Family Law Reform in the Contemporary Muslim World: A Comparative Study of Tunisia, Morocco, Türkiye, and Egypt from a Gender Perspective

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Abstract

Family law rarely changes without conflict. Tunisia, Morocco, Türkiye, and Egypt illustrate why: what is contested is not merely the wording of statutory provisions, but who has the authority to interpret Islam and translate it into state law. This article compares family law reforms in the four countries to address two questions: what forms and characteristics do these reforms take, and how can they be understood from a gender perspective within Islamic family law? This research is a qualitative library study employing juridical-normative and comparative approaches, analysed descriptively through the frameworks of power relations, formal and substantive equality, and maqāṣid al-sharīʿa. The findings reveal four distinct paths: state legislation in Tunisia, reinterpretation from within the Islamic framework in Morocco, secular civil law in Türkiye, and the gradual codification of fiqh in Egypt. All four have narrowed husbands' unilateral authority, particularly in matters of polygamy and divorce, yet none has achieved full equality. Inheritance in Tunisia, polygamy in Egypt, child marriage in Morocco, and the division of childcare responsibilities in Türkiye remain unresolved or insufficiently addressed in practice. This article argues that the real tension is not between Islam and equality, but between historically codified interpretations and evolving demands for justice. The success of reform should be measured more appropriately by women's actual access to their rights, rather than by the number of statutory provisions amended.

Keywords: *Islamic Family Law, Gender, Legal Reform, Khulʿ, Polygamy, Comparative Study.*

A. INTRODUCTION

Family law is the branch of Islamic law that most directly affects the lives of ordinary people. It regulates who may marry whom, how a marriage may end, who is responsible for financial support, and who cares for children. For this reason, questions of gender justice are felt most immediately in this area, and it is here that a number of Muslim-majority countries have chosen to reform their rules in response to social change (Esposito & DeLong-Bas, 2001).

Normatively, Islam does not regard men and women as beings with different levels of dignity. The Qur'an states that humankind originates from a single source (Q. al-Nisāʾ [4]: 1), commands kind treatment of women (Q. al-Nisāʾ [4]: 19), and describes marriage as a relationship founded on tranquillity, affection, and mercy (Q. al-Rūm [30]: 21). At the level of principle, family law should protect both parties and prevent either from being disadvantaged.

The reality, however, is not so straightforward. Tunisia prohibited polygamy and brought divorce under judicial supervision through the Code of Personal Status of 1956 (Charrad, 2001). Morocco amended its Mudawwana in 2004, restricting polygamy and expanding women's access to divorce (Engelcke, 2019a). Türkiye dismantled Ottoman family law and replaced it with civil law (Erdem-Akçay, 2013). Egypt has proceeded more slowly, but Law No. 1 of 2000 gave women a route to seek khulʿ through the courts without their husbands' consent (Iwasaki, 2004). Four countries, four paths, and different outcomes.

These differences mean that we cannot speak of "Muslim family law reform" as though it were a single model. Comparative studies already exist, including research examining Islamic values in relation to women's development in Egypt, Morocco, Tunisia, and Türkiye (Cho & Hong, 2004). However, many studies stop at describing statutory provisions. Few ask how power relations between husbands and wives change after those provisions are amended, and few examine whether "departing from fiqh" and "retaining fiqh" truly produce different outcomes for women.

This article addresses that gap through two questions. First, what are the forms and characteristics of family law reform in Tunisia, Morocco, Türkiye, and Egypt? Second, how can these reforms be understood from a gender perspective within Islamic family law? The aim is to map the four reform paths and then analyse what each path changes and what it leaves untouched.

B. METHOD

This research is a qualitative library study employing juridical-normative and comparative approaches. The juridical-normative approach is used to examine the content of legal provisions, including family law codifications, statutes, and relevant constitutional articles. The comparative approach places the four countries side by side across the same dimensions.

Primary legal sources include Tunisia's family law codification (Code du Statut Personnel), Morocco's Family Code, Türkiye's Civil Code and Articles 10 and 41 of its Constitution, as well as Egypt's personal status laws. These texts are referenced through official documents issued by the respective government institutions and through secondary literature. Secondary sources consist of books, book chapters, and journal articles discussing family law reform, gender, and Islamic law, supplemented by reports from international institutions and recent legal news concerning developments.

The analysis was conducted in two stages. The first stage is descriptive: each country is mapped according to its historical background, legislative milestones, and the content of changes in four areas: marriage, polygamy, divorce, and family responsibilities. The second stage is analytical and uses three frameworks: power relations between husbands and wives, the distinction between formal and substantive equality, and maqāṣid al-sharīʿa and maslahah as measures of religious legitimacy.

Several limitations must be stated explicitly. This research does not directly observe judicial practice and does not independently examine the original texts in Arabic, French, and Turkish. Findings concerning practice rely on studies conducted by other researchers, while Egypt's 2026 draft legislation is treated as an ongoing process.

C. RESULTS AND DISCUSSION

1. Background to Family Law Reform

Family law reform in the Muslim world began amid major changes from the late nineteenth century onward. Modern education, the nation-state, colonialism, changes in family structures, and women's movements encouraged states to assume responsibility for matters that had previously depended on fiqh texts and judicial discretion. Rules that had been dispersed across legal books were consolidated into statutes. Mahmood (1972) notes that this codification employed several methods: selecting opinions from different schools of law, takhayyur, talfiq, ijtihad, and considerations of public interest.

Why has gender become central to the debate? The structure of classical family fiqh is asymmetrical. Husbands exercise greater control over divorce, while wives seeking to leave a marriage face more demanding conditions. Guardianship in marriage, polygamy, custody, and maintenance have also become subjects of debate. Reform is therefore not merely a technical legislative matter. It is a renegotiation among religious norms, family interests, and demands for equality.

2. Four Paths of Reform

Tunisia: the state makes the decision. Tunisia enacted the Code du Statut Personnel on 13 August 1956, which entered into force on 1 January 1957, amid President Habib Bourguiba's modernisation project (Ministère de la Justice de la République Tunisienne, n.d.). The law stipulates that marriage must be based on the consent of both prospective spouses, sets a minimum marriage age, prohibits polygamy, and requires divorce to take place through the courts. The prohibition of polygamy is its defining feature. Unlike many Muslim-majority countries that merely restrict polygamy through certain conditions, Tunisia prohibits it, viewing marriage as a relationship between two persons who are equal before the law. Divorce was also transformed. Husbands can no longer pronounce talaq outside state supervision, and both husbands and wives may file for divorce in court (Jansen, 2007).

The reform did not end in 1956. The 1993 amendments addressed dowry, divorce, maintenance, custody, and women's contributions to family expenses. Following the 2011 Revolution, the debate on equality gained renewed momentum; in 2017, the prohibition preventing Muslim women from marrying non-Muslim men was lifted. However, the division of inheritance between men and women remains a major obstacle. Efforts to equalise these rules have faced considerable opposition (Muhajir, 2021). This demonstrates that legal reform in Tunisia is not always easy,

particularly when new rules are considered contrary to religious teachings that have a strong basis in the Qur'an.

Morocco: reform from within the Islamic framework. Morocco codified family law through the Mudawwanat al-Aḥwāl al-Syakhṣiyyah in 1957–1958, which was heavily influenced by Maliki fiqh (Charrad, 2012). Women remained within a structure of male guardianship, the minimum marriage age differed for men and women, and polygamy remained permissible. Women's movements and civil society made all these issues targets of criticism. The One Million Signatures campaign in the early 1990s demanded changes to rules on marriage, guardianship, polygamy, divorce, and women's post-divorce rights. The 1993 reform emerged from this pressure, but was limited in scope and did not affect the underlying structure (Engelcke, 2019b).

Substantial change came in 2004 through the Mudawwanat al-Usrah. The process was lengthy and involved the government, religious scholars, women's organisations, civil society, and the monarchy; King Mohammed VI played a key role (Engelcke, 2019b). Its distinctive feature was the path chosen: family law was not detached from Islam, but rather reinterpreted. Some of its key provisions are as follows:

a. Article 51 establishes reciprocal rights and obligations between husbands and wives, including shared responsibility for household affairs and the protection of children. This represents a shift away from the older construction that positioned the husband as head of the family and the wife as a party obliged to obey him (Royaume du Maroc, Ministère de la Solidarité, du Développement Social, de l'Égalité et de la Famille, n.d.-a).
b. The minimum marriage age was raised to 18 for both men and women, although judges may still authorise marriage below that age under certain circumstances (Royaume du Maroc, n.d.-a)
c. 3. Polygamy remains permissible, but requires court authorisation and is subject to strict conditions. A wife may include a clause prohibiting polygamy in the marriage contract, and a prospective second wife must be informed of the man's marital status (United Nations Development Programme, 2004).
d. 4. Divorce is supervised by the courts, and the shiqāq mechanism, namely divorce on the grounds of discord, may be used by either the husband or the wife (Royaume du Maroc, n.d.-b).

Türkiye: replacing the foundations. Türkiye did not revise family fiqh; it abandoned it. After the Republic was established in 1923 under Mustafa Kemal Atatürk, Türkiye adopted the Turkish Civil Code in 1926, largely based on the Swiss Civil Code, replacing the family law system closely tied to Ottoman Islamic law (Koçak, 2019). Civil marriage became the basis of legal validity, polygamy was prohibited, and relations between husbands and wives were regulated by civil law. In 2001, Türkiye again overhauled its Civil Code, which entered into force in 2002, affirming equality between husbands and wives in family relations (Erdem-Akçay,

2013). The Constitution reinforces this principle: Article 41 identifies the family as the foundation of Turkish society and states that relations between spouses are based on equality (Republic of Türkiye, Constitutional Court, n.d.), while Article 10 affirms equal rights for women and men and the state's obligation to realise this equality in practice (Republic of Türkiye, Ministry of Family and Social Services, n.d.).

The difference from Morocco and Tunisia is fundamental. In Türkiye, women's equality is not the result of rereading religious texts, but rather a consequence of a change in the state's legal structure. However, secular law does not automatically eliminate inequality. The gap between legal norms and social practice remains, as illustrated below in the discussion of childcare.

Egypt: gradual change. Egypt has followed the most gradual path. Its family law remains connected to the fiqh tradition, but since the early twentieth century the state has begun codifying and improving personal status law. Law No. 25 of 1920 and Law No. 25 of 1929 expanded the grounds on which women could seek divorce, including situations in which a husband failed to provide maintenance, was absent, suffered from certain illnesses, or treated his wife harmfully. The pattern of reform is that the state does not abolish Islamic family law, but selects and enacts fiqh rules suited to society's needs. During the 1970s and 1980s, reforms continued by strengthening women's economic rights after divorce. The 1979 reform sparked political controversy, after which Law No. 100 of 1985 again regulated maintenance, divorce, and women's rights (Sonneveld, 2019).

The most significant milestone was Law No. 1 of 2000. This law gives women the right to petition for khulʿ in court without their husbands' consent and without having to prove the husband's fault. The price is clear: the wife relinquishes certain financial rights and returns the dowry in accordance with the applicable provisions (Sonneveld, 2012). Egypt subsequently established family courts with mediation procedures before cases proceed, an important measure because family disputes almost always involve intertwined issues of finances, children, maintenance, and domestic violence (Al-Sharmani, 2017).

Egypt has still not achieved full equality. Gender-based differences remain in several matters concerning divorce, maintenance, guardianship, and the relationship between husbands' and wives' rights and obligations (Jansen, 2007). Developments are ongoing: in May 2026, the Egyptian government submitted two draft personal status laws, for Muslims and Christians, to parliament. The draft law for Muslims includes, among other matters, custody, child visitation, maintenance, divorce, proof of lineage, and guardianship over children's property (Library of Congress, 2026). Based on the available information, the drafts are still under discussion and have not entered into force; therefore, they cannot be treated as positive law.

Table 1. Comparison of Family Law Reforms in Four Countries

Dimension	Tunisia	Morocco	Türkiye	Egypt
Key milestones	Code of Personal Status 1956 (effective 1957); 1993 amendments; 2017 lifting of the ban on Muslim women marrying non-Muslim men	Mudawwana 1957–1958; 1993 reform; Family Code 2004	Civil Code 1926; 2001 reform (effective 2002)	Law No. 25/1920 and 25/1929; Law No. 100/1985; Law No. 1/2000; 2026 draft bills (not yet in force)
Polygamy	Prohibited	Permitted with court authorisation and strict conditions; prohibition clause may be included in the marriage contract	Prohibited	Still permitted
Divorce	Through the courts; may be initiated by either husband or wife	Court-supervised; shiqāq may be invoked by either party	Governed by civil law based on the principle of equality between spouses	Grounds for wives' divorce expanded since the 1920s; khulʿ available since 2000
Basis of legitimacy	State modernisation; equality explicitly stated	Islamic framework, ijtihad, and the king's authority as Amīr al-Mu'minīn	Secularisation and civil law; equal citizenship	Selection and codification of fiqh opinions
Remaining issues	Inheritance	Child marriage, polygamy, and guardianship in practice	Social norms concerning the division of childcare responsibilities	Remaining gender-based differences; khulʿ entails economic costs

Tunisia and Türkiye have gone furthest in implementing equality in family law, but in different ways. Tunisia uses legislation within a Muslim society, whereas Türkiye applies secular civil law. Morocco takes a middle path through the reinterpretation of Islamic law, while Egypt proceeds more slowly by using existing fiqh rules. Despite their differences, all four countries have restricted husbands' authority, particularly in matters of polygamy and divorce (Mir-Hosseini et al., 2013).

3. Gender Analysis and Islamic Law

Power relations, not the number of statutory provisions. A flawed way to assess reform is to count how many laws have been amended. A more useful question is: what kind of power relations does the law establish? In classical family fiqh, the husband is obliged to provide maintenance and, in return, holds the position of family leader, while the wife is entitled to maintenance but is placed in a more subordinate position through the concepts of qiwāmah and wilāyah. Mir-Hosseini et al. (2013)

show that gender issues in modern Muslim family law arise from the tension between traditional concepts of male authority and demands for equality.

The existence of the concept of qiwāmah in fiqh literature is not the central issue. What matters is what happens when a particular interpretation is codified. Fiqh is the product of human ijtihad within a specific historical context. Once an opinion is incorporated into legislation, it changes from one choice among many opinions into a rule binding on all citizens. This is why feminist readings of tradition, such as the approach developed by Mernissi (1991), emphasise the distinction between normative messages and the historical constructions accompanying them. From this perspective, reform can be understood as an effort to separate religious principles from historically situated interpretations, which is not the same as rejecting Islam.

Is equality contrary to Islamic law? This question is often posed as though the answer must be either yes or no. Islamic legal tradition does contain texts that distinguish between the rights and obligations of men and women. However, it also contains principles of justice, public benefit, responsibility, consultation, and kind treatment within the family. Therefore, what is in conflict is not "Islam" and "equality". Rather, three layers must be distinguished: normative texts, fiqh interpretations, and positive law enacted by the state.

Morocco and Egypt demonstrate this clearly. Neither has left the Islamic framework, yet both have been willing to reinterpret it. Morocco's 2004 reform used religious legitimacy as a driving force: it proceeded under the authority of the king as Amīr al-Mu'minīn (Engelcke, 2019a). In Egypt, the 2000 khulʿ reform was debated as an Islamic legal issue. Its supporters pointed to its basis in the Islamic legal tradition; its opponents argued that this form of divorce granted women too much (Sonneveld, 2012). Thus, the debate is not religion versus modernity. It is a contest over authority: who has the right to interpret, and which interpretation is to become state law.

Formal and substantive equality. Formal equality means that men and women have the same rights before the law, for example, that both may file for divorce. Substantive equality asks a further question: can women actually exercise those rights? A divorce right that exists on paper is of no use to a wife who cannot afford a lawyer, does not know the procedures, or fears her own family. It is like an emergency exit locked from the outside: it appears on the building plan, but no one can get out through it.

Morocco illustrates this gap. The 2004 reform granted many new rights, yet child marriage, polygamy, and marital guardianship remain problems in practice. Engelcke (2019a) found that law enforcement involves many actors with differing interpretations, meaning that the same rules do not produce uniform practices. Türkiye shows a similar pattern: formal equality is firmly established, but social norms continue to preserve gender-based divisions of childcare responsibilities. Without access to courts, legal information, education, economic resources, and social protection, equality written into legislation has only a limited impact (United Nations Entity for Gender Equality and the Empowerment of Women [UN Women], 2026).

Polygamy and differences in approach. Polygamy is the clearest test for distinguishing the four models. Tunisia has prohibited it since 1956 and Türkiye since 1926. Morocco has tightened its regulation through requirements and judicial supervision. Egypt retains the possibility of polygamy within its existing legal framework. These four different answers arise from the same sources of Islamic law, which in itself is sufficient to challenge the assumption that Islam provides only one policy option.

These differences can be understood through maqāṣid al-sharīʿa and maslahah, namely the objectives of Islamic law to protect family, lineage, dignity, life, and human welfare. If a rule produces injustice, reinterpretation may be undertaken through methods recognised within the Islamic tradition. However, maqāṣid should not merely be used as a justification for a reform outcome that has already been predetermined. An analysis must explain the objectives of the law, social conditions, the impact of the rule, and the basis of its argument before reaching a conclusion.

Divorce and bargaining power. Among all areas, divorce most clearly demonstrates how law transforms gender relations. In the traditional model, ṭalāq gives husbands a relatively strong position. Tunisia makes divorce a judicial process. Morocco provides shiqāq, which either party may invoke. Egypt grants women access to khulʿ. Türkiye regulates divorce under civil law based on the principle of equality. A common direction emerges from these four paths: women are no longer entirely dependent on their husbands' unilateral will to leave a marriage.

The strongest evidence comes from Egypt. Using household survey data, Corradini and Buccione (2023) found that granting unilateral divorce rights through khulʿ is associated with a decline in domestic violence and an increase in women's bargaining power. This means that the right to divorce is not merely a procedural right. It can become a resource that changes husbands' behaviour and the balance of power within the household, even among couples who never divorce.

The cost borne by women remains substantial. Women who use khulʿ relinquish certain financial rights and return the dowry (Sonneveld, 2012). Women who are economically secure may be able to bear this cost, but those who are not may be the ones most in need of an exit and least able to afford it. It can therefore be said that granting the right to divorce does not automatically amount to full equality.

D. CONCLUSIONS

Family law reform in Tunisia, Morocco, Türkiye, and Egypt has followed four different paths: state legislation, reinterpretation within the Islamic framework, secular civil law, and the gradual codification of fiqh. Tunisia and Türkiye most explicitly place equality between men and women in the text of the law. Morocco demonstrates that a more egalitarian family law can be developed without abandoning its religious foundations. Egypt shows that gradual change through khulʿ and the expansion of grounds for divorce can shift women's bargaining power, even though much of the old structure remains.

From a gender perspective, all four countries have moved away from laws that position men as the dominant party towards greater recognition of women's rights and interests in marriage, polygamy, divorce, family responsibilities, and access to legal processes. However, egalitarian legal texts do not guarantee egalitarian practice. Inheritance in Tunisia, polygamy in Egypt, child marriage in Morocco, and childcare in Türkiye demonstrate that remaining inequalities accumulate precisely where legislation has the weakest reach or older interpretations remain most firmly entrenched.

This article also offers a methodological lesson. Reform should not be understood as a choice between "remaining faithful to Islam" and "following modernity". A more useful distinction is between historically codified interpretations and the principles of justice that they are intended to serve. Future research should move towards the level of practice: court decisions, litigation costs, and the experiences of women exercising these new rights, so that assessments of reform do not stop at the wording of statutory provisions. The implications for policymakers are straightforward. Amending legislation is only half the task; the other half consists of public awareness, enforcement, and genuine access to the courts.

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