

**RENEWAL OF ISLAMIC FAMILY LAW:  
Analysis of The Contribution of Qosim Amin's Thought**

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**Abstract** Qosim Amin's thoughts have influenced the Islamic family law reform movement in various countries. Although it has faced controversy and criticism, its contribution to positive changes in family law views and practices cannot be overlooked. He has provided the basis for contemporary thinking on how to harmonize Islamic teachings with the values of equality and justice in the context of family law. This study uses a library research approach by searching various sources of literature, especially the works of Qosim Amin, then analyzing them through content analysis methods. The results of this analysis form the basis for drawing conclusions which are then presented in a report. The purpose of this paper is to find out the description and contribution of Qosim Amin in influencing family law in Islam. The results of the study explain that, Qosim Amin's thoughts in reforming Islamic family law include his views on gender equality, wiser polygamy arrangements, and a more equitable distribution of inheritance which have formed the basis for debate and reform of family law that is more modern and in accordance with the values of equality and justice in contemporary society.

**Keywords:** Islamic Family Law, Qosim Amin, Law Reform

**Abstract:** Pemikiran Qosim Amin telah mempengaruhi gerakan reformasi hukum keluarga Islam di berbagai negara. Meskipun dihadapkan pada kontroversi dan kritik, kontribusinya terhadap perubahan positif dalam pandangan dan praktik hukum keluarga tidak dapat diabaikan. Ia telah memberikan dasar bagi pemikiran kontemporer tentang bagaimana mengharmonikan ajaran Islam dengan nilai-nilai kesetaraan dan keadilan dalam konteks hukum keluarga. Studi ini menggunakan pendekatan penelitian kepustakaan dengan melakukan pencarian terhadap berbagai sumber pustaka, terutama karya Qosim Amin, kemudian dianalisis melalui metode analisis isi. Hasil analisis tersebut menjadi dasar dalam penarikan simpulan untuk kemudian disajikan dalam laporan. Tujuan tulisan ini adalah untuk menganalisis pemikiran dan kontribusi Qosim Amin dalam mempengaruhi hukum keluarga Islam. Hasil penelitian menjelaskan bahwa, Pemikiran Qosim Amin dalam pembaharuan hukum keluarga Islam di antaranya pandangannya tentang kesetaraan gender, pengaturan poligami yang lebih bijaksana, dan pembagian waris yang lebih adil telah membentuk dasar perdebatan dan reformasi hukum keluarga yang lebih modern dan sesuai dengan nilai-nilai kesetaraan dan keadilan masyarakat kontemporer.

**Kata Kunci:** Hukum Keluarga Islam, Qosim Amin, Pembaharuan Hukum

## INTRODUCTION

Islamic history has a journey that reflects changes in the treatment of women. The treatment of women in Islam is influenced by religious teachings, pre-existing social practices, and cultural and historical contexts (As-Sya'rawi, n.d.). The Early Age of Prophethood, when Islam was first promulgated by the Prophet Muhammad, there was an attempt to eliminate the practices that were detrimental to women that existed in the pre-Islamic era. Practices such as the burial of daughters alive and sexual slavery were prohibited. Islam teaches equality before God, but in social practice, women still have limitations. During the leadership of the Rashidun Khulafaur, Islamic teachings were further implemented in law and policy. Despite cultural constraints, steps were taken to protect women's rights, such as the right to inheritance and the right to own property. During the Middle Ages, during the expansion of Islam into new areas, local cultural practices and traditions often had an impact on the treatment of women. In some places, the patriarchal interpretation of Islam leads to further restrictions on women's rights (Nurhuda, 2022).

The thoughts of Islamic scholars and scholars provide views and interpretations of the role of women in society. Some of these views are more conservative, while others are more progressive, depending on their understanding and interpretation of Islamic texts. In the Modern and Contemporary Period, there was a reform

movement in the Islamic world that attempted to return Islamic teachings to the core values of equality and justice. Several Islamic countries have also adopted legal changes to protect women's rights, such as the right to education, work, and property ownership. Contemporary developments in various parts of the world, Islamic societies are still struggling with issues of treatment of women. Despite improvements in several aspects, challenges such as domestic violence, child marriage and gender discrimination are still relevant in several areas. It is important to remember that interpretations and practices of Islam vary widely, depending on different cultural, geographical and religious contexts (Zayyadi, 2020). Many Muslim women and women's organizations have struggled to fight for women's rights in accordance with Islamic teachings that prioritize justice and equality.

The process of family law reform in Turkey has become an important point in the history of family law changes in the Islamic world, and its impact has greatly influenced the evolution of family law in other countries. The presence of Turkish communities in Europe, such as in France, Britain, the Netherlands and Germany, introduced the study of Islamic law and stimulated relations between Turkey and Muslim countries in Asia and Africa (Nasution, 2009). Not only in Turkey, Islamic countries that have experienced colonization by the West, especially in Europe, have brought Western lifestyle

input into the culture and traditions of Muslim societies. For example, the role of women in society has begun to change, where the freedom of women to participate in community activities such as work and study has begun to be recognized (Zayyadi, 2020).

Renewal of Islamic law is a process in which existing laws undergo qualitative changes as a result of interactions within society. Even though renewal of Islamic law is considered as something autonomous, it still interacts with various elements in society, resulting in interdependence (Chandra, 2018). When Islamic law interacts with social life, society is faced with various problems, both internal and external. Therefore, the concept of reforming Islamic law requires an adaptive attitude towards the social conditions of the society in which the law applies. In this context, the concept of "*al-muhafadzah 'ala al-qadim al-shalih wa al-akhdzu 'ala al-jadid al-ashlah*" is emphasized, which means that the principle is to maintain the old if it is still good and accept new changes if they are considered better. This is considered important because the behavior of mulattoes (individuals subject to religious obligations) is seen as something continuous and constantly changing.

In daily life situations, until now traditional family law is still recognized as a guide, although some argue that traditional family law is no longer relevant to the times (Bahri, 2013). This situation has encouraged the emergence of efforts to reform the family law. One of the figures

who played an important role in changing family law was Qosim Amin, who tried to realize efforts to liberate women.

Including in Indonesia, discussions about family law are also influenced by Qosim Amin's thoughts. In historical records, the issue of renewing family law has been an important topic since ancient times, before gaining independence. At the time of the Women's Congress in 1928, this issue arose as a result of the many incidents that befell women while in marriage (Rajafi, 2018). For example, there are marriages at too young ages, forced marriages, the practice of polygamy, arbitrary divorces, and violations of women's rights. In 1937, the Dutch colonial government drafted a modern marriage law known as the Marriage Registration Ordinance. This step was taken as a result of strong pressure coming from various women's organizations at that time. This marriage registration ordinance applies to indigenous, Arab, and non-Chinese Asians who live in Indonesian territory. One of the salient features of the ordinance was the enforcement of monogamy and granting equal rights regarding divorce to women and men. However, it is important to note that this ordinance only applies to those who choose to have their marriage legally registered.

Islamic family law theory is a framework for understanding and viewing the legal principles governing family relations in Islam (Samad, 2021). This theory is based on the interpretation of religious texts, Islamic law (shari'a), and the

socio-cultural context within the Muslim community. The aim is to formulate legal guidelines that are relevant and in accordance with Islamic teachings and the values of equality, justice and humanity.

Some of the key elements in Islamic family law theory include (Tarantang & Tarantang, 2018):

- 1) Al-Qur'an and Hadith: This theory adheres to the teachings and principles contained in the Qur'an and hadith as the main sources of law in Islam. These sacred texts are interpreted to explore views on marriage, divorce, inheritance rights, family rights, and other related issues.
- 2) Then equality and justice: This theory emphasizes the importance of equality and justice between men and women in family law. This principle is applied in the context of marriage, women's rights, and inheritance distribution, so that all family members have equal rights and responsibilities (Quthny, 2016).
- 3) Furthermore, Ijma' and Qiyas: Apart from the Qur'an and hadith, this theory can also refer to ijma' (ulama consensus) and qiyas (analogy) as sources of law. By using this method, legal principles that are not explicitly stated in the sacred texts can be found by analogy with existing principles.
- 4) Social and Cultural Context: This theory takes into account the social and cultural context in which family law is applied. This allows for adjustments in family law to changes in society and the times. Ijtihad: Islamic family law theory

also considers ijtihād, namely the effort of critical thinking in developing laws that are in accordance with the needs of the times. Ijtihad enables the ulama to come up with new interpretations and legal solutions in situations that are not specifically regulated by religious texts.

In the context of Islamic family law, this theory seeks to produce a legal framework that is just, inclusive and in accordance with Islamic values that promotes peace, love and mutual respect in family relationships. This theory has continued to evolve with changing times and social challenges, and has played an important role in establishing the legal basis that supports a balanced and harmonious family life in Muslim societies.

In the context of Islamic family law, this theory is an approach that seeks to develop a legal framework that is just, inclusive and in line with Islamic values that promote peace, love and mutual respect in family relationships. Its main objective is to establish a legal foundation that supports the creation of a balanced and harmonious family life in Muslim societies.

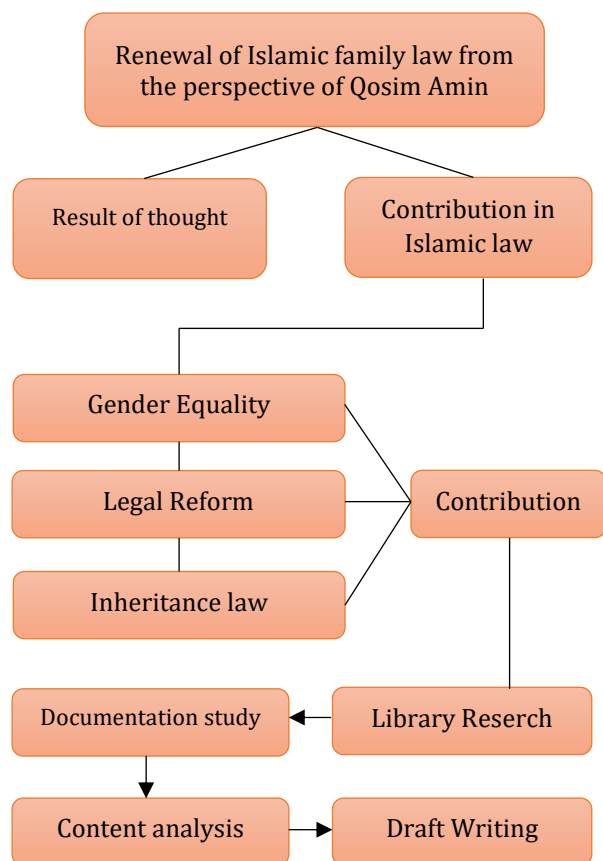
This theory views that Islamic family law must reflect Islamic teachings that underlie family harmony and prosperity. Concepts such as responsibility, respect for spouses, protection of children's rights, and the role of each family member in creating a loving and mutually supportive environment are the main focus of this theory. In addition, this theory recognizes that times are changing, and evolving societal challenges require a responsive and

flexible legal approach. Therefore, this theory continues to develop in line with the times, but is still rooted in the underlying Islamic values. This allows this theory to address new problems that arise in Muslim families, such as technological issues, changes in gender roles, and other social changes. In practice, this theory supports the existence of laws that provide protection for the rights of all family members, including the rights of women and children. This involves establishing rules that maintain a balance between the responsibilities and rights of each family member, and avoid any inequality or oppression in family relationships. Overall, this theory plays an important role in forming a legal basis in favor of family harmony and well-being in Muslim societies. By upholding values such as love, peace and mutual respect, this theory seeks to create a legal framework that encourages the formation of balanced and harmonious family relationships, in accordance with Islamic teachings and the demands of the times.

**METHOD**

This study uses a library research approach by searching various literature sources, such as books, journals, and other relevant resources. The information collected from various sources of the literature is then analyzed through the content analysis method. The purpose of this analysis is to provide in-depth knowledge, develop new perspectives, and present relevant facts. This content analysis method is applied by adopting

deductive and inductive thinking approaches. The deductive approach is used by understanding the general problems regarding Qasim Amin's studies, which are then excluded for specific concepts. Instead, an inductive approach is applied by analyzing various reading materials related to Qasim Amin, then formulating generalizable conclusions. By applying this methodology, it is hoped that this research will produce valuable studies and gain an objective understanding, without being biased towards the idea of women's emancipation proposed by Qasim Amin.



**Figure 1.** Research Design and Flow

**RESULTS AND DISCUSSION**

Starting from the early 19th century, reformers emerged in various

Islamic countries who, apart from trying to restore the essence of Islamic teachings, also attempted to relate Islamic teachings to the reality of the conditions of the Muslim community at that time. Particularly in Egypt, this reform effort was initiated by figures such as Jamal al-Din al-Afgani and Sheikh Muhammad Abduh. The last mentioned, Muhammad Abduh, has several followers following in his footsteps, including names like Muhammad Rasyid Ridha, Farid Wajdi, Thanthawi Jauhari, and Qasim Amin (Haramain, 2019).

Qasim Amin was born in December 1863 in Alexandria, Egypt (Asmuni, 1996). His father, Muhammad Bik Amin, was of Turkish descent who had settled in Egypt. When the Ottoman Turkish Empire was at the height of its success and dominated the entire Arab region, high government officials were given specific responsibilities in each province under the rule of the Ottoman Empire. Muhammad Bik Amin, as one of the high officials of the government, was given a job in Egypt. In carrying out his duties, he married a daughter from the local population. From this marriage, a son was born who was named Qasim Amin Bik. Therefore, in Qasim Amin, the blood of Turkish and Arab Egyptian blood flows (Amin, n.d.)

Qasim Amin (1846–1908) was an Egyptian intellectual and reformer who significantly contributed to the reform movement in Islamic thought and law, particularly with regard to women's

issues. She is considered as one of the figures driving changes in the views and treatment of women in Muslim society. The following is a further description of Qasim Amin's role in the renewal of family law in Islam. Qasim Amin is a scholar who understands the importance of harmonizing Islamic teachings with the values of social progress and justice (Haramain, 2019). She is obsessed with the idea of gender equality and women's rights, and believes that a more contextual and inclusive interpretation of Islamic teachings is needed to address existing inequalities.

### **Qosim Amin's Contribution in Reforming Islamic Law**

Not only in the issue of marriage, the contribution of Qasim Amin's thoughts can also be seen in two other important issues in family law. *First*, regarding the issue of polygamy. Amin criticized the unfair and reckless practice of polygamy. His thoughts encourage the need for stricter regulation and fairness in the practice of polygamy. Although not directly related to changes in legislation, this view has inspired debate about the need for stronger controls on polygamy that can guarantee women's welfare and rights in polygamy.

*Second*, in the context of inheritance rights. Qasim Amin proposed a more just treatment in the distribution of inheritance between men and women. Although this notion has not yet been fully adopted in most Muslim countries, the concept of equality in inheritance

distribution is becoming a part of family law debate and reform. Qasim Amin's ideas, despite their challenges and controversies, have played an important role in paving the way for family law reform in the Muslim world. His ideas, especially regarding gender equality, eliminating reckless polygamy, and fairer inheritance rights, have formed the basis for debate and reform of family law that are more modern and in accordance with the values of equality and justice in contemporary society. Family law reform in Islam refers to efforts to reform and modernize legal aspects relating to marriage, divorce, family rights, and the role of women in society. Its main aim is to bring Islamic family law more in line with the principles of gender equality, human rights, and the needs of modern society. Family law reform in Islam often includes the following aspects:

- a) **Marriage and Divorce:** Efforts are made to overcome the practice of forced marriage or child marriage involving women who are not mature enough. Many reforms emphasize the importance of the consent and well-being of both parties in marriage. In addition, several efforts were also made to formulate more fair rules in the case of divorce and dissolution of marriage.
- b) **Inheritance Rights:** In many Islamic cultures, there is discrimination in terms of inheritance rights between men and women. Some reform movements are trying to change

these rules so that inheritance rights are more equal between boys and girls.

- c) **Education and Employment Rights:** The family law reforms also focused on providing equal educational rights for women and men. In addition, women's rights to work and participate in the economy are emphasized.
- d) **Protection against Violence:** Reform efforts often focus on strengthening the protection of women from all forms of domestic violence, sexual harassment, and other forms of oppression.
- e) **Regulation of Polygamy:** Several reforms attempted to re-regulate the practice of polygamy, emphasizing the need for permission from the first wife and increasing the responsibilities of a husband towards his wives.
- f) **Political and Social Participation:** Several reforms also emphasized the importance of women's participation in the political and social spheres, including the right to vote and be elected.

**Interpretation of Religious Texts:** One of the key elements of family law reform is adopting a more contextual and inclusive interpretation of religious texts. This involves reformulating the understanding of the verses of the Koran and hadiths in the context of modern times (Wartini, 2013).

Family law reform in Islam aims to maintain fundamental religious values while accommodating social developments and demands for gender justice. These efforts often involve complex dialogues between religious traditions, social norms and the demands of the times, with the ultimate goal of creating a more just and inclusive legal framework. Family law has an important position in Islam. Family law is considered to be the essence of shari'ah. This relates to the assumption of Muslims who view family law as a gateway to enter further into the Islamic religion. Basically something will not be formed because there is no thing that underlies it, just as Islamic family law will never exist without something behind it. This discussion is important because not all Indonesian people are Muslim so that the history, events and causes for the birth of Islamic family law are considered very controversial (Setiawan, 2014).

Therefore, refreshing Islamic law needs to be done to respond to changes that occur in society. This is due to the fact that the universality of Islamic law is reflected in its adaptability and flexibility. This shows that the view of Islamic law is not constant at one time, place or situation, but dynamically changes in line with shifting times, places and conditions. This is in accordance with al-Jauziyah's view which states that changes in legal ideas or views, as well as their variations, are in accordance with

changing times, spaces, purposes, and needs. Even further, al-Jauziyah indicated that failure to understand these changes was a big mistake in the aspect of religious law (Al-Jauziyyah, n.d.).

One of the missions of the Prophet Muhammad SAW as the messenger of Islam was to elevate the dignity of women, because the teachings he brought included the mission of liberation from oppression. Women are part of an oppressed group, marginalized and do not get their rights in life. Since becoming a baby girl, in the traditions of the Arab Jahiliyah society, their right to life has been threatened, women are considered as unproductive creatures, a burden to the nation, and a source of slander, therefore the number of women does not need to be large in their view (Ch, 2008).

His famous work entitled "*Tahrir al-Mar'h*" (The Liberation of Women), published in 1899, was a prominent work in the Islamic reform movement. In this book, Amin criticized the patriarchal views that existed in society and proposed a reinterpretation of the verses of the Koran to suit the values of the the value of equality. He argued that the original teachings of Islam were progressive and placed women and men as equal before God. Amin also urged wider educational opportunities for women, and he believed that education was the key to changing the condition of women and elevating them to a better position in society. She considered women to have potential that was not realized



due to the social and cultural restrictions that existed in her time.

Although his work was not without controversy and criticism, Qasim Amin's influence helped open the discourse on women's rights in the Islamic world. It provides the rationale for reform movements and efforts to formulate laws that are more inclusive of women. Her progressive contribution to thinking about women and family law in Islam has made her a recognized figure in the struggle for gender equality (Ch et al., 2021).

Through the women's liberation movement, also known *astahrir al-Mar'ah* in the Islamic context, carried out with various approaches. *First*, through women's empowerment, which is carried out by establishing women's study centers at tertiary universities and providing training on gender issues. This is organized through seminars and special consultations for women. *Second*, through the writing of books with various themes. Some commented on the fiqh of empowerment, as was done by Masdar Farid Mas'udi in his book on Women's Reproductive Rights. This approach is expressed in the form of dialogue or literature, including novels and short stories, as reflected in Nawal el-Sadawi's works such as "Women at Zero Point" and others (Bahri, 2014).

*Third*, this movement involves historical studies of equality between men and women in the history of Islamic society. This effort has succeeded in

showing that women and men have equal positions in various fields (Nainggolan, 2021). Works like those written by Fatima Mernissi and other feminists reflect the spirit of the feminist movement in Islam. *Fourth*, this movement also involves critical analysis of religious texts, both the Qur'an and hadith, which sometimes literally results in inequality between men and women. Activists such as Fatima Mernissi, Amina Wadud, Muhsin, Riffat Hasan, and Asghar Ali Engineer are intensively involved in this type of feminist movement.

## CONCLUSION

Based on the explanation above, it can be concluded. Qasim Amin's contribution to the reform of Islamic law covers three main issues: (1) Practice of Polygamy: Qasim Amin criticized the practice of polygamy as unfair and reckless. He supports stricter and fairer regulation of the practice of polygamy, taking into account the welfare and rights of women; (2) Inheritance Rights: He proposed a more equitable distribution of inheritance between men and women, opposing the discrimination that often occurs in this regard; (3) Marriage and Divorce: Amin opposes the practice of forced marriage and child marriage. He supports the consent and well-being of both parties in marriage. His thinking also includes a more just view of divorce and dissolution of marriage. Qasim Amin's thoughts, while controversial, helped pave the way for family law reform in the

Islamic world. His views on gender equality, more discreet regulation of polygamy, and a more equitable division of inheritance have formed the basis for debates and reforms in family law that are more modern and in accordance with the values of equality and justice in contemporary society. The women's liberation movement, also known as *tahrir al-Mar'ah*, involves various approaches such as empowering women through education, book writing, historical studies, and critical analysis of religious texts. Figures such as Fatima Mernissi, Amina Wadud, and others are also actively involved in this movement, with the goal of achieving gender equality in the Islamic context. Overall, Qasim Amin's thoughts and contributions helped form the foundation for the movement for family law reform in Islam, by emphasizing the importance of gender equality, the elimination of injustice, and the protection of women's rights in a changing social context.

## CONCLUSION

Based on the discussion above, it can be concluded that the development of hadith science in general in Indonesia and especially in the Minangkabau lands has only seen progress since the 20th century, even though the existence of Islamic scholars existed before that time, or along with the arrival of Islam to Minangkabau. There are three scholars who are popular in their contributions to hadith science education, namely Shaykh Yasin al-Fadani, Prof. Mahmud Yunus and Muhammad

Mawardi. They contribute in producing works in the field of hadith, collecting sanad, teaching hadith to the general public and academics, and also incorporating hadith into the curriculum. The results of this study can certainly be recommended to anyone who concentrates on studying hadith as a reference in understanding the development of hadith in the archipelago. This research can also be a reference for other researchers in developing similar research results.

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