

## **Islamic Family Law Reform in Indonesia, Türkiye, and Tunisia: A Pierre Bourdieu Perspective**

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### **Abstract:**

This research is motivated by the tension between the modernization of Islamic family law and the resistance of conservative groups in Muslim-majority countries. The primary research problem examines how the sociological and intellectual backgrounds of reformist actors influence the reception and implementation of law in Indonesia, Türkiye, and Tunisia. The novelty of this study lies in the application of Pierre Bourdieu's Social Practice Theory to dissect the dynamics of legal reform, an approach that transcends conventional textual analysis by highlighting the role of human agency. The research method is qualitative with a comparative study approach. The data corpus is derived from historical literature, the biographies of central figures such as Kartini, Rohana Kudus, Mustafa Kemal Atatürk, and Habib Bourguiba, as well as formal legal manuscripts including Indonesia's 1974 Marriage Law, the Turkish Civil Code, and the Tunisian Code of Personal Status. Bourdieu's theoretical lens is used to analyze the interconnectedness between *habitus* (mental disposition), *capital* (cultural and symbolic capital), and *field* (the arena of legal contestation). Comparative findings indicate three primary patterns: radical secularization in Türkiye which abolished Islamic law, progressive state-led *ijtihad* in Tunisia that prohibited polygamy, and a gradual-dialectic in Indonesia that synthesized religious law with state administration. This study concludes that the success of legal reform depends heavily on the actors' ability to capitalize on symbolic capital to transform social *habitus*.

**Keywords:** *Family Law Reform; Social Practice; Habitus; Indonesia; Türkiye; Tunisia.*



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### **Introduction**

Indonesia is a constitutional state (*rechtsstaat*) where the majority of the population adheres to Islam. Within any society, law inevitably exists to regulate behavior and ensure collective order. The evolution and shifting social conditions of a community necessitate that the law also evolves to remain synchronized with the times. Given Indonesia's status as a Muslim-majority nation, the establishment of

laws and regulations takes into account the dynamics and developments of Muslim life. Furthermore, it is expected that Islamic teachings can provide a positive impetus for legal reform in Indonesia.<sup>1</sup>

Social change and development are inevitable; thus, the law must evolve to accommodate societal needs. A principle of Islamic jurisprudence (*qaidah fihiyyah*) states: *la yunkaru taghoyyuril ahkam bi taghoyyuril azminah wal amkinah wal ahwal* (it cannot be denied that laws change due to changes in time, place, and circumstance). This principle asserts that legal rules can be altered both practically and normatively to maintain relevance to the prevailing situation of society. Consequently, the effective enforcement of law depends on societal response and compliance. A positive response facilitates smooth implementation, whereas public resistance leads to social upheaval and controversy, thereby hindering the legal process.<sup>2</sup> Laws that no longer possess relevance to the ever-changing socio-cultural conditions must undergo reform, including Islamic family law. Anderson argues that Islamic family law in Muslim countries is dynamic and fluctuates in accordance with social shifts. This is because Islamic family law functions as a "living law" within the community, maintaining its vitality and effectiveness by continuously engaging with the evolving needs of the people.<sup>3</sup>

The reform of Islamic family law was first initiated by Turkey in 1917, beginning with the enactment of the Ottoman Law of Family Rights (*Qanun Qarar al-Huquq al-'Ailah al-'Usmaniyyah*), and subsequently followed by the adoption of the Swiss Civil Code as the Turkish Islamic Law in 1926. Similarly, Tunisia reformed its family law in 1956 by enacting the Code of Personal Status (CPS). Other Muslim-majority nations followed suit, including Lebanon (1919), Egypt (1920 and 1929), Jordan (1951), and Syria (1953). This spirit of reform is evident in nearly every Muslim-majority country, including Indonesia.<sup>4</sup> Significant forms of Islamic family law reform in Indonesia include the enactment of the Compilation of Islamic Law (KHI) via Presidential Instruction No. 1 of 1991,<sup>5</sup> and Law No. 1 of 1974 concerning Marriage. The objective of the KHI is to regulate and foster order and peace regarding matrimonial issues. However, in practice, these reforms have triggered social friction and controversy. Society is divided into two factions: those who accept and support the reforms, and those who reject and condemn them.<sup>6</sup>

Previous research on the reform of Islamic law has been extensively conducted by scholars such as Yushadeni, Ahmad, Arif, and Dede. Their findings indicate that legal changes are driven by the transition of social conditions from classical to modern society.<sup>7</sup> The reform of Islamic family law originated with the

<sup>1</sup> Yushadeni Yushadeni, "Kontroversi Seputar Pembaharuan Hukum Keluarga Islam Di Indonesia," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 8, no. 1 (2015): 25–36, <https://doi.org/10.14421/ahwal.2015.08102>.

<sup>2</sup> Yushadeni.

<sup>3</sup> Ramdan Wagianto dan Moh Sa'i Affan, "Reviewing Hak-Hak Perempuan Dalam Reformasi Hukum Keluarga Islam Di Indonesia Dan Tunisia," *Asy-Syari'ah: Jurnal Hukum Islam* 8, no. 2 (2022): 81–102, <https://doi.org/10.55210/assyariah.v8i2.825>.

<sup>4</sup> Mochammad Agus Rachmatulloh, "Studi hukum keluarga islam di tunisia," *Al-Syakhsyiyah: Journal of Law & Family Studies* 2, no. 2 (2020): 307–26, <https://doi.org/10.21154/syakhsyiyah.v2i2.2598>.

<sup>5</sup> Wagianto dan Affan, "Reviewing Hak-Hak Perempuan Dalam Reformasi Hukum Keluarga Islam Di Indonesia Dan Tunisia."

<sup>6</sup> Yushadeni, "Kontroversi Seputar Pembaharuan Hukum Keluarga Islam Di Indonesia."

<sup>7</sup> Yushadeni.

Ottoman Caliphate's decree regarding women's rights.<sup>8</sup> In Turkey, these reforms emerged as a response to unstable social, political, and economic influences.<sup>9</sup> Likewise, in Tunisia, reforms were implemented for the purposes of unification and adaptation to the demands of modernity and societal needs.

Based on prior studies, there is a lack of research analyzing the environmental backgrounds, education, and domains of the figures who support or oppose these reforms; existing literature primarily focuses on the historical trajectory of the reforms. Therefore, this study seeks to examine the underlying factors and rationales behind the divergent views of these figures. Accordingly, this research formulates two primary problems: first, why different responses acceptance versus rejection exist regarding Islamic family law reform in Indonesia, Turkey, and Tunisia; and second, how Pierre Bourdieu's social practice theory, through the concepts of *habitus*, *capital*, and *field*, explains these differences. This article will provide an in depth analysis of the factors driving public support or resistance and examine the backgrounds of the figures involved in these legal shifts.

### Research Method

The research method is qualitative with a comparative study approach. This study employs a library research method with a sociological approach. The data corpus is derived from historical literature Library research involves the examination of written information or legal data from various widely published and publicly accessible sources.<sup>10</sup> Data collection is conducted through a literature review of books, journals, scientific articles, and relevant internet sources. The data analysis technique involves reducing and selecting sources pertinent to the reform of Islamic family law, which are then categorized by region: Indonesia, Turkey, and Tunisia. To deepen the analysis, this study utilizes Pierre Bourdieu's sociological framework, specifically the concepts of *habitus*, *capital*, and *field*. These concepts serve as analytical lenses to explore the educational, social, political, and personal factors underlying the rationales of figures who either oppose or support Islamic family law reform. Consequently, this method aims to elucidate the power dynamics, social capital, and historical contexts that constitute the "social practices" of family law reform in Indonesia, Tunisia, and Turkey.

### Discussion

#### The History of Islamic Family Law Reform

##### Indonesia

Islam was an established religion, believed in and practiced by the Indonesian people long before the arrival of colonial powers, specifically during the era of the Islamic sultanates. Consequently, Islamic law had already been implemented and functioned within society as a living law (*living law*) that regulated various communal affairs and issues, including the domains of marriage and divorce. The roles and functions of maintaining religious affairs were entrusted to the *penghulu* (religious

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<sup>8</sup> Ahmad Bunyan Wahib, "Reformasi hukum keluarga di dunia Muslim," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 14, no. 1 (2014): 1–19.

<sup>9</sup> Arif Sugitanata, Suud Sarim Karimullah, dan Mohamad Sobrun Jamil, "Produk-Produk Pembaharuan Hukum Keluarga Islam di Turki," *Familia: Jurnal Hukum Keluarga* 2, no. 1 (2021): 68–87.

<sup>10</sup> Muhaimin, *Metode Penelitian Hukum*, (Mataram-NTB: Mataram Universiti Press, 2020) 65.

officials) and their subordinates, whom the community regarded as experts in theology, worship, and matrimonial matters. These experts utilized a jurisprudential (*fiqh*) approach in formulating regulations concerning marriage and divorce, as well as in resolving other religious matters.<sup>11</sup>

Upon the arrival of the Dutch in Indonesia, they seized a superordinate position, subsequently relegating the indigenous population the majority of whom were Muslim to a subordinate status by marginalizing them and assuming full societal control.<sup>12</sup> During their administration of Indonesia, the Dutch implemented political policies that altered the prevailing Islamic marriage and inheritance laws. These laws were replaced with new provisions contained in a manuscript compiled by D.W. Freijer, titled the *Compendium Freijer*, which was later refined by the *penghulu* (religious officials). However, this policy was revoked and declared no longer valid on August 3, 1828; consequently, provisions regarding Islamic marriage and inheritance were reverted to customary law (*adat*), except for certain groups.<sup>13</sup>

In 1928, the Indonesian Women's Congress was held, attended by various women's organizations and activists. Among the primary discussions were the perceived flaws and incongruities within Islamic marriage practices, such as the permissibility of polygamy, early marriage, forced marriage, and arbitrary divorce (*talak*), which were deemed irrelevant and tended to degrade the dignity of women. These women's organizations demanded the enactment of a Marriage Law to regulate such matters. In response, the Dutch government issued a draft ordinance for Registered Marriage in July 1937, predicated on the principle of monogamy and the non-recognition of out-of-court divorce. This circular was strongly suspected to be an effort by the Dutch government to address the demands previously raised by women's organizations at the Indonesian Women's Congress. However, the circular was ultimately withdrawn due to negative responses from several Muslim groups, with only a small fraction of educated women supporting its contents.<sup>14</sup>

Efforts toward the nationalization of Dutch law were initiated in the early independence period with the enactment of Law No. 22 of 1946 regarding the registration of marriage, divorce (*talak*), and reconciliation (*rujuk*) for the regions of Java and Madura. This was subsequently followed by the enactment of Law No. 32 of 1954, which established the nationwide application of Law No. 22 of 1946 across all Indonesian territories. Later, in 1974, Law No. 1 of 1974 was enacted, which specifically regulates and contains material provisions and stipulations regarding marriage in Indonesia.<sup>15</sup> Following the promulgation of the Marriage Law, the **Compilation of Islamic Law (KHI)** emerged in 1991 to serve as a guideline for Religious Court (*Pengadilan Agama*) judges in adjudicating cases within the fields of marriage, endowments (*wakaf*), and inheritance. The presence of the KHI resolved legal uncertainty and provided a definitive solution for judges; prior to its issuance,

<sup>11</sup> Syaiful Muda'i dan Ulyi Amirotus Sholehah, "SEJARAH PEMBENTUKAN DAN KEDUDUKAN UU NO 1 TAHUN 1974 TENTANG PERKAWINAN," *JAS MERAH: Jurnal Hukum dan Ahwal al-Syakhsyiyah* 3, no. 2 (2024): 147–55.

<sup>12</sup> Tendi Tendi, "Islam Dan Agama Lokal Dalam Arus Perubahan Sosial," *Al-Tahrir: Jurnal Pemikiran Islam* 16, no. 1 (2016): 47–68, <https://doi.org/10.21154/al-tahrir.v16i1.365>.

<sup>13</sup> Tendi Tendi, "Islam Dan Agama Lokal Dalam Arus Perubahan Sosial."

<sup>14</sup> Afif Muamar, "Politik Hukum Pembaharuan Hukum Keluarga Islam Di Indonesia," *Inklusif: Jurnal Pengkajian Penelitian Syariah dan Ilmu Hukum* 2, no. 1 (2017): 1–14.

<sup>15</sup> Muamar.

judges relied on diverse jurisprudential (*fiqh*) texts, which frequently led to inconsistent judicial outcomes for similar cases.<sup>16</sup>

### Turkey

The history of family law reform in Turkey progressed through several pivotal phases closely intertwined with the social, political, and legal dynamics from the Ottoman Empire to the establishment of the Republic of Turkey. These reforms were not abrupt but represented a gradual process, beginning with the codification of Islamic law and culminating in the secularization of family law. The initial stage of reform was marked by the codification of the *Al-Majallāh al-Aḥkām al-‘Adliyyah* during the 1869–1876 period. Serving as the official civil code of the Ottoman Empire, the *Al-Majallāh* was drafted based on the Hanafi school of thought (*madhhab*). This codification represented a significant milestone as it became the first written civil law in the Islamic world. However, the scope of the *Al-Majallāh* was limited, as it did not regulate family or inheritance law; consequently, domestic matters continued to be resolved through classical jurisprudence (*fiqh*) and religious court practices.<sup>17</sup>

Family law reform became more specific in 1915, when the Ottoman government issued two Sultanic decrees expanding the rights of wives. These decrees granted wives the right to petition for divorce under certain conditions, such as a husband's long-term disappearance or affliction with a severe illness. In this policy, the government no longer adhered strictly to the Hanafi school (*madhhab*) but adopted views from the Maliki and Hanbali schools. This step signified a shift in the approach to family law toward greater protection for women. The pinnacle of family law reform during the Ottoman era occurred in 1917 with the enactment of the Ottoman Law of Family Rights (*Qānūn Qarār al-Ḥuqūq al-‘Ā’ilah al-‘Utmāniyyah*). This law was the first comprehensive and systematic codification of Islamic family law, consisting of 156 articles. Its formulation utilized the principle of *takhayyur* the selection of opinions from various Sunni schools thereby ending the dependency on a single *madhhab*. Nevertheless, this law did not encompass inheritance law and remained in effect only briefly, as it was suspended in 1919.

The most significant change occurred following the establishment of the Republic of Turkey in 1923. The modern Turkish government abolished the religious court system and implemented comprehensive legal secularization. In 1926, Turkey adopted the Swiss Civil Code, which was subsequently enacted as The Turkish Civil Code. From that point forward, Turkish family law was no longer formally grounded in Islamic law; rather, it was based on Western civil law, which emphasized monogamy, mandatory marriage registration, gender equality, and equal inheritance between men and women. These provisions underwent continuous amendments throughout the second half of the 20th century to adapt to the evolving social needs of Turkish society.

Thus, the history of family law reform in Turkey demonstrates a trajectory from the codification of Hanafi-based Islamic law toward cross-school (*inter-*

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<sup>16</sup> Wagianto dan Affan, “Reviewing Hak-Hak Perempuan Dalam Reformasi Hukum Keluarga Islam Di Indonesia Dan Tunisia.”

<sup>17</sup> Sugitanata, Karimullah, dan Jamil, “Produk-Produk Pembaharuan Hukum Keluarga Islam di Turki.”

*madhhab*) Islamic family law, and finally transforming into a secular legal framework. This process reflects a shift in the Turkish state's orientation toward building a national legal system that differs fundamentally from the preceding Islamic legal tradition.

### Tunisia

Family law reform in Tunisia was part of a wave of family law reforms in the Islamic world during the early to mid-20th century. These efforts were driven by the need to respond to social change, the demands of modernity, and the view that classical jurisprudential (*fiqh*) formulations were considered not yet fully capable of addressing contemporary societal issues. In the Tunisian context, this reform was concretely realized through the birth of the *Majallah al-Akhwāl Ash-Shakhshiyah* (MAS) in 1956. Tunisia gained its independence from France on March 20, 1956, after approximately 75 years of colonialism. Shortly after independence, Tunisia's first president, Habib Bourguiba, made family law reform one of the primary agendas of his administration. This was aligned with the project of judicial unification and the establishment of a national legal system applicable to all citizens without religious distinction.<sup>18</sup>

The drafting process of the family law began with the formation of a committee chaired by Sheikh Muhammad Azīz Ju'ait, a prominent scholar who had previously drafted the *Lā'ihat al-Ahkām ash-Shar'iyyah* in 1948. Although the manuscript was never officially enacted due to opposition from the French colonial government, it was regarded as a significant embryo for the formation of post-independence Tunisian family law.

In formulating the MAS, the drafting team referred to several primary sources, namely the *Lā'ihat al-Ahkām ash-Shar'iyyah*, family laws from various Muslim countries such as Egypt, Syria, and Iran, as well as French family law. Furthermore, the jurisprudential references used were not limited to the Maliki school (*madhhab*) dominant in Tunisia but also included other schools, including the Ja'fari school. The *Majallah al-Akhwāl Ash-Shakhshiyah* was officially enacted on August 13, 1956, only about five months after independence. This codification consists of 170 articles regulating various aspects of family law, such as marriage, divorce, maintenance (*nafaqah*), child guardianship, inheritance, wills, and gifts (*hibah*). Throughout its development, the MAS underwent several changes and the addition of articles in accordance with the legal and social needs of Tunisian society. The presence of the MAS sparked widespread debate among scholars and the public, both in Tunisia and the Islamic world in general. Several of its articles were considered to deviate from classical *fiqh*, while others viewed it as a result of modern *ijtihad* that remained within the framework of the objectives of the Sharia (*maqāsid al-shari'ah*). Notwithstanding these pros and cons, the MAS marked a new chapter in Tunisia's family law history and established it as one of the countries with the most progressive family law reforms in the Muslim world at that time.

### Pros and Cons of Islamic Family Law Reform

The reform of Marriage Laws has consistently been characterized by social upheaval and tension, both in Indonesia and other Muslim-majority nations. Pros

<sup>18</sup> Dede Ahmad Permana, "Majallah al akhw ā l ash-shakhshiyah DAN PEMBAHARUAN HUKUM KELUARGA DI TUNISIA," *Jurnal Studi Gender Dan Anak*, (1951), 1996, 1–18, <https://doi.org/10.32678/jsga.v7i01.173>.

and cons regarding the codification and reform of Marriage Laws are unavoidable, as they are the legislative consequences of the need for the normative secularization of Islamic law and the involvement of state political authority. In Indonesia, certain groups demanded reform, while others sought to maintain the existing Islamic legal framework.<sup>19</sup> Various figures and factions presented and defended their ideas and opinions based on their interpretations of the *naşş* (text) of the Quran and *fiqh* manuals, viewed through the lens of societal reality.<sup>20</sup>

The problematic marriage issues that have sparked public debate comprise seven key points: (1) marriage registration as a requirement for validity, (2) restrictions on polygamy requiring judicial permission, (3) the establishment of a minimum age for marriage, (4) interfaith marriage, (5) engagement, (6) the requirement for divorce to be conducted in court with judicial consent, and (7) child adoption.<sup>21</sup> In response to these reform discourses, divergent perceptions emerged within society, effectively dividing the public into two camps: the proponents who support the policies and the opponents who reject them.

Among the groups that agreed with and supported the reform of Islamic family law through the drafting of the Marriage Bill were Raden Ajeng Kartini in Central Java and Rohana Kudus in Minangkabau, West Sumatra. They were among the educated upper-middle-class figures who advocated for the reform based on the distressing social realities resulting from early marriage, forced marriage, polygamy, and arbitrary divorce (*talak*) prevalent in society.<sup>22</sup> Several civil society organizations (*ormas*) also supported these reforms, including *Puteri Indonesia*, *Persaudaraan Isteri*, *Persatuan Isteri*, *Wanita Sejati*, *Isteri Sedar*,<sup>23</sup> the Association of Indonesian Women Scholars (ISWI), and the Consultative Body of Indonesian Women's Islamic Organizations. These organizations strongly supported the formalization and implementation of the Marriage Law, as it encapsulated three vital objectives: ensuring legal certainty in matrimonial matters, protecting women's rights, and maintaining the law's relevance to contemporary needs and societal developments.<sup>24</sup> Proponents of Islamic family law reform posited that the regulations established within the Marriage Law represented an evolution and unification of Islamic law that did not deviate from, violate, or contradict Islamic teachings. Instead, they argued that the Marriage Law rendered Islamic principles more contextually relevant while fostering public welfare (*maslahah*), justice, and protection for the community, particularly for women and wives.

Conversely, the groups opposing or rejecting the reform of Islamic family law in Indonesia particularly regarding the prohibition of polygamy were spearheaded by organizations such as Nahdlatul Ulama, the Indonesian Islamic Syarikat Party (PSII), and Asmah Sjahroni, representing the PPP faction, along with various other organizations and individuals. The rationales for this rejection were based on perceived indications that the reforms would displace customary (*adat*) and Islamic

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<sup>19</sup> Yushadani, "Kontroversi Seputar Pembaharuan Hukum Keluarga Islam Di Indonesia."

<sup>20</sup> Wazni Azwar, "Latar Belakang Lahirnya Undang-Undang Perkawinan Indonesia Nomor 1 Tahun 1974 (UUP)," *Hukum Islam* 21, no. 1 (2022): 133–51, <http://dx.doi.org/10.24014/jhi.v21i1.11616>.

<sup>21</sup> Yushadani Yushadani, "Kontroversi Seputar Pembaharuan Hukum Keluarga Islam Di Indonesia."

<sup>22</sup> Wazni Azwar, "Latar Belakang Lahirnya Undang-Undang Perkawinan Indonesia Nomor 1 Tahun 1974 (UUP)."

<sup>23</sup> Afif Muamar, "Politik Hukum Pembaharuan Hukum Keluarga Islam Di Indonesia."

<sup>24</sup> Yushadani Yushadani, "Kontroversi Seputar Pembaharuan Hukum Keluarga Islam Di Indonesia."

marriage laws that had long served as societal guidelines. Furthermore, there was a prevalent assumption that these reforms constituted a form of secularization. Regarding the regulations on the minimum age of marriage, Ahmad Sjahroni argued that such rules possessed a strong potential to foster uncontrolled promiscuity within society.<sup>25</sup> Opposition was also voiced by Ratna Sari, chairperson of the *Persatuan Muslim Indonesia* and the *Sarekat Isteri Jakarta*. These groups rejected the family law reforms, specifically concerning the restriction of polygamy, based on the view that polygamy does not diminish the status of women; they contended that becoming a second, third, or even fourth wife was preferable to social deviance. Khofifah Indar Parawansa, who served as the State Minister for Women's Empowerment at the time, similarly posited that marriage is a private matter of the individual that does not require state intervention.<sup>26</sup> Additionally, Buya Hamka opposed the regulation of polygamy, despite not practicing it himself. The dynamics of these divergent perspectives among figures and organizations signify that the pen-and-ink interpretations and legal hermeneutics of each individual and group vary significantly.<sup>27</sup>

There are three primary factors contributing to the tendency toward negative responses and rejection from certain segments of society. The first factor is the lack of alignment between the substance of family law reform and the philosophical, juridical, and sociological foundations of a society deeply rooted in *fiqh* (Islamic jurisprudence). The second factor is the lack of harmony in understanding the substance of legal change and the differences in methodologies used in legal studies. The third factor is the conflict or inconsistency between Islamic law reform and the established socio-cultural orders within the community. However, as public awareness of Human Rights (HAM) and values of justice grows, alongside an openness to the importance of interdisciplinary approaches in legal studies, society has gradually begun to exhibit a positive response toward Islamic family law reform.<sup>28</sup>

Family law reform in Turkey and Tunisia also triggered sharp debates between groups supporting legal modernization and those maintaining the authority of Islamic legal tradition. This contention was not merely juridical, but also ideological, social, and political. In Turkey, family law reform reached its pinnacle in 1926 with the enactment of the Swiss Civil Code, which completely replaced Islamic family law. Proponents viewed this step as a prerequisite for the formation of a modern, secular, and rational nation-state that guaranteed gender equality, particularly through the prohibition of polygamy and the mandate of civil marriage. Conversely, opposing groups specifically religious and traditional circles regarded the reform as a radical rupture from Islamic identity and the Ottoman legal heritage.

<sup>25</sup> Mohammad Fauzan Ni'ami, "Relevansi Alasan Penolakan Umat Atas Risalah Kenabian Dengan Alasan Penolakan Masyarakat Atas Reformasi Hukum Keluarga Islam," *Al-Manhaj: Journal of Indonesian Islamic Family Law* 3, no. 2 (2021): 106–24, <https://doi.org/10.19105/al-manhaj.v3i2.4807>.

<sup>26</sup> Muamar, "Politik Hukum Pembaharuan Hukum Keluarga Islam Di Indonesia."

<sup>27</sup> Azwar, "Latar Belakang Lahirnya Undang-Undang Perkawinan Indonesia Nomor 1 Tahun 1974 (UUP)."

<sup>28</sup> Barmawi Arief, "Respon Masyarakat Terhadap Hukum Keluarga Islam," *HUKUMAH: Jurnal Hukum Islam* 1, no. 1 (2018), <https://ojs.staituankutambusai.ac.id/index.php/HUKUMAH/article/view/11-20>.

Their primary criticism was directed at the removal of Islamic law from the public sphere, which was perceived as a form of state-imposed Westernization of the law.

Meanwhile, in Tunisia, the reform of family law through the Code of Personal Status (CPS) in 1956 also sparked controversy, albeit through a different approach. The proponents comprising the state elite, modernist intellectuals, and women activists viewed the CPS as a form of progressive and contextual *ijtihad* (independent legal reasoning), primarily due to its prohibition of polygamy and restrictions on unilateral divorce (*talak*). These reforms were deemed capable of addressing the demands for gender justice and post-independence social changes. Conversely, the opposing groups, including a segment of the *ulama* (religious scholars) and conservative circles, rejected the CPS on the grounds that it contradicted classical *naşş* (scriptural texts) and *ijmā'* (consensus), particularly concerning the issues of polygamy and husband's authority in divorce. This rejection illustrates the tension between state authority and religious authority in defining family law. The reform of family law in Turkey was pioneered by Mustafa Kemal Atatürk, while the reform in Tunisia was led by Habib Bourguiba.

Comparatively, the contention in Turkey centered on the issues of total secularization and Western legal transplant, whereas in Tunisia, it revolved around the boundaries of state-led reinterpretation of Islamic law. Both cases demonstrate that family law reform is never neutral; rather, it consistently serves as an arena of negotiation between modernity, religion, and state power.

### **Analysis of Key Figures through Pierre Bourdieu's Social Practice Theory**

Pierre Bourdieu's Theory of Social Practice is formulated as the combination of [*habitus* {*capital*}] + field (*arena*). *Habitus* represents the dialectic between structure and agency; it can be defined as the mental structures and ingrained dispositions formed through life experiences, family, education, and environment that direct an individual's way of thinking. In Bourdieu's view, capital is categorized into economic and symbolic capital the latter encompassing cultural, linguistic, and knowledge-based assets which are dependent on the field (*arena*) in which they are deployed. The field is a structured social space containing various power dynamics.<sup>29</sup> Consequently, Bourdieu's Theory of Social Practice asserts that human actions, decisions, and perspectives are neither purely determined by social structures nor entirely free; rather, they are the result of a dialectical interplay between *habitus*, capital, and the field.

In relation to the dynamics of societal rejection and acceptance of Islamic family law reform in Indonesia, Turkey, and Tunisia, through the lens of Bourdieu's framework, each perspective and opinion is underpinned by specific rationales and causes. These factors influence why certain groups choose to oppose or support Islamic family law reform. The following is an analysis of key figures, both proponents and opponents of these reforms, examined through the framework of Social Practice Theory:

#### **Raden Ajeng Kartini**

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<sup>29</sup> Anom Wiranata Dan S. Ma, "Perubahan Sosial Dalam Perspektif Pierre Bourdieu," *Universitas Udayana, Kuta*, 2020, [https://www.researchgate.net/profile/Anom-Wiranata/publication/344384599\\_Perubahan\\_Sosial\\_Dalam\\_Perspektif\\_Pierre\\_Bourdieu/links/5f6ec2d892851c14bc972d56/Perubahan-Sosial-Dalam-Perspektif-Pierre-Bourdieu.pdf](https://www.researchgate.net/profile/Anom-Wiranata/publication/344384599_Perubahan_Sosial_Dalam_Perspektif_Pierre_Bourdieu/links/5f6ec2d892851c14bc972d56/Perubahan-Sosial-Dalam-Perspektif-Pierre-Bourdieu.pdf).

Raden Ajeng Kartini Djojo Adhiningrat, born on April 21, 1879, in Mayong, Jepara, was a Javanese aristocrat and an Indonesian National Heroine renowned for her ideas and struggle regarding the education and emancipation of indigenous women. Her life story serves as a tragic portrait of women in the early 20th century, shackled by the traditions of Javanese feudal patriarchal society.

Kartini experienced a clash of habitus (a habitus crisis). Her primary habitus was internalized from her family structure; as the daughter of the Regent (*Bupati*) of Jepara and a mother who was the daughter of a religious figure, her personality was formed through dispositions of obedience, adherence to Javanese *adat* (customs), and acceptance of feudal hierarchy. Conversely, a secondary habitus was formed through her access to education at the *Europeesche Lagere School* (ELS) until the age of 12, where she internalized European Enlightenment values such as egalitarianism, emancipation, and rationality. The collision of these two habitus produced a critical disposition. Kartini did not entirely reject her Javanese identity; instead, she engaged in cultural negotiation to reconstruct the position of women within that structure. The field (*arena*) in which Kartini operated was the colonial society of the Dutch East Indies at the turn of the 20th century, specifically within the *priyayi* (Javanese nobility) circles. This field was characterized by a dual intersection of Dutch colonial imperialist dominance and Javanese patriarchal feudalism. Within this field, the position of noblewomen was marginalized from the public sphere through the institution of *pingitan* (seclusion), where their social functions were reduced to instruments of social reproduction and political alliances through marriage (often polygamous). Kartini possessed three forms of capital; cultural capital, social capital, symbolic capital. Her fluency in the Dutch language and access to European feminist literature, such as *De Locomotief*, the works of Multatuli, and Dutch women's movement literature, provided her with the epistemological framework to critique tradition. She maintained a correspondence network with influential Dutch figures who adhered to the Ethical Policy, such as J.H. Abendanon, Stella Zeehandelaar, and N.V. Beek. This network served as a channel to amplify her ideas beyond the walls of her seclusion. Her status as the daughter of the Regent of Jepara granted her legitimacy as a member of the nobility. Consequently, her critiques and ideas garnered significant attention from both the Dutch and Javanese elites.<sup>30</sup>

Kartini's commitment to advancing the status of indigenous women was manifested through her correspondence, which critiqued social conditions—particularly the customs that fettered women, such as the prohibition of schooling, the institution of *pingitan* (seclusion), and polygamous marriage. She advocated for the education and autonomy of women within both the educational sphere and domestic life. Her correspondence was subsequently compiled and published in the book *Door Duisternis tot Licht* (translated as "Out of Darkness to Light"), establishing her as one of the most prolific writers of her era in advancing the discourse of women's emancipation in Indonesia.<sup>31</sup> Kartini's critique of the marriage institutions of her time, particularly regarding polygamy and the subordination of women, shares a strong commonality with contemporary debates on Islamic family law reform, such

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<sup>30</sup> Coté, J. (Terj. & Ed.), *Kartini: The Complete Writings 1898-1904* (Clayton, Victoria (Australia): Monash University Publishing, 2014).

<sup>31</sup> Tia Amanda Pratiwi Md dan Hudaidah Hudaidah, "Pemikiran Kartini Mengenai Pendidikan Perempuan," *EDUKATIF: JURNAL ILMU PENDIDIKAN* 3, no. 2 (April 2021): 562–68, <https://doi.org/10.31004/edukatif.v3i2.386>.

as Law No. 1 of 1974 on Marriage and the Compilation of Islamic Law (KHI) in Indonesia. The sociological conditions Kartini criticized unregulated polygamy, child marriage, and the absence of divorce rights for women were historical practices legitimized through interpretations of classical *fiqh* (jurisprudence) blended with feudal customs. Support for strict judicial oversight of polygamy (requiring consent from both the court and the first wife), the increase of the minimum age for marriage to prevent child marriage, and the guarantee of *taqliq talak* (divorce stipulations) rights for wives, represent the forms of struggle envisioned by Kartini to protect women's dignity in marriage. Modern reformists posit that Islamic law must adapt to the principle of substantive justice (*maqāṣid al-sharī'ah*).<sup>32</sup>

### **Rohana Kudus**

Rohana Kudus was born on December 20, 1884, in Koto Gadang, Bukittinggi, West Sumatra. She was a pioneering educator, Indonesia's first female journalist, and was designated an Indonesian National Heroine in 2019. Her struggle centered on women's empowerment through vocational education and mass media, responding to the limited educational access for indigenous women in Minangkabau during the early 20th century.

Rohana Kudus emerged from a highly educated family habitus. Her father, Mohammad Rasyad Maharaja Sutan, was an official in the Dutch East Indies Prosecutor's Office and an avid reader; thus, Rohana's intellectual dispositions were internalized from her father's influence. Her literate and scholarly family environment provided a literary privilege unavailable to most indigenous women of her era. Furthermore, Rohana possessed significant kinship ties, being the paternal half-sister of Indonesia's first Prime Minister, Sutan Sjahrir, and the aunt of the renowned poet Chairil Anwar. Her determination in education was evidenced by her self-taught mastery of Latin, Arabic, and Jawi (*Arabic-Malay*) scripts, as well as the Dutch language, learned from her father and his colleagues, such as Prosecutor Adiesa. She further cultivated a modern worldview by consuming various publications, notably the newspaper *Palita Kecil*, through which she absorbed contemporary values of modernity.<sup>33</sup> Rohana operated within the field of Minangkabau society, which was deeply rooted in Islamic culture and customary law (*adat*). Despite Minangkabau's matrilineal system, public and political decision-making power remained concentrated in men, and access to formal modern education for women was severely restricted. This condition of gender inequality and educational backwardness propelled her emancipatory movement.<sup>34</sup> Rohana possessed several forms of capital Her proficiency in Malay, Arabic, and Dutch, combined with her journalistic skills, provided her with the tools for intellectual resistance. She was recognized as a devout Muslim with exemplary character and was highly respected as a teacher. This symbolic capital granted her the legitimacy

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<sup>32</sup> Nurlaelawati, E, *Modernization, Tradition and Identity: The Kompilasi Hukum Islam and Legal Practice in the Indonesian Religious Courts*. (Belanda: Amsterdam: Amsterdam University Press, 2010).

<sup>33</sup> Djaja, Tamar, *Rohana Kudus: Riwayat Hidup dan Perjuangannya* (Jakarta: Mutiara, 1980).

<sup>34</sup> Irfan Agung Jayudha dan Wawan Darmawan, "Pendidikan bagi perempuan indonesia: perjuangan raden dewi sartika dan siti rohana kudus (1904-1928)," *FACTUM: Jurnal Sejarah dan Pendidikan Sejarah* 9, no. 2 (2020): 161–74, <https://doi.org/10.17509/factum.v9i2.25637>.

and power to voice her opinions in the public sphere without being easily dismissed or labeled as an antagonist to religion.<sup>35</sup>

The literacy movement and economic independence initiated by Rohana were, at their core, a critique of the vulnerability of women's positions within the family institution. This relates directly to the contemporary tensions surrounding Islamic Family Law reform in Indonesia, such as the 1974 Marriage Law and the Compilation of Islamic Law (KHI). Pro-reform groups including Muslim feminists and progressive legal scholars operate with a habitus similar to Rohana's: a belief that Islam inherently upholds equality. They argue that historical practices, such as arbitrary *talak* (divorce) and unconditional polygamy, are products of patriarchal culture rather than the essence of Islamic law. Proponents of reform advocate for state intervention to guarantee gender justice within the family through strict polygamy restrictions and the assurance of wives' financial rights post-divorce.

### Ratna Sari

Ratna Sari was born in Anduring, Nagari Kayu Tanam, Padang Pariaman, West Sumatra, around June 14, 1913. She was a prominent national movement figure in Islamic politics, a women's activist, and later a member of the Constitutional Assembly (*Konstituante*). Her primary role was as the Chairperson of the Women's Division of PERMI (*Persatuan Muslimin Indonesia*) during the independence movement era.<sup>36</sup>

The field in which Ratna Sari operated was the political and religious movement landscape of the Dutch East Indies, extending into the Old Order era. This field was characterized by the intersection of three power poles: Dutch colonial repression, the traditional patriarchal orthodoxy of Minangkabau *adat*, and the wave of secularism from nationalist women's groups. Within this arena, family law specifically issues of polygamy, divorce rights, and the political position of women became a site of intense discursive struggle. Ratna Sari's capacity to navigate this field was shaped by her specific habitus. Raised and forged within the progressive Islamic educational ecosystem of *Diniyah Putri* and *Sumatera Thawalib* (Padang Panjang), she internalized a synthesis of rationality, monotheism (*tauhid*), and gender egalitarianism.<sup>37</sup> The clash between her substantial Islamic understanding which honors women and the reality of subordinating orthodoxy produced a radical and autonomous disposition, enabling her to confront any authoritarian power. Ratna Sari possessed several forms of capital, Her mastery of Islamic literature (Exegesis/*Tafsir* and Hadith) and her exceptionally sharp political oratory skills provided her with the intellectual tools to redefine the status of women in Islamic law. She built an extensive power network as an elite leader in PERMI, *Aisyiyah*, and maintained high-level political connections within the Masyumi Party alongside figures like M. Natsir and Rahmah El Yunusiyah. When Ratna was arrested and exiled to Semarang by the colonial government under the *Persdelict/Spreekdelict* (press/speech offenses), this punishment transformed into her greatest symbolic

<sup>35</sup> Fitriyani, *Roehana Koeddoes: Perempuan Sumatera Barat* (Jakarta: Yayasan Jurnal Perempuan (YJP), 2001).

<sup>36</sup> "Ny. Ratna Sari - Masjumi - Profil Anggota," *Konstituante.Net*, diakses 5 Desember 2025, [https://www.konstituante.net/id/profile/MASJUMI\\_nj\\_ratna\\_sari](https://www.konstituante.net/id/profile/MASJUMI_nj_ratna_sari).

<sup>37</sup> Jajat Burhanuddin, *Ulama Perempuan Indonesia* (akarta: Penerbit PT Gramedia Pustaka Utama bekerja sama dengan PPIM IAIN Jakarta., 2002).

capital. Her status as a "former colonial political prisoner" granted her absolute legitimacy, moral authority, and a heroic status that made her unmatched when speaking on behalf of Islamic rights on the national stage.<sup>38</sup>

Ratna Sari's position was distinctively pro-reform regarding oppressive traditions in both domestic and public spheres. Utilizing her cultural capital, she deconstructed the narratives of conservative Muslim groups who opposed women's involvement in the public sphere. She argued that jurisprudential interpretations restricting women's autonomy such as forced marriage were forms of regression contrary to the *Shari'a*. Her views laid the argumentative foundation for modern reformist groups, asserting that Islamic law must guarantee gender justice and increase a wife's bargaining power within the family. However, at the national level, Ratna Sari occupied a contrarian position against secular reformist maneuvers. This peaked at the Indonesian Women's Congress (1935), when secular nationalist groups (such as Suwarni Pringgogido from *Istri Sedar*) demanded the absolute prohibition of polygamy in state law. Ratna Sari mobilized her symbolic capital and political oratory to defend the existence of Islamic Family Law. She argued that women's suffering in marriage was not caused by the *Shari'a* itself, but by ignorance and the patriarchal distortion of legal implementation. Her rejection of secular intervention represented the stance of the modernist Islamic groups, that family law reform should be achieved by tightening requirements and returning to a just interpretation of Islamic texts, rather than "amputating" religious law through Western rationality.<sup>39</sup>

### Asmah Sjahroni

Asmah Sjahroni (also known as Hj. Asmah Sjahroeni) was born in Padang, West Sumatra, on December 20, 1921. She was a preeminent female figure in post-independence Indonesian Islamic politics, primarily serving as an activist in the Muslimat Nahdlatul Ulama (Muslimat NU) and as a parliamentary representative for Islamic political parties (NU and later the United Development Party/PPP).

The field in which Asmah Sjahroni operated was the socio-political landscape of the New Order era (1970s–1990s), characterized by a clash between two major authorities. State Hegemony (the Soeharto regime's drive for legal modernization and uniformity) and Islamic Traditionalist Authority (the *Kyai* of Nahdlatul Ulama who strictly adhered to classical *fiqh* or *kitab kuning*). Within this field, *Nahdliyin* women occupied a precarious position, caught between a male-dominated pesantren tradition and a frequently repressive state intervention. Asmah Sjahroni's capacity to maneuver in this arena was dictated by a habitus deeply rooted in the pesantren tradition. She internalized the principles of *Ahlussunnah wal Jama'ah* (Aswaja), specifically the values of *tawasuth* (moderation), *tasamuh* (tolerance), and the legal maxim: *al-muhafazhah 'ala al-qadim al-shalih wa al-akhdzu bi al-jadid al-ashlah* (preserving the good traditions of the past while adopting better new ones). This habitus formed a disposition that was neither explosive nor confrontational. Rather than overtly challenging the dominance of the *Kyai* or the state, Asmah opted for a gradual, cooperative, yet precise resistance to secure women's rights in the domestic

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<sup>38</sup> Kahin, Audrey R, *Dari Pemberontakan ke Integrasi: Sumatera Barat dan Politik Indonesia 1926-1998* (Jakarta: Yayasan Obor Indonesia, 2005).

<sup>39</sup> Blackburn, Susan, *Kongres Perempuan Pertama: Tinjauan Ulang* (Jakarta: Yayasan Obor Indonesia, 2007).

sphere. Asmah possessed several forms of capital, Her profound understanding of *fiqh* (jurisprudence) and *ushul fiqh* (legal theory) provided her with a framework and evidentiary basis (*dalil*) identical to those of male scholars. Consequently, her ideas were not dismissed as "Western feminism." As a member of Parliament during the crucial formulation of the 1974 Marriage Law, her leadership in Muslimat NU allowed her to mobilize support from millions of grassroots followers and engage in high level political lobbying. Her status as a *Nyai* (respected female religious figure) granted her absolute legitimacy. Her image as a pious and principled representative of traditional Islam gave her interventions a moral authority that neither the state nor male clerics could ignore.<sup>40</sup>

The pinnacle of Asmah Sjahroni's social practice is clearly evident within the discourse surrounding the controversial enactment of Marriage Law No. 1 of 1974. Her position represented a highly sophisticated dialectic between advocating for women's rights and preserving the purity of the *Shari'a*. When the initial draft of the Marriage Bill (1973) was proposed by the New Order government, traditionalist Islamic groups (NU) adamantly rejected it. Asmah Sjahroni, both in parliament and through Muslimat NU, occupied a contrarian position against articles perceived as secularizing marriage. The initial draft stipulated that the validity of marriage was determined by state registration, equalized the rights of children born out of wedlock, and permitted interfaith marriage. Utilizing her social and cultural capital, Asmah, alongside other NU figures, rejected state interventions that exceeded the boundaries of the *Shari'a*. She maneuvered to ensure that the essence of family law remained within the domain of *fiqh*. The result of this resistance was the amendment of a crucial article, which now states that a marriage is valid if performed according to the laws of one's respective religion and beliefs (Article 2, Paragraph 1 of Law 1/1974). Despite rejecting the secularization of the Bill, Asmah Sjahroni was firmly in favor of the substantive reforms in family law that limited male caprice. Within the internal arena of NU, polygamy and the ease of pronouncing *talak* (divorce) were often textually legitimized. Asmah's habitus guided her to recognize the sociological reality that uncontrolled polygamy and unilateral divorce brought significant harm (*mudarat*) to grassroots female followers. Consequently, Asmah and Muslimat NU fully supported state regulations that restricted polygamy by requiring both the wife's consent and court permission, as well as the rule that a divorce is only valid if conducted before a Religious Court hearing. This support demonstrates that limiting patriarchal interpretations does not necessarily require sacrificing the Islamic creed (*aqidah*).<sup>41</sup>

### Habib Bourguiba

Habib Bourguiba (1903–2000) was a Tunisian nationalist figure and the first president of the Republic of Tunisia. He was born on August 3, 1903, in Monastir, into a middle-class family; his father, Ali Bourguiba, served as a junior officer under the Tunisian administration. A family environment that emphasized education encouraged Bourguiba to pursue formal studies from an early age. Regarding his

<sup>40</sup> Asmah Sjahroni dkk., *Setengah Abad Muslimat NU: Menapak Jejak Sejarah Mengukir Masa Depan* (Jakarta: Pucuk Pimpinan Muslimat NU., 1996).

<sup>41</sup> June S. Katz dan Rondald S. Katz, "The new Indonesian marriage law: a mirror of Indonesia's political, cultural, and legal systems," *Am. J. Comp. L.* 23 (1975): 653.

education and intellectual formation, Bourguiba attended Sadiki College and Lycée Carnot in Tunis before continuing his studies in France. He studied law at the University of Paris (Sorbonne) and political science at Sciences Po, graduating in 1927. His education in France introduced him to the ideas of modernism, nationalism, and secularism, which subsequently influenced his political orientation.<sup>42</sup>

Habib Bourguiba's field was Tunisia during the mid-20th-century transition from a French protectorate to an independent nation-state. This field was an era of friction between two epistemological poles: the Modernist-Secular pole, influenced by European rationality, and the Traditionalist-Orthodox pole, represented by the clerical institutions of Al-Zaytuna University and tribal structures.<sup>43</sup> In this arena, family law served as the final bastion of traditional religious authority, regulating gender relations, marriage, and inheritance based on classical *fiqh*. Habib Bourguiba's actions were born from a highly specific and cleft habitus. Born into a middle-class family in Monastir, the young Bourguiba was sent to a bilingual French-Arabic college before pursuing legal education at the Sorbonne in Paris. In France, Bourguiba internalized Enlightenment values, Cartesian rationalism, and radical secularism. This habitus dominated his worldview, leading him to develop a disposition that modernity, national progress, and women's liberation could only be achieved by deconstructing the traditional order. For him, classical jurisprudential orthodoxy was not an absolute truth but an instrument of backwardness that must be subordinated to the reason of the modern state. To articulate and reinforce his views, Bourguiba possessed various forms of capital. His law degree from Paris and his fluency in blending French philosophical rhetoric with the Tunisian Arabic dialect provided him with the intellectual framework to formulate modern state law. He maintained absolute control over the Neo Destour, a secular nationalist party with a grassroots political machine that replaced old tribal structures. Most influentially, as the primary figure who expelled the French, Bourguiba held the title *Al-Mujahid Al-Akbar* (The Supreme Combatant). This charismatic authority and historical legitimacy rendered him nearly untouchable in his reformist pursuits.

### **Mustafa Kemal Atatürk**

Mustafa Kemal Atatürk (1881–1938) was the founder of the Republic of Turkey and the central figure in the political transformation from the Ottoman Empire to a modern, secular nation-state. Atatürk was born in Salonika (Thessaloniki), a cosmopolitan city within the Ottoman territory that was multi-ethnic and multicultural an environment that significantly contributed to the formation of his modernist and nationalist views. He was born to Ali Rıza Efendi, a customs official and small-scale merchant, and Zübeyde Hanım, a religious woman from a rural Balkan background. His family belonged to the middle class, and the early death of his father meant that Atatürk grew up in relatively constrained economic conditions. A disciplined family environment that emphasized self-reliance profoundly influenced the development of his personal character.

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<sup>42</sup> Kenneth J. Perkins, *Tunisia: crossroads of Islamic and European worlds* (Routledge, 1986), <https://www.taylorfrancis.com/books/mono/10.4324/9781003634393/tunisia-kenneth-perkins>.

<sup>43</sup> Charrad, Mounira M, *States and Women's Rights: The Making of Postcolonial Tunisia, Algeria, and Morocco* (Berkeley: University of California Press., 2001).

Atatürk's field (*arena*) was the collapse of the Ottoman Empire in the aftermath of World War I (the 1920s). This field served as a hierarchical battleground between the theocratic traditional order represented by the Caliphate, the *Shaykh al-Islām*, Sharia courts, and Sufi orders and the nationalist military factions. Within this arena, family law (including marriage, inheritance, and divorce) regulated by the *Majallah al-Aḥkām al-'Adliyyah* the Ottoman codification of Islamic civil law stood as the final bastion of clerical dominance over the state. Atatürk's habitus was forged through the military school system, which served as the primary medium for his intellectual and ideological development. He attended the Military Preparatory School in Monastir (Bitola), followed by the Ottoman Military Academy in Istanbul, and finally graduated from the Ottoman War College in 1905 as a staff officer. During his education, Atatürk was exposed to rationalism, nationalism, positivism, and secularism, particularly through European philosophical and political literature, which would later influence his reformist orientation. This Western-military habitus shaped his cognitive disposition. Atatürk perceived traditional religious institutions, jurisprudential dogmas, and clerical authority not as sources of truth, but as factors causing Turkey's backwardness and its subsequent defeat by European powers. For him, modernity and civilization could only be attained if religion was entirely excised from the public sphere and state law. Atatürk possessed formidable capital in the founding of the Republic of Turkey, His extensive knowledge of Western political philosophy and modern military strategy provided the ideological scaffolding for the formation of a secular nationalist nation state. He maintained absolute control over military factions, the bureaucratic apparatus, and the Republican People's Party, enabling him to suppress all forms of opposition and Most decisively, his victory in the Turkish War of Independence, including the Battle of Gallipoli, earned him the title Gazi (The Conqueror/Invincible Hero). This historical legitimacy and "messianic charisma" rendered his voice the supreme law, incontestable even by the religious elite.<sup>44</sup>

The intersection of this positivist habitus and absolute symbolic capital produced a Social Practice that proved fatal to the old order: the abolition of the Sultanate (1922) and the Caliphate (1924). At its zenith in 1926, Atatürk discarded the entire body of Islamic civil and family law (*Majallah*) and adopted the Swiss Civil Code in its entirety. This practice automatically prohibited polygamy, established equal divorce rights for both men and women, and mandated civil marriage outside of religious institutions.

Based on the aforementioned analysis using Pierre Bourdieu's Theory of Social Practice, it can be understood that the figures who supported the reform of Islamic family law generally originated from educated families with a high awareness of gender equality and justice. Their support for reform stemmed from a response to societal realities; they recognized that to guarantee and protect women's rights, formal regulations in the form of Marriage Laws were essential. Conversely, the figures who opposed the reform of Islamic family law were typically shaped by predominantly religious environments and educations, leading their perspectives to remain firmly rooted in textual religious teachings.

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<sup>44</sup> Erik Jan Zürcher, *Turkey: A Modern History*, 1st ed, 20171221 Ser, v. 20171221 (London: I. B. Tauris & Company, Limited, 2017).

## Conclusion

Based on the analysis of family law reform dynamics in Indonesia, Turkey, and Tunisia, this study concludes that the divergent societal responses—manifesting as both acceptance and rejection—are logical consequences of state political intervention in the normative secularization of Islamic law. Through the lens of Pierre Bourdieu's Social Practice Theory, this phenomenon is understood not as a series of autonomous actions, but as the result of a dialectic between habitus, capital, and field (arena). Pro-reform figures, such as Raden Ajeng Kartini, Rohana Kudus, Habib Bourguiba, and Mustafa Kemal Atatürk, consistently demonstrated a habitus formed by modern-secular educational backgrounds and upper-middle-class social standing. They capitalized on cultural capital in the form of Western literacy and symbolic capital as national heroes to drive legal reforms prioritizing substantive gender justice, such as the restriction of polygamy and the protection of women's rights within marriage.

Comparatively, this research identifies three unique typologies in the implementation of family law across these Muslim-majority nations, beginning with the Total Secularization model in Turkey, where Atatürk utilized his absolute symbolic capital to replace Islamic law entirely with the Swiss Civil Code. In contrast, Tunisia under Bourguiba pursued a model of Progressive State-led Ijtihad through the Code of Personal Status (1956), which remained grounded in the reinterpretation of religious texts while legally prohibiting polygamy to achieve modern social objectives. Meanwhile, a distinct pattern of Gradual Dialectic emerged in Indonesia, where figures such as Asmah Sjahroni and Ratna Sari engaged in sophisticated negotiations to secure autonomous rights for women through state regulation without amputating Sharia values. Consequently, the Indonesian Law No. 1 of 1974 serves as a strategic consensus point that mandates judicial intervention for polygamy and divorce, yet maintains the validity of marriage based on respective religious laws, illustrating a middle ground between secular modernization and religious tradition.

This research provides a significant contribution by mapping that family law reform is not merely a change in legislative texts, but rather a product of contested capital and the mental dispositions of actors within a structured social space. Nonetheless, there remains a gap in this article as it still focuses on the narratives of historical elite figures, thus failing to capture how the habitus of the grassroots society in the current digital era responds to contemporary family law issues. Therefore, future research is expected to explore the influence of social media as a new arena in shaping perceptions of Islamic family law among the young Muslim generation.

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