara & Faristiana, 2023). Against this background, mixed marriage becomes a concrete "stress test" for how normative ideals are translated into enforceable protection.

Mixed Marriage as a Historical-Comparative Problem

To understand present mixed-marriage disputes, Indonesian family law must be read historically. Prior to Law No. 1/1974, colonial legal pluralism shaped family regulation. A key instrument often cited in doctrinal discussions is the Regeling op de Gemengde Huwelijken (GHR), which conceptualized "mixed marriage" primarily as marriage between persons subject to different legal regimes. This colonial framing matters because it treated "difference of law" as the core variable, a logic that later reappears in modern conflict-of-laws debates when nationality, domicile, and administrative recognition interact in transnational marriages (Arliman S., 2017).

Law No. 1/1974 re-codified marriage governance under the Indonesian state and includes specific provisions on mixed marriages (Articles 57–62). Article 57 defines mixed marriage as a

marriage between two persons subject to different laws in Indonesia due to nationality differences, where one party is an Indonesian citizen (Republic of Indonesia, 1974). The codification aimed to create legal certainty, yet it also generated new friction points: when "mixedness" intersects with (a) religion (interfaith disputes), (b) property regimes (joint property versus separate property), and (c) cross-border administration (documents, registration, enforcement). Consequently, contemporary mixed-marriage disputes often do not arise from the question "are they married?", but rather from downstream consequences—child status and identity, citizenship, guardianship, inheritance, and the division of assets—especially when conflicts reach court.

Indonesian private international law scholarship has long mapped these issues doctrinally: applicable law, procedural requirements, and conflict-of-laws connectors. Arliman's analysis frames mixed marriage as a private international law matter requiring attention to administrative prerequisites, evidence, and the interaction of legal systems (Arliman S., 2017). Dewi and Syafitri similarly examine mixed marriage and legal consequences largely within a positive-law/conflict-of-laws frame, emphasizing statutory gaps and the interaction between the Marriage Law and citizenship regulation (Dewi & Syafitri, 2022). This body of work is essential, but it often stops at describing classification and applicable rules, leaving a normative evaluation gap: what a just and protective regime should look like for spouses and children under contemporary conditions. This is precisely where a contemporary fiqh approach becomes additive: instead of asking only "which law applies," a maqāṣid/maṣlaḥah approach asks whether outcomes align with protection of lineage and child identity (ḥifẓ al-nasl), dignity and welfare (ḥifẓ al-nafs / protection of honor), protection of property (ḥifẓ al-māl), and the prevention of harm (dafʿ al-ḍarar).

Mixed Marriages Across Nationalities

Mixed marriages between Indonesian citizens (WNI) and foreign nationals (WNA) generate consequences not only in private law (marriage validity and property regime), but also in public law—most notably citizenship. Contemporary citizenship governance is anchored in Law No. 12 of 2006, and mixed-marriage families frequently face the regime of limited dual citizenship for children

(Republic of Indonesia, 2006). This is not marginal: it shapes children's legal identity, documentation, mobility, and access to rights and services. Empirical-normative legal studies emphasize that children from mixed marriages may hold dual citizenship only within a limited window and must later choose, producing practical dilemmas for education pathways, residence decisions, and long-term belonging. Soesetyo (2024) highlights the administrative complexity of documenting children's dual citizenship status and the downstream problems when families miss procedural windows or encounter inconsistent interpretation by implementing agencies. Complementing this, Midia et al. (2023) stress that WNI–WNA marriages require protective safeguards for women and children, noting how regulatory burdens and vulnerabilities can fall disproportionately on wives and children when legal literacy and access to administrative services are uneven. These findings support a governance claim: mixed marriage is not simply "globalization meets romance," but a public-administrative problem that requires coherent coordination among civil registry, immigration, courts, and legal aid mechanisms (Midia et al., 2023; Soesetyo, 2024).

Historically, citizenship in mixed-marriage contexts was governed by older frameworks such as Law No. 62 of 1958, which was later replaced by the 2006 regime (Republic of Indonesia, 1958; Republic of Indonesia, 2006). From a contemporary fiqh lens, however, the evaluative question is not nostalgia for older rules but whether the current regime prevents harm and protects the vulnerable—especially children's identity and welfare. If administrative complexity effectively produces exclusion, delayed documentation, or unequal protection, the regime fails the maṣlaḥah test even when it appears legally complete on paper.

A second major friction point is property. Under Law No. 1 of 1974, absent a marital agreement, assets acquired during marriage become joint marital property (harta bersama) (Republic of Indonesia, 1974). In mixed marriages, this default regime can interact sharply with restrictions on land ownership and the legal position of foreign spouses, making it a recurrent source of conflict and litigation. Parties may discover belatedly that "default joint property" is not only a family-economy rule but also a rule with serious legal risks, including land-rights complications. In this context, the Constitutional Court's Decision No. 69/PUU-XIII/2015

is widely treated as a watershed because it is associated with broader acceptance of marital agreements not only before marriage but also during marriage, functioning as a corrective mechanism to avoid unintended harms produced by rigid default rules (Khairunnisa, 2019). From a contemporary fiqh viewpoint, the point is not to treat marital agreements as "foreign legal imports," but to evaluate them as instruments of clarity, fairness, and harm prevention—a maṣlaḥah logic—so long as they do not contravene Sharīʿah boundaries.

Seen through a maqāṣid/maṣlaḥah frame, the central evaluative question becomes: does the mixed-marriage regime prevent harm and protect vulnerable parties? Three priority protections follow. First, protection of children's legal identity and welfare (ḥifẓ al-nasl) requires administrative rules on citizenship and documentation that minimize statelessness-like risks, loss of entitlements, or procedural exclusion (Midia et al., 2023; Soesetyo, 2024). Second, protection of spouses—especially wives—in cross-border contexts requires anticipating asymmetries in bargaining power, legal literacy, and access to remedies, including post-divorce protection and custody enforcement (Midia et al., 2023). Third, protection of property and legal certainty (ḥifẓ al-māl) requires property-characterization rules that do not generate hidden constitutional or economic harms; flexible agreement regimes can function as one adaptive step, but only if courts and administrators apply them consistently and citizens can access them effectively (Khairunnisa, 2019; Republic of Indonesia, 1974). In this way, the mixed-marriage discussion supports the novelty claim advanced in your Introduction: moving beyond descriptive mapping of statutes and conflict-of-laws questions toward a contemporary fiqh evaluative governance model with concrete regulatory implications.

Joint Marital Property (Harta Bersama)

The notion of harta bersama in Indonesia is frequently described as a hybrid legal concept influenced by statute and socio-legal practice. Law No. 1/1974 sets a default rule: assets acquired during marriage are joint marital property, while premarital assets and certain personal acquisitions remain under individual control unless otherwise determined (Republic of Indonesia, 1974). In practice, this interacts with Islamic legal reasoning and the contractual tool of

marital agreements, producing complex disputes during divorce and asset division.

Islamic-law scholarship argues that rigid mechanical equal division may fail to capture substantive justice in particular scenarios. Kurniawan's influential analysis proposes that distribution should consider contributions, suggesting that justice in joint property division should not always mean a mechanical 50:50 allocation; rather, distribution can be sensitive to contribution patterns while still recognizing non-monetary domestic contributions as legally relevant (Kurniawan, 2017). This argument matters for contemporary fiqh because it shows how maṣlaḥah and distributive justice can inform adjudication beyond literal statutory defaults.

A persistent problem in joint property disputes is not only the normative standard of division but also proof: how parties demonstrate which assets are joint, which are separate, and how to value them. This becomes acute in mixed marriages without marital agreements, where asset acquisition may involve cross-border transfers, foreign accounts, or land/property constraints. Dwisana and Resen show that evidentiary burdens often fall on the claimant, and disputes arise from incomplete documentation, asymmetry of financial access, and strategic concealment. Their analysis highlights that the success of a claim frequently depends on evidence production, making procedural rules and judicial discretion decisive for whether joint property principles function as justice or become a source of further harm (Dwisana & Resen, 2021). Related work on mixed marriage consequences for children and property emphasizes that lack of planning and ambiguity—especially around property acquired before and after marriage—often drives litigation and intensifies conflict (Pertiwi et al., 2019).

From a contemporary fiqh governance perspective, these findings imply that "substantive justice" requires procedural infrastructure: transparent disclosure expectations, evidentiary standards that do not reward concealment, and valuation mechanisms that prevent economically weaker spouses from being structurally disadvantaged. In maqāṣid terms, weak evidence systems can undermine protection of property (ḥifẓ al-māl) and create sustained harm. Moreover, even when a court decides joint property division, enforcement can be difficult. This enforcement

gap has a direct welfare impact: unenforceable judgments can produce prolonged economic insecurity, particularly for the economically weaker spouse. Contemporary fiqh, when treated as regulatory ethics, directs attention to this "endgame": the objective is not merely correct doctrine but deliverable protection. Therefore, two regulatory responses follow: (i) strengthen procedural tools (asset disclosure, sanctions, clearer execution pathways), and (ii) refine substantive reasoning so that division accounts for vulnerability and welfare, not merely formal ownership or simplistic arithmetic (Kurniawan, 2017; Dwisana & Resen, 2021).

Conclusion

This article demonstrates that contemporary Indonesian family-law problems cannot be adequately addressed through a purely descriptive reading of statutes or a purely technical conflict-of-laws approach. Marriage in Indonesia operates simultaneously as a Sharīʿah-grounded covenant and as a state-regulated legal institution whose downstream consequences—citizenship status, child welfare, property division, and enforceability—directly shape lived family realities. Because these consequences increasingly arise in contexts defined by mobility, digital communication, and cross-border relationships, Indonesian family-law governance faces recurring friction: administrative complexity, uneven protection for women and children, evidentiary asymmetry in asset disputes, and gaps between normative ideals and enforceable outcomes.

The principal contribution of this study is to show how contemporary fiqh, framed as ijtihād-oriented reasoning, can serve as a normative evaluative bridge between Islamic legal tradition and Indonesia's evolving regulatory needs. Rather than competing with statutory law, contemporary fiqh strengthens governance by offering a principled framework—*maqāṣid al-sharīʿah* and *maṣlaḥah*—to evaluate whether rules and institutional practices protect what law should protect. Through this lens, mixed marriage is not merely a technical "applicable law" issue; it is a family-welfare governance problem. The key evaluative yardsticks are the protection of child identity and welfare (*ḥifẓ al-nasl*), dignity and welfare (*ḥifẓ al-nafs / ʿirḍ*), economic security (*ḥifẓ al-māl*), and harm prevention (*dafʿ al-ḍarar*).

Three main implications follow. First, for mixed-nationality marriages, the citizenship regime must be assessed not only by legal completeness but by its capacity to prevent administrative exclusion and protect children's rights in practice. Second, regarding property risks, the availability of marital agreements (including postnuptial arrangements in practice) should be treated as a protection mechanism aligned with *maṣlaḥah*—provided it remains within Sharīʿah boundaries—while ensuring access and consistent implementation so that protection does not become an elite privilege. Third, in joint marital property disputes, substantive justice requires procedural infrastructure: disclosure expectations, evidentiary standards that do not reward concealment, and enforceable execution pathways. Without these, court decisions risk becoming symbolic, undermining welfare objectives and disproportionately harming economically weaker spouses.

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