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Reconstructing Marriage Agreements in Islamic Family Law: An Integrative Analysis of Fiqh, Maqāṣid al-Syarī'ah, and Indonesian Positive Law

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Keywords

Marriage Agreement; Islamic
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Abstract

This study examines the reconstruction of the marriage agreement concept within Islamic family law by integrating classical–contemporary fiqh perspectives, the framework of maqāṣid al-sharī'ah, and Indonesian positive law. Although marriage agreements have been widely discussed, previous studies tend to be fragmented and rarely combine these three analytical dimensions. Using a normative legal research method supported by conceptual, historical, and statutory approaches, this research finds that marriage agreements possess strong legitimacy within the Islamic legal tradition, grounded in the principles of al-maslahah, contractual stipulations (al-syurūṭ fī al-'uqūd), and the inherent flexibility of mu'āmalah. The maqāṣid al-sharī'ah approach reveals that marriage agreements significantly contribute to the preservation of the five essential objectives of Islamic law: ḥifẓ al-māl, ḥifẓ al-nasl, ḥifẓ al-nafs, ḥifẓ al-'aql, and ḥifẓ al-dīn. In the context of Indonesian positive law, Constitutional Court Decision No. 69/PUU-XIII/2015 expands the legal framework by allowing marriage agreements to be made after the marriage ceremony, reflecting a more progressive and responsive legal paradigm. This study concludes that an integrative reconstruction of marriage agreements can enhance stability, justice, and protection within Muslim families in Indonesia, and offers a substantial contribution to the development of family law reforms aligned with contemporary social dynamics.

Introduction

Marriage in Islam is understood as a *mīthāqan ghalīẓan*, a solemn covenant imbued with spiritual, social, and legal dimensions.¹ However, in socio-juridical practice, marriage also becomes a space in which various forms of conflict may arise, particularly those related to power relations within the family, the distribution of rights and obligations, and the ownership and management of

¹ Dwi Darsa Suryantoro and Ainur Rofiq, "Nikah Dalam Pandangan Hukum Islam," *AHSANA MEDIA* 7, no. 02 (2021), <https://doi.org/10.31102/ahsanamedia.7.02.2021.38-45>.

property. One of the legal instruments designed to minimize such potential conflicts is the marriage agreement—entered into either before or during the marital union.²

In recent years, marital dynamics in Indonesia have undergone significant changes that are closely related to contemporary social and legal challenges. Data from the Indonesian Central Bureau of Statistics indicate that 1,577,255 marriages were recorded in 2023, alongside 408,347 divorce cases, reflecting increasing pressures on marital stability.³ Long-term trends further reveal a decline of nearly 30% in marriage rates over the past decade, accompanied by a persistent rise in divorce cases. These figures suggest that while marriage remains a central social institution, it is increasingly confronted with structural challenges that affect the quality and sustainability of spousal relationships.⁴

Beyond statistical concerns, Indonesia's legal framework governing marriage also presents complex challenges. Despite being regulated under Law No. 1 of 1974 on Marriage and its subsequent amendments, various implementation issues persist, including child marriage practices, inconsistencies in minimum marriage age enforcement, and the absence of clear legal provisions addressing marriages conducted through digital platforms.⁵ Moreover, marriages involving indigenous belief communities and inter-citizenship unions frequently encounter administrative barriers and limited legal recognition, resulting in unequal access to legal protection and civil rights. These challenges underscore the gap between normative legal regulations and the lived realities of marriage in Indonesia, necessitating more contextual, inclusive, and justice-oriented approaches in marital studies and policy formulation.

Although Article 29 of Law No. 1 of 1974 and the Constitutional Court Decision No. 69/PUU-XIII/2015 provide a broad normative basis for the use of marriage agreements, their implementation continues to generate academic debate.⁶ Some scholars argue that such agreements may undermine the essence of the *nikāḥ* contract as a sacred bond grounded in trust and responsibility. This view is commonly associated with classical juristic positions—particularly within the Syāfi'ī school—which reject stipulations deemed inconsistent with the *maqṣūd al-'aqd* (the essential purpose) of marriage.⁷

Conversely, contemporary scholars and modern Muslim jurists regard marriage agreements as relevant legal instruments aligned with the principles of *maslahah*, justice, and the protection of vulnerable parties. Figures such as Wahbah al-Zuhaylī, Yūsuf al-Qaraḍāwī, and various progressive Indonesian legal thinkers argue that marriage is, in essence, an *'aqd madanī* (civil contract) that

² Nilna Fauza and Moh Afandi, "Perjanjian Perkawinan Dalam Menjamin Hak-Hak Perempuan," *Al-Manhaj: Journal of Indonesian Islamic Family Law* 2, no. 1 (2020), <https://doi.org/10.19105/al-manhaj.v2i1.3116>.

³ Monavia Ayu Rizaty, "Data Jumlah Kasus Perceraian di Indonesia hingga 2023," *Data Indonesia.id*, 2024.

⁴ Deva Yulinda, Suci Ramadhani Putri, dan Hüseyin Elmhemit, "Injustice Legal System Ibism in Indonesian Marriage Law: A Study on Polygamy for Childlessness Reasons," *Al-Manhaj: Journal of Indonesian Islamic Family Law* 7, no. 1 (2025), <https://doi.org/10.19105/al-manhaj.v7i1.19515>.

⁵ Defanti Putri Utami, "Minimum Age of Marriage in Indonesia Perspective of Islamic Law , Positive Law and Medical Views," *Al- ' A dalah : Jurnal Syariah dan Hukum Islam* 6, no. 2 (2021).

⁶ Mambaul Ngadimah, "Formulasi Perjanjian Perkawinan Pasca Putusan MK No. 69/PUU-XIII/2015," *Kodifikasi* 11, no. 1 (2017), <https://doi.org/10.21154/kodifikasi.v11i1.1139>.

⁷ Fahrur Rozi, "Pemikiran Mazhab Fiqh Imam Syafi'i," *HAKAM: Jurnal Kajian Hukum Islam Dan Hukum Ekonomi Islam* 5, no. 2 (2022), <https://doi.org/10.33650/jhi.v5i2.3502>.

may incorporate conditions so long as they do not contravene explicit scriptural texts.⁸ In this sense, marriage agreements are not a deviation from the sacredness of marriage but a mechanism to strengthen legal protection within the family.

The academic debate surrounding marriage agreements demonstrates a clear epistemological tension within Islamic family law discourse. Classical fiqh tends to treat stipulations in marriage contracts restrictively, using *maqṣūd al-'aqd* as the primary criterion for determining whether a condition is valid.⁹ The Syāfi'ī school, for example, often rejects conditions not directly connected to the essential objectives of marriage, reflecting a normative orientation shaped by the socio-historical context and methodological commitments of the period in which the schools of law developed.

In contrast, contemporary fiqh and maqāṣid al-sharī'ah-based approaches aim to construct a more flexible and adaptive framework. These approaches regard the marriage contract not only as a sacred institution but also as a social contract expected to respond to modern societal dynamics.¹⁰ Consequently, stipulations within marriage agreements are viewed as legitimate instruments for achieving *maslahah*, justice, and the protection of vulnerable parties, provided they do not contravene the core principles of the Sharī'ah.¹¹ Such perspectives expand interpretive possibilities, positioning marriage agreements as preventive mechanisms against household disputes—particularly those involving property and family rights.

Meanwhile, Indonesian positive law demonstrates significant development through increasingly flexible regulations regarding the form, timing, and substantive content of marriage agreements. The Constitutional Court Decision No. 69/PUU-XIII/2015, for instance, permits couples to formulate marriage agreements not only before but also after the marriage ceremony.¹² This legal development reflects a growing recognition of marriage agreements as a social necessity, shaped by shifts in societal structure, expanding economic activities, and increasing awareness of individual rights and asset protection.

Despite the growing number of studies on marriage agreements, previous research remains largely partial. Some studies focus solely on classical fiqh perspectives; others examine the Constitutional Court decision or the normative aspects of positive law. Several works explore the issue through the lens of maqāṣid al-sharī'ah but remain disconnected from national legal regulations. To date, very few studies systematically integrate all three domains—classical and contemporary fiqh, maqāṣid al-sharī'ah, and Indonesian positive law—into a unified analytical framework. This gap constitutes the primary problem addressed by the present study.

⁸ Lilies Anisah, "Kedudukan Perjanjian Perkawinan Menurut Hukum Islam," *Jurnal Hukum Tri Pantang* 6, no. 2 (2020), <https://doi.org/10.51517/jhtp.v6i2.261>.

⁹ Ismatul Maula, "Mahar, Perjanjian Perkawinan Dan Walimah Dalam Islam," *Khuluqiyya: Jurnal Kajian Hukum Dan Studi Islam*, ahead of print, 2019, <https://doi.org/10.56593/khuluqiyya.v1i1.16>.

¹⁰ Safriadi Safriadi, "Maqāṣid Al-Syari'ah Sebagai Metode Ijtihad Kontemporer," *Al-Qadha : Jurnal Hukum Islam Dan Perundang-Undangan* 4, no. 2 (2018), <https://doi.org/10.32505/qadha.v4i2.309>.

¹¹ David L. Johnston, "Maqāṣid al-Sharī'ah: Epistemology and Hermeneutics of Muslim Theologies of Human Rights," *Welt Des Islams* 47, no. 2 (2007), <https://doi.org/10.1163/157006007781569936>.

¹² Honggo Hartono, "Roles of Notary in Drawing Up Marriage Agreement After Constitutional Court Decision Number 69/PUU-XIII/2015," *Prophetic Law Review* 2, no. 2 (2020), <https://doi.org/10.20885/plr.vol2.iss2.art4>.

For example, A'yun and Hidayatullah examine marriage agreements from a *maslahah* perspective, but their analysis is confined to property matters.¹³ Research by Paramita and Darori and by Herniati focuses on administrative aspects and legal consequences within positive law without incorporating fiqh or maqāṣid analysis.¹⁴ Fauza and Afandi emphasize women's rights, yet their work does not engage with the epistemological foundations of fiqh or maqāṣid al-sharī'ah.¹⁵ Likewise, comparative studies between civil law and Islamic law—such as those by Alimuddin and Hafifi et al.—tend to overlook maqāṣid analysis, which could serve as a conceptual bridge between the two systems.¹⁶ Empirical studies on the implementation of marriage agreements and thematic studies such as marriage agreements as a tool for preventing domestic violence have also not adequately addressed the deeper conceptual dimensions of the issue. Even research on marriage agreements in Islamic law remains grounded primarily in classical fiqh and does not integrate contemporary developments or national legal contexts.¹⁷

This mapping illustrates that no existing research has comprehensively integrated the three major perspectives—classical and contemporary fiqh, maqāṣid al-sharī'ah, and Indonesian positive law—to reconstruct the concept of the marriage agreement within the context of modern society. Most studies remain focused on legal-formal aspects or narrow thematic issues, resulting in conceptual fragmentation.

In response to these challenges, this study is structured around several core objectives. First, it seeks to reconstruct the concept of marriage agreements within Islamic family law through an examination of classical and contemporary fiqh. Second, it aims to connect this reconstructed concept with the framework of maqāṣid al-sharī'ah, particularly the protection of religion, life, dignity, lineage, and property. Third, it analyzes potential harmonization between fiqh-based reasoning and the regulatory regime of Indonesian positive law. Fourth, it proposes an integrative model that may serve as a foundation for developing Islamic family law that is more responsive to the needs of modern society.

Research Method

This study employs a normative-juridical approach (*normative legal research*),¹⁸ a method grounded in literature-based inquiry and legal reasoning applied to authoritative texts from both

¹³ Wildaniyah Mufidatul A'yun and Alif Hendra Hidayatullah, "PERSPEKTIF MASLAHAH DALAM PERJANJIAN PERKAWINAN MENGENAI HARTA DALAM UNDANG-UNDANG PERKAWINAN," *Harmoni* 22, no. 1 (2023), <https://doi.org/10.32488/harmoni.v22i1.667>.

¹⁴ Erdhyan Paramita and Irnawan Darori, "Akibat Hukum Perjanjian Perkawinan Yang Tidak Di Sahkan Oleh Pegawai Pencatat Perkawinan," *Jurnal Repertorium* IV, no. 2 (2017); Herniati and Kajagi Kalman, "Kedudukan Perjanjian Perkawinan Dalam Hukum Positif Di Indonesia," *Jurnal Ius Publicum* 1, no. 1 (2021), <https://doi.org/10.55551/jip.v1i1.1>.

¹⁵ Fauza and Afandi, "Perjanjian Perkawinan Dalam Menjamin Hak-Hak Perempuan."

¹⁶ Alimuddin Alimuddin and Muhammadong Muhammadong, "KONTEKSTUALISASI YURIDIS PERJANJIAN PERKAWINAN DALAM HUKUM PERDATA DAN HUKUM ISLAM," *Journal of Innovation Research and Knowledge* 2, no. 10 (2023), <https://doi.org/10.53625/jirk.v2i10.5227>; Mahbutatul Hafifi, Sri Lumatus Sa'adah, and Wildani Hefni, "Perjanjian Perkawinan Dan Konsekuensinya Terhadap Harta Bersama Pasca Perceraian (Studi Komparatif Hukum Perdata Dengan Kompilasi Hukum Islam)," *Al Qalam: Jurnal Ilmiah Keagamaan Dan Kemasyarakatan* 18, no. 2 (2024), <https://doi.org/10.35931/aq.v18i2.3421>.

¹⁷ Anisah, "Kedudukan Perjanjian Perkawinan Menurut Hukum Islam."

¹⁸ Sanne Taekema, "Theoretical and Normative Frameworks for Legal Research: Putting Theory into Practice," *Law and Method*, ahead of print, 2018, <https://doi.org/10.5553/rem/.000031>; Tunggul Ansari Setia Negara, "Normative Legal Research in Indonesia: Its Origins and Approaches," *Audito Comparative Law Journal (ACLJ)* 4, no. 1 (2023), <https://doi.org/10.22219/aclj.v4i1.24855>.

Islamic law and Indonesian positive law. This approach is selected because marriage agreements constitute a legal domain shaped predominantly by normative constructions—both within the fiqh tradition and within statutory regulations. Thus, a comprehensive understanding can only be achieved through systematic analysis of primary and secondary legal sources.

The data in this study are drawn from three main categories. *First*, primary legal materials, including the Qur'an, Hadith, classical fiqh texts from the four Sunni legal schools, works of contemporary Muslim jurists, the Compilation of Islamic Law, Law No. 1 of 1974 on Marriage, and Constitutional Court Decision No. 69/PUU-XIII/2015. *Second*, secondary legal materials, consisting of contemporary academic literature, books, journal articles, and prior research addressing contractual stipulations in marriage, the maqāṣid al-sharī'ah framework, and marriage agreements. *Third*, tertiary legal materials, such as encyclopedias, legal dictionaries, and other supporting documents that clarify the broader analytical context.

The analytical techniques used in this study include descriptive-analytical and comparative analysis. Descriptive analysis serves to map classical fiqh perspectives, contemporary legal thought, and maqāṣid al-sharī'ah principles relevant to marriage agreements. Comparative analysis is employed to examine convergences and divergences between Islamic legal principles and Indonesian positive law, particularly concerning the flexibility of contract terms, the scope of marriage agreements, and the foundations of legal legitimacy. Through these dual analytical approaches, the study seeks to identify points of harmony as well as epistemological tensions between the legal systems.

In addition, this research utilizes a conceptual approach to reconstruct the understanding of marriage agreements within the paradigm of maqāṣid al-sharī'ah.¹⁹ This approach enables an evaluative assessment of the relevance of Sharī'ah objectives in contemporary social settings while examining their compatibility with evolving national regulations. By integrating multiple methodological approaches, this study provides an analysis that is not only normative but also reflective and integrative.

Results and Discussion

Marriage Agreement Concepts in Classical and Contemporary Fiqh Perspectives

Debates concerning stipulations (*shurūṭ*) in the marriage contract extend across two fundamental dimensions: (1) whether such stipulations are legally permissible (their legality), and (2) how they should be interpreted and implemented (their methodological grounding). Within the classical fiqh tradition, responses to these questions vary significantly depending on each school's *uṣūl al-fiqh* methodology, producing a spectrum of divergent views and generating profound epistemological tensions.

In Islamic legal tradition, *mahr* (dower) constitutes a foundational element of marriage that extends beyond its symbolic function to encompass ethical, legal, and social dimensions. The Qur'an explicitly mandates the provision of *mahr* as a recognition of women's dignity and autonomy (Qur'an 4:4). Within the broader context of marital agreements, *mahr* can be

¹⁹ Andrzej Kozina, Marek Szarucki, and Jurgita Raudeliūnienė, "Multiparty Negotiation: Conceptual Approach of Method Selection," *Journal of System and Management Sciences* 10, no. 1 (2020), <https://doi.org/10.33168/JSMS.2020.0109>; Changiz Valmohammadi and Farkhondeh Mortaz Hejri, "Designing a Conceptual Green Process Model in Software Development: A Mixed Method Approach," *International Journal of Information Management Data Insights* 3, no. 2 (2023), <https://doi.org/10.1016/j.jjimei.2023.100204>.

understood as an early manifestation of relational justice embedded in Islamic contract law, whereby economic rights and moral responsibility are acknowledged at the inception of marital relations.

Viewed from this perspective, contemporary marital agreements do not represent a rupture from Islamic legal tradition, but rather a continuation of Islam's contractual logic grounded in consent (*tarāḍī*), fairness, and protection of vulnerable parties. The presence of mahr demonstrates that Islamic law has long recognized negotiated arrangements within marriage, thereby providing strong normative legitimacy for the development of marital agreements aimed at safeguarding mutual rights and responsibilities.

Historically, the Ḥanafī and Mālikī schools exhibit pragmatic and flexible tendencies.²⁰ They allow contractual freedom so long as the stipulations do not contradict explicit textual evidence and serve legitimate interests (*maṣlahah*). This approach stems from general principles governing *mu'āmalāt*, the use of *istiḥsān*, and the emphasis on the practical objectives of law. Within this framework, stipulations function as tools to secure the legitimate interests of contracting parties and prevent future harm. Thus, marital agreements concerning property arrangements, residence, or restrictions on polygamy (in certain contexts) may be deemed valid as long as they do not alter the essential nature of the contract.

Conversely, the Shāfi'ī school tends toward a more restrictive approach.²¹ Methodologically, its strong emphasis on textual evidence (*naṣṣ*) and the essential purpose of the contract (*maqṣūd al-'aqd*) causes Shāfi'ī jurists to question the legitimacy of stipulations not directly related to the core objectives of marriage. In this view, the primary aims of the contract include establishing the marital bond, ensuring maintenance, fulfilling rights and obligations, and building a family.²² Any stipulation that appears to “add to” or “modify” these essential rights is considered irrelevant, legally void, or without effect on the validity of the marriage.²³ This doctrinal posture reflects a hermeneutic tradition that is text-centered and cautious toward legal innovations that may disrupt normative structures.

The Ḥanbalī school occupies a relatively moderate position, recognizing the validity of certain stipulations when aligned with textual evidence and when they do not contradict the substantive purpose of marriage.²⁴ Overall, these divergences are not merely differences in substantive rulings but denote deeper epistemological variations—whether legal authority is rooted primarily in textual precedent or whether it should also incorporate context-sensitive assessments of *maṣlahah*.

A central debate among classical jurists concerns whether marital agreements should be classified as integral components of the *'aqd* (contract) or as auxiliary conditions (*shurūṭ*) attached to it. Some scholars viewed contractual conditions as external to the validity of marriage,

²⁰ Moh Mukri, “Dinamika Pemikiran Fikih Mazhab Indonesia (Perspektif Sejarah Sosial),” *Analisis* 11, no. 2 (2011).

²¹ Fathur Rozi, “Sejarah Pemikiran Mazhab Fiqh Imam Syafi'i,” *Jurnal Putih*, 2016.

²² Alifia Wahyuni, “Pernikahan Dini Menurut Perspektif Madzhab Imam Syafi'i,” *Imtiyaz: Jurnal Ilmu Keislaman* 4, no. 1 (2020), <https://doi.org/10.46773/imtiyaz.v4i1.65>.

²³ Husni Mubarak et al., “The Law of Circumcision for Women According to The Syafi'i Mazhab, Maqosidus Sharia, and Constitution,” *JURNAL ILMIAH MIZANI: Wacana Hukum, Ekonomi, Dan Keagamaan* 10, no. 1 (2023), <https://doi.org/10.29300/mzn.v10i1.10088>.

²⁴ Lu'luatul Badriyyah and Ashif Az Zafi, “PERBEDAAN MAZHAB EMPAT IMAM BESAR (HANAFI, MALIKI, SYAFI'I, DAN HAMBALI) DALAM PARADIGMA FIKIH,” *Al-Muaddib :Jurnal Ilmu-Ilmu Sosial Dan Keislaman* 5, no. 1 (2020).

limiting their enforceability, while others—particularly within the Hanbali tradition—treated them as morally and legally binding elements of the marital contract itself.

This debate has significant implications for contemporary Islamic family law. If marital agreements are treated as integral to the contract, their violation constitutes not merely a procedural failure but an ethical breach of trust (*khiyānah*) and contractual responsibility (*mas'ūliyyah shar'iyyah*). Such a view strengthens the moral authority of marital agreements and aligns them with Islam's broader emphasis on fulfilling covenants (Qur'an 5:1).

In the modern era, the debate has shifted from merely inter-school differences to broader methodological debates between historical textualism and purposive (teleological/maqāṣid-based) reasoning. Contemporary scholars inspired by *maqāṣid al-sharī'ah* argue that the ultimate aims of Shari'ah—preserving religion, life, intellect, lineage, and property—should inform the evolution of detailed fiqh rulings.²⁵ Thus, when literal adherence to classical texts produces outcomes that appear unjust or misaligned with contemporary social realities, reinterpretation becomes necessary. From this vantage point, the marriage contract is also a social contract (*'aqd madanī*) that may legitimately incorporate protective stipulations, such as regulations for joint property management, separation of assets, or clauses safeguarding the wife's economic rights. Contemporary reasoning draws from maqāṣid principles, the norm of justice, and freedom of contract.²⁶

However, this transformation also raises several epistemological and normative problems. First, how should jurists balance the authority of textual tradition with contemporary demands for justice? Second, what criteria should determine the boundary between acceptable and unacceptable stipulations? Third, how can the principle of contractual freedom be safeguarded from misuse—especially when such freedom may, paradoxically, place vulnerable parties (often women) at greater risk under the guise of formal legitimacy?

To address these concerns, several normative frameworks have been proposed in contemporary literature and judicial practice. First, the maqāṣidi criteria: a stipulation is acceptable if (a) it does not contradict explicit texts that establish essential rights and obligations, (b) it upholds one of the maqāṣid objectives (e.g., protecting property or lineage), and (c) it does not produce harms outweighing its benefits. Second, the principles of proportionality and harmonization: stipulations must be proportional to their aims and assessed against overarching Shari'ah values such as justice (*'adl*) and mutual consent (*riḍā*). Third, a procedural approach: placing the marriage agreement within transparent and accountable legal mechanisms (e.g., notarized form, official registration, oversight by authorized officers) to minimize risks of exploitation.²⁷

Thus, the epistemological debate between classical and contemporary fiqh is not merely a disagreement over the permissibility of certain stipulations, but a deeper divergence concerning

²⁵ Wely Dozan, "Hermeneutika Versus Maqashid (Tafsir Maqashidi) Sebagai Gerakan Membumikan Tafsir Al-Qur'an," *El-Afkar: Jurnal Pemikiran Keislaman Dan Tafsir Hadis* 10, no. 1 (2021), <https://doi.org/10.29300/jpkth.v10i1.3672>.

²⁶ Nispan Rahmi, "Maqasid Al Syari'ah: Melacak Gagasan Awal," *Syariah Jurnal Hukum Dan Pemikiran* 17, no. 2 (2018), <https://doi.org/10.18592/sy.v17i2.1970>.

²⁷ Imas Kurniasih, "URGENSI LITERASI DALAM AL-QUR'AN PERSPEKTIF TAFSIR MAQASHIDI," *Living Islam: Journal of Islamic Discourses* 5, no. 1 (2022), <https://doi.org/10.14421/lijid.v5i1.3113>; Alimuddin, "The Urgency of the Maqāṣid Al-Syari'Ah in Reasoning Islamic Law," *Britain International of Humanities and Social Sciences (BioHS) Journal* 1, no. 2 (2019), <https://doi.org/10.33258/biohs.v1i2.42>; Syukur Prihantoro, "Maqasid Al-Syari'ah Dalam Pandangan Jasser Auda," *At-Tafkir* 10, no. 1 (2017).

the sources of normative validity (text vs. *maslahah*), the role of legal interpretation, and the mechanisms of socio-legal legitimacy. Recognizing these differences opens the possibility for reconstructing the concept of marriage agreements in a manner that remains anchored in tradition while integrating maqāṣid-sensitive and constitutionally protective mechanisms suitable for modern Indonesia. Such reconstruction requires clear theoretical and procedural criteria—an undertaking that constitutes the core contribution of this study.

Marriage Agreements within the Framework of Maqāṣid al-Sharī'ah

A maqāṣid al-sharī'ah analysis offers a more philosophical perspective for understanding the function of marriage agreements. In the tradition of al-Shāṭibī, all components of Islamic law are directed toward preserving five fundamental objectives: religion, life, intellect, lineage, and property. Within this framework, the marriage agreement can be viewed not merely as a legal mechanism, but also as a moral and ethical instrument.²⁸

First, from the perspective of *ḥifẓ al-māl* (protection of property), the marriage agreement holds a highly strategic position because it functions as a preventive instrument for safeguarding ownership rights and avoiding property-related disputes that frequently arise within marital life. In the maqāṣid framework, property is not simply a material asset but a key element of family stability and social harmony. Al-Shāṭibī affirms that the protection of property falls under the category of *al-ḍarūriyyāt al-khams*—the essential human needs whose neglect leads to significant harm at both individual and collective levels. Therefore, regulating property through a marriage agreement should not be viewed as a secondary measure, but rather as an expression of the fundamental principles of maqāṣid.²⁹

Practically, marriage agreements regulate multiple forms of ownership: premarital assets, assets acquired during the marriage, and joint marital property. Clear contractual arrangements can prevent overlapping claims and potential injustice. For example, if one spouse possesses productive assets prior to marriage—such as a family business or inherited real estate—stipulating that these assets remain individually owned can prevent future disputes. Similarly, agreements may determine the distribution of profits from jointly developed businesses in a manner proportionate to each spouse's contribution.

Theoretically, the protection of property in marriage agreements aligns with the principle of *al-umūr bi maqāṣidihā* (actions are judged by their purposes). If the objective of property regulation is to maintain household stability, prevent injustice, and ensure the fair distribution of rights, then the regulation carries strong Sharī'ah legitimacy. Another supporting principle is *sad al-dharā'i* (blocking the means to harm), which emphasizes anticipating conflict before it emerges.³⁰ Through clear property provisions, marriage agreements can prevent disputes that frequently arise during divorce—such as conflicts over productive assets, joint savings, or ownership of the marital home.

²⁸ Abd. Basid and Syukron Jazila, "Tinjauan Konsep Mubadalah Dan Tafsir Maqashidi Dalam Merespon Isu Kekerasan Seksual," *Islamic Review: Jurnal Riset Dan Kajian Keislaman* 12, no. 1 (2023), <https://doi.org/10.35878/islamicreview.v12i1.722>.

²⁹ Zubair Rahman Saende, Lomba Sultan, and Abdul Syatar, "Ijtihad Ulama Dalam Merumuskan Metode Memahami Maqāṣid Al-Syari'ah," *Indonesian Journal of Shariah and Justice* 3, no. 1 (2023), <https://doi.org/10.46339/ijsj.v3i1.43>.

³⁰ Elkhairati Elkhairati, "Pembatasan Usia Perkawinan (Tinjauan Undang-Undang Dan Maqashid Asy-Syari'ah)," *Al-Istinbath : Jurnal Hukum Islam* 3, no. 1 (2018), <https://doi.org/10.29240/jhi.v3i1.403>.

In contemporary social contexts, the urgency of property agreements becomes even more evident with the rising number of divorces, many of which involve disputes over joint property. A common example is couples who develop a business together without clearly defining initial capital ownership. When divorce occurs, each spouse may claim equal rights, resulting in protracted legal conflict.³¹ Marriage agreements close this gap by establishing boundaries and ownership schemes that are clearer and more secure.

Moreover, modern economic developments have enabled many women to attain independent income, heightening the need for stronger asset protection. Women often enter marriage with personal assets such as investments, vehicles, or property acquired through their own labor. A marriage agreement offers legally and islamically recognized protection for these assets, reflecting the principles of *al-'adl* (justice) and *al-ḍamān* (responsibility of ownership).³²

Further, the legal practices of several Muslim-majority countries, such as Malaysia and Morocco, demonstrate that the protection of marital property is supported through institutional frameworks such as the *harta sepencarian* system or the *Mudawwanah al-Usrah*.³³ These frameworks explicitly affirm the need to safeguard the assets of both spouses. This development indicates that property protection through marriage agreements is not merely a legal-formal issue, but part of broader family law reforms aimed at enhancing justice and stability within the household. Accordingly, the marriage agreement should not be viewed as a purely administrative document; rather, it functions as a crucial mechanism supporting *ḥifẓ al-māl* through risk management, asset protection, and the enforcement of fairness within the household's economic relations. This approach highlights that the principles of *maqāṣid al-sharī'ah* are not solely normative or theoretical, but can be operationalized through concrete legal mechanisms responsive to social dynamics.

Second, within the framework of *ḥifẓ al-nasl* (protection of lineage), the marriage agreement plays a vital role in structuring family relations to ensure the healthy, orderly, and equitable continuation of future generations. Al-Shāṭibī classifies the preservation of lineage as one of the *al-ḍarūriyyāt al-khams*, indicating that harm to this domain directly threatens the moral and social fabric of the community.³⁴ This concept affirms that the formation and maintenance of the family is not merely a private matter, but fundamental to safeguarding the continuity of the ummah's social structure.³⁵

Substantively, a marriage agreement can regulate various aspects related to the rights and welfare of children. This includes *wilāyah* (legal guardianship) and *ḥaḍānah* (custodial care), especially in cases of divorce. For example, spouses may pre-establish custody arrangements that prioritize the best interests of the child—an approach consistent with Shari'ah objectives and international

³¹ Jasser Auda, *Maqasid Al-Shari'ah as Philosophy of Islamic Law: A Systems Approach* (London: The International Institute of Islamic Thought, 2008).

³² Iwan Iwan, "Akta Nikah Sebagai Bukti Otentik Perkawinan Di Indonesia; Analisis Maqashid Syariah Terhadap Pencatatan Perkawinan," *Al-Usrah : Jurnal Al Ahwal As Syakhshiyah* 10, no. 1 (2022), <https://doi.org/10.30821/al-usrah.v10i2.14713>.

³³ Ali Trigiyatno et al., "Pergeseran Hukum Keluarga Di Maroko Dari Mudawwanah Tahun 1957-1958 Ke Mudawwanah Tahun 2004," *Al-Qanun: Jurnal Pemikiran Dan Pembaharuan Hukum Islam* 25, no. 2 (2022), <https://doi.org/10.15642/alqanun.2022.25.2.233-247>.

³⁴ Abu Ishaq Al-Syatibi, *Al-Muwafaqat Fi Usul Al-Syari'ah*, vol. 2 (Beirut: Dar Kutub al-'Ilmiyyah, 2003).

³⁵ Albert Alfikri, "Induksi Tematik As-Syatibi Dalam Epistemologi Dan Aksiologi Hukum Islam," *REUSAM: Jurnal Ilmu Hukum* 9, no. 1 (2021), <https://doi.org/10.29103/reusam.v9i1.4868>.

norms such as the Convention on the Rights of the Child. Such provisions prevent destructive custody battles that often traumatize children. Marriage agreements may also define financial responsibilities toward children, including educational expenses, healthcare, and other basic needs. In classical fikih, the obligation of child maintenance does not lapse after divorce; yet, in contemporary contexts, neglect often occurs. A typical case involves one parent refusing to provide financial support after divorce, leaving the child in economic instability. Specific contractual provisions—such as maintenance percentages or educational cost-sharing formulas—can minimize such neglect.

From a theoretical perspective, regulating children's rights aligns with the principles of *raf' al-ḍarar* (removal of harm) and *jalb al-maṣlaḥah* (promotion of welfare). Conflicts regarding child-rearing and custody often constitute major sources of tension during divorce; a well-structured agreement can mitigate such conflict while protecting the child's emotional stability.³⁶ The legal maxim *al-'ādah muḥakkamah* (custom is legally significant) may also be applied when spouses agree upon arrangements suited to their social context, provided these do not contravene Shari'ah principles.³⁷

In modern societies, family structures have grown increasingly complex, including dual-career households, blended families, and situations in which spouses enter marriage with children from previous relationships. In such cases, a marriage agreement can establish the contours of step-parental responsibilities, protections, and inheritance boundaries. For example, couples may stipulate that certain inheritance assets are reserved for biological children, while stepchildren receive specific protections through *hibah* (inter vivos gifts) or guaranteed maintenance. This approach aligns with *ḥifẓ al-nasl* by maintaining clarity of lineage while safeguarding all children from identity conflict and legal uncertainty. Family law reforms in Muslim countries such as Tunisia and Morocco also emphasize child protection as an essential element of modernized Islamic jurisprudence.³⁸ This demonstrates that clear regulation of children's rights is not only legally permissible but also consonant with maqāṣid-oriented reforms.

Thus, marriage agreements serve not only to delineate children's economic rights but also to ensure that their well-being is protected across diverse circumstances. Such protections reflect a concrete implementation of *ḥifẓ al-nasl*, understood not merely as biological reproduction but as the ongoing care, protection, and enhancement of children's quality of life. This perspective reinforces that maqāṣid al-shari'ah can be operationalized through family law instruments responsive to evolving social contexts.

Third, marriage agreements significantly contribute to the preservation of life (*ḥifẓ al-nafs*) and intellect (*ḥifẓ al-aql*), two essential pillars of the *al-ḍarūriyyāt al-khams*. From the standpoint of *ḥifẓ al-nafs*, Shari'ah emphasizes protection of human physical and psychological integrity. A marriage agreement that explicitly regulates rights and obligations serves as a preventive mechanism against domestic violence, recurring conflict, and conditions that endanger personal

³⁶ Zakirun Pohan, "Urgensi Kaidah Fikih Dalam Reaktualisasi Hukum Islam," *AL-ILMU* 5, no. 2 (2020).

³⁷ Rizkan Muhammad et al., "Literasi Hukum: Pembagian Warisan Berdasarkan Kaidah Hukum Islam," *Journal of Excellence Humanities and Religiosity* 1, no. 1 (2024), <https://doi.org/10.34304/joehr.v1i1.207>.

³⁸ Fathonah K Daud et al., "HAK CERAI PEREMPUAN DALAM HUKUM KELUARGA ISLAM MAROKO RIGHT TO DIVORCE FOR WOMEN IN ISLAMIC FAMILY LAW OF MOROCCO," *Al-Aḥwāl* 14, no. 2 (2021).

well-being.³⁹ Lack of clarity regarding economic responsibilities, household roles, or decision-making authority often escalates into verbal, emotional, and physical forms of violence. A mutually agreed-upon contract structurally reduces these risks.

In fikih, the principle *dar' al-mafāsīd muqaddam 'alā jalb al-maṣāliḥ* (preventing harm takes precedence over securing benefit) provides strong justification for such preventive arrangements. When ambiguity poses potential harm, contractual clarity becomes an implementation of this principle. For instance, spouses may stipulate the division of household duties, mechanisms for communication during disputes, or protective boundaries aimed at preventing harmful behaviors. Many cases of domestic violence stem from unresolved economic issues, such as unclear responsibility for expenses or lack of transparency in financial management. A marriage agreement can address these underlying triggers.

At the same time, marriage agreements support *ḥifẓ al-'aql* by fostering psychological tranquility (*ṭuma'nīnah*) and reducing the mental strain associated with unclear expectations. Unmanaged conflict often leads to chronic stress, anxiety, depression, and impaired decision-making.⁴⁰ Legal certainty regarding mutual rights and obligations provides emotional security, allowing both spouses to function cognitively and psychologically in a healthier state. This aligns with the principle of *al-istiḳarār al-usarī* (family stability), a key objective in Islamic family law. Contemporary scholars such as al-Qaraḍāwī emphasize that psychological stability is a prerequisite for marital success; thus, any mechanism that reduces familial chaos has strong Shari'ah legitimacy.

Modern family psychology similarly notes that role ambiguity and divergent expectations are major triggers of marital conflict and mental overload, particularly among women.⁴¹ Explicit agreements enable fair distribution of roles and prevent psychological burdens that impair mental health.⁴² For dual-career couples, for example, domestic role negotiation is often a source of tension. A marriage agreement may include commitments concerning household duties or childcare, thereby reducing feelings of unfairness or resentment. In cases involving personal trauma or complex family histories, agreements can include conflict-resolution protocols, such as mediation or therapy commitments, providing structured pathways for maintaining household peace.

Overall, the contribution of marriage agreements to *ḥifẓ al-nafs* and *ḥifẓ al-'aql* extends beyond preventing physical conflict; they promote emotional safety, mental stability, and an environment that allows both partners to flourish. Thus, the marriage agreement functions not merely as a legal document but as an instrument of welfare across multiple dimensions of human well-being.

Fourth, although a marriage agreement may appear on the surface as an administrative or legalistic instrument, it substantively contributes to *ḥifẓ al-dīn* (protection of religion). Within the maqāṣid framework, safeguarding religion is not limited to ritual continuity, but includes

³⁹ Jahroh Siti, "Perspektif Fiqh Perempuan Dalam Pembelajaran Fiqh Munakahat," *Agama Dan Hak Asasi Manusia* 4 (2014).

⁴⁰ Jamal Ma'mur, "Moderatisme Fikih Perempuan Yusuf Al-Qardhawi," *Muwazah* 8, no. 1 (2017), <https://doi.org/10.28918/muwazah.v8i1.725>.

⁴¹ Irene S. Lazarus, "A Transpersonal Feminist Approach to Family Systems," *International Journal of Transpersonal Studies* 29, no. 2 (2010), <https://doi.org/10.24972/ijts.2010.29.2.121>.

⁴² A R Setyanto and A Sugitanata, "Urgensi Pendidikan Pra-Nikah Di Indonesia Sebagai Upaya Menanggulangi Pernikahan Dini Dan Kekerasan Dalam Rumah Tangga," *Tadris: Jurnal Penelitian ...*, 2022.

establishing a social environment conducive to spiritual practice. Households that are emotionally, economically, and socially stable are far more likely to sustain consistent religious behavior. Al-Shāṭibī emphasizes that environmental stability is a prerequisite for the realization of Shari'ah objectives; thus, damage to family structure often results in weakened religious practice. The marriage agreement can facilitate such stability. When household rights and responsibilities are clearly defined, conflict is reduced, allowing families to devote energy to religious development, such as children's religious education, moral cultivation, and daily worship. In this sense, *ḥifẓ al-dīn* is closely linked to the Qur'anic concept of *sakīnah*, identified as a core purpose of marriage (Q. al-Rūm 30:21). Once *sakīnah* is attained, spiritual flourishing becomes more attainable.⁴³

Practical evidence shows that households embroiled in structural conflict—such as disputes over finances or domestic duties—experience diminished worship quality, weakened emotional states, and unstable home environments. Children raised in such contexts often struggle with the internalization of religious values.⁴⁴ A well-formulated agreement outlining boundaries, role distributions, and conflict-resolution mechanisms helps minimize these disruptions, keeping the family within an environment conducive to moral and spiritual development. Family systems theory likewise posits that structurally healthy families are more capable of effectively transmitting core values, including religious principles. Clear family structures reduce role confusion and marital ambiguity, both of which hinder moral development. In other words, structural stability is a prerequisite for spiritual stability.

In contemporary societies, increasing work demands, economic pressures, and social fragmentation threaten the spiritual integrity of family life. Marriage agreements that regulate the balance of household responsibilities can help couples maintain rhythms supportive of religious practice, such as attending religious gatherings, educating children, or safeguarding the sanctity of marital relations. Thus, the marriage agreement emerges as a mechanism that reinforces the religious foundation of the household.

Ultimately, *ḥifẓ al-dīn* is inseparable from family harmony and stability. When understood through the maqāṣid lens, the marriage agreement functions as a tool to ensure that the family remains within an environment conducive to individual and collective piety.⁴⁵ It serves as a bridge between legal structure and spiritual life—demonstrating that maqāṣid al-shari'ah can and should be actualized through modern, rational, and just family law mechanisms. Through the maqāṣid perspective, marriage agreements are not merely permissible; they carry significant welfare value, bridging the gap between classical legal rigidity and contemporary social demands for flexibility.

Harmonization of the Concept of Marriage Agreements in Indonesian Positive Law

The development of Indonesian positive law demonstrates an increasingly progressive tendency in providing broader legal space for marriage agreements as instruments of family legal protection. Initially, Article 29 of Law No. 1 of 1974 on Marriage restricted the execution of

⁴³ Jenny Brown, "Bowen Family Systems Theory and Practice: Illustration and Critique," *Australian and New Zealand Journal of Family Therapy* 20, no. 2 (1999), <https://doi.org/10.1002/j.1467-8438.1999.tb00363.x>.

⁴⁴ Brown, "Bowen Family Systems Theory and Practice: Illustration and Critique."

⁴⁵ Kamila Blessing, "Murray Bowen's Family Systems Theory as Bible Hermeneutic Illustrated Using the Family of the Prodigal Son.," *Journal of Psychology and Christianity* 19, no. 1 (2000).

marriage agreements to the period before the marriage contract, reflecting a conservative legal paradigm that perceived household structures as static. This limitation generated significant criticism from academics, legal practitioners, and gender-rights advocates because it failed to respond to ongoing social transformations, particularly in the realms of economic development, professional mobility, and evolving patterns of marital relations.

In practice, many couples only realize the need for a marriage agreement after entering marriage—for example, upon starting a joint business, receiving family inheritance, or facing new socioeconomic circumstances that necessitate protection of personal assets.⁴⁶ The inability to create such agreements post-marriage created substantial legal uncertainty and often disadvantaged the more vulnerable spouse—typically the wife—because no formal instrument existed to safeguard personal property or regulate economic responsibilities within the household.⁴⁷

The Constitutional Court Decision No. 69/PUU-XIII/2015 marks a pivotal turning point in the evolution of Indonesian family law.⁴⁸ By allowing marriage agreements to be made after the marriage has taken place, the Court recognized that economic and social relations within a household are dynamic and may change in accordance with the couple's lived experiences. The ruling is grounded in the principles of substantive justice rather than mere legal formalism, allowing couples greater flexibility to adapt legal arrangements to their actual needs and evolving contexts.

From the perspective of modern legal theory, this decision aligns with the notion of *responsive law*—a model in which legal norms adjust themselves to social necessities. Law is no longer perceived as a rigid system of prescriptive rules but rather as a social instrument that evolves alongside changes in family relations, economic structures, and awareness of individual rights. The Court's approach also resonates with John Rawls's concept of *justice as fairness*, which emphasizes the protection of disadvantaged parties and ensures equitable opportunities within the social structure.

The progressive implications of the ruling are especially evident in the context of women's protection, particularly for working women or those entering marriage with pre-existing assets. These assets can now be safeguarded through a property-separation agreement, ensuring women do not lose economic rights due to regulatory gaps. Conversely, the ruling also protects husbands who may bring family-owned assets, inherited businesses, or specific financial obligations into the marriage and wish to shield them from potential disputes.

From the standpoint of Islamic law, the Constitutional Court's decision is not in conflict with Shari'ah because it pertains to the domain of *mu'āmalah*, where the default legal ruling is permissibility (*al-aṣl fī al-mu'āmalāt al-ibāḥah*) unless a clear prohibition exists. Contemporary scholars such as Wahbah al-Zuhaylī and Yusuf al-Qaraḍāwī emphasize that flexibility in marital

⁴⁶ Nurul Farahzita, Sekar Garindya, and Ghina Daifinah, "Perjanjian Perkawinan Sebagai Upaya Pencegahan Terjadinya Kekerasan Dalam Rumah Tangga," *Indonesian Notary* 3, no. 2 (2021).

⁴⁷ John Rawls, "Two Concepts of Rules," *The Philosophical Review* 64, no. 1 (1955), <https://doi.org/10.2307/2182230>; Jason D. Rawls and John Robinson, "Hip Hop Mentality," in *The Bloomsbury Handbook of Hip Hop Pedagogy* (2024), <https://doi.org/10.5040/9781350331846.0036>.

⁴⁸ Miftahul Haq, Jumni Nelli, and Erman Gani, "Perjanjian Perkawinan Berdasarkan Kaidah Fiqhiyah Dan Hukum Positif Di Indonesia," *Jotika Research in Business Law* 2, no. 2 (2023), <https://doi.org/10.56445/jrbl.v2i2.93>.

contracts is consistent with the spirit of *maqāṣid al-sharī'ah*, which prioritizes welfare and the prevention of harm. Thus, constitutional legitimacy and religious legitimacy mutually reinforce each other.⁴⁹

Moreover, the Constitutional Court decision highlights an epistemological convergence between contemporary Islamic jurisprudence and national law: both frameworks acknowledge that marital contracts must be capable of accommodating the dynamics of modern life. In this respect, Indonesia follows a similar trajectory to several Muslim-majority countries—such as Morocco through the *Mudawwanah al-Usrah* and Malaysia through the Islamic Family Law Act—which grant broader scope for couples to regulate marital aspects through contractual arrangements.

Overall, this development represents a shift from a static paradigm of family law toward one that is more progressive, adaptive, and grounded in *maṣlaḥah* (public welfare). By granting parties the ability to formulate marriage agreements after the marriage contract, the state recognizes that family stability depends not only on emotional and spiritual bonds but also on legal certainty capable of protecting both spouses amid the complexities of modern life.

The harmonization between Islamic law and national law is evident in the shared objectives of both systems: ensuring protection, legal certainty, and justice for married couples. Although methodological approaches differ, the convergence lies in the mutual acknowledgment of marriage agreements as legitimate and beneficial instruments.⁵⁰

Thus, the analysis demonstrates that marriage agreements can serve as a bridge between Sharī'ah values, evolving Islamic legal thought, and the regulatory needs of contemporary society. This harmonization ultimately contributes to reconstructing Islamic family law to become more responsive, contextual, and aligned with the realities of the modern era.

Conclusion

This study demonstrates that the marriage agreement constitutes a highly relevant legal instrument within the evolving social, economic, and Islamic family law landscape in Indonesia. From the perspective of classical Islamic jurisprudence (*fiqh*), contractual stipulations within marriage are constrained by the requirement that they must not contradict the essential objectives of the marriage contract. However, contemporary *fiqh* offers broader latitude for contractual arrangements that aim to promote public welfare (*maṣlaḥah*). The epistemological tension between classical and contemporary approaches indicates that marriage agreements cannot be understood through a rigid dichotomy; instead, they must be situated within the dynamic interplay of *maqāṣid al-sharī'ah* and the ever-changing realities of modern society.

The *maqāṣid al-sharī'ah* framework provides a comprehensive normative foundation for understanding the urgency and legitimacy of marriage agreements. This instrument effectively strengthens *ḥifẓ al-māl* (protection of property), *ḥifẓ al-nasl* (protection of lineage), *ḥifẓ al-nafs* (protection of life), *ḥifẓ al-'aql* (protection of intellect), and, indirectly, *ḥifẓ al-dīn* (protection of religion). Clarity regarding property arrangements, protection of child rights, conflict-resolution mechanisms, distribution of roles, and psychological security for spouses demonstrates that the

⁴⁹ Wahbah Zuhaili, *Al-Mausu'at al-Qur'aniyyat al-Muyassarah* (Jakarta: Gema Insani Press, 2007); Wahbah Zuhaili, *Qadāyā Al-Fiqh Wa al-Fikr al-Mu'āshir* (Beirut: Dar al-Fikr, 2006).

⁵⁰ Paizah Hj Ismail, "Penyelesaian Masalah Pertentangan Antara Nas Berasaskan Prinsip Maqasid Al-Syari'ah," *Jurnal Fiqh* 11, no. 1 (2014), <https://doi.org/10.22452/fiqh.vol11no1.4>.

marriage agreement functions simultaneously as a preventive, protective, and stabilizational device. In this sense, *maqāṣid al-sharī'ah* is not merely a normative principle but can be operationalized within contemporary legal mechanisms.

From the standpoint of Indonesian positive law, Constitutional Court Decision No. 69/PUU-XIII/2015 marks a critical milestone in the evolution of family law by permitting the execution of marriage agreements after the marital contract has taken place. This judicial development reflects a more responsive and progressive legal paradigm that acknowledges the dynamic nature of economic and social relations between spouses. The decision aligns with principles of justice, equality, and the protection of individual rights, while also resonating with foundational Islamic legal principles that provide flexibility within the domain of *mu'amalah* insofar as they serve the realization of *maṣlaḥah*.

This study fills an evident gap in earlier research, which has tended to be partial and insufficiently integrative of the three major analytical perspectives—classical and contemporary *fiqh*, *maqāṣid al-sharī'ah*, and Indonesian positive law. The findings emphasize the necessity of an integrative approach to conceptualizing marriage agreements so that they become more responsive, adaptive, and contextually grounded. Such integration not only enriches the academic discourse on Islamic family law but also provides a conceptual foundation for future regulatory reforms that better protect the interests of all family members, particularly amid the complexities of modern social life.

In conclusion, this article asserts that the marriage agreement is not merely a legal document but an essential component of the ethical, social, and spiritual architecture of the Muslim family. The proposed reconstruction of the marriage agreement—through a synthesis of *fiqh*, *maqāṣid al-sharī'ah*, and Indonesian positive law—is expected to contribute meaningfully to the development of a more just, humanistic, and welfare-oriented Islamic family law responsive to long-term societal needs.

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