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Idealism and Realism in the Study of the Philosophy of Islamic Family Law

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Abstract

The philosophy of Islamic family law is characterized by a persistent tension between normative Idealism and contextual Realism. Idealism emphasizes fidelity to divine texts, moral universality, and transcendent legal purposes, while Realism prioritizes empirical conditions, social effectiveness, and institutional implementation. This article examines the conceptual foundations of both paradigms and analyzes their practical implications for marriage, divorce, and inheritance within contemporary Muslim societies. Employing a qualitative normative methodology based on literature review, philosophical analysis, and comparative socio-legal studies, the article demonstrates that neither Idealism nor Realism alone can adequately address the complexity of modern family law challenges. The study argues that a maqasidiyah-oriented framework offers an effective epistemological synthesis by integrating teleological reasoning with contextual sensitivity. By treating the objectives of the Sharia as the primary normative reference while incorporating empirical data as interpretive guidance, maqasidiyah reconciles textual authority with social reality. The article concludes that this synthesis enables adaptive and accountable ijihad, strengthens substantive justice, and enhances the relevance of Islamic family law in plural and evolving legal environments.

Keywords: Idealism, Realism, Maqasidiyah, Philosophy of Islamic Family Law.



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INTRODUCTION

Islamic family law constitutes a key area within Islamic legal studies because it concerns human life, including marriage, divorce, guardianship, and inheritance. This field not only regulates interpersonal relationships within the family but also preserves social order in accordance with the values of justice and public welfare (Nasohah, 2024). Family law reflects how Islamic teachings operate in the daily lives of the faithful. However, underlying these rules lie philosophical foundations that shape perspectives on individuals, families, and society. Therefore, scholars must examine Islamic family law not only from a normative standpoint but also through the lens of legal philosophy. This philosophical approach helps uncover the moral, rational, and humanistic values that underlie each rule and demonstrates that Islamic family law constitutes a dynamic value system that remains open to interpretation as society evolves.

Philosophically, Islamic law as a whole advances three fundamental orientations that scholars consistently strive to realize: (1) to educate the individual (*tahdhib al-fardi*) so that the individual becomes a source of goodness, (2) to uphold justice (*iqamat al-'adl*), and (3) to realize public welfare (*maslahah*). These objectives serve as fundamental benchmarks that each provision of family law must achieve. On this basis, diverse schools of thought have emerged regarding the relationship between norms and reality; these schools form the focus of philosophical inquiry into family law.

Philosophical inquiry into Islamic family law inherently generates a dialectical tension between two principal schools of thought: Idealism and Realism. The first school, Idealism, adopts a normative orientation and emphasizes fidelity to sacred texts and the law's divine purposes. Conversely, the second school, Realism, embraces a pragmatic orientation and highlights social relevance as well as the effectiveness of legal implementation in practice.

This tension lies at the heart of the problem of legal philosophy and manifests as a conflict between the world of *sollen* (what ought to be) and the world of *sein* (what is). The world of *sollen* encompasses philosophical and abstract ideals of justice, whereas the world of *sein* addresses empirical

facts and the practical implementation of the law. In the Indonesian context, stakeholders institutionalize and intensify this tension due to the dualism of family law (Islamic law, civil law, and customary law). Issues such as polygamy and inheritance reveal concrete conflicts among religious values (ideal), positive law requirements (institutional regulation), and local social or traditional norms (social reality). The need to formulate laws that remain adaptive, just, and civil therefore demands a framework capable of bridging this duality.

This article primarily aims to examine the conceptual differences between Idealism and Realism in Islamic family law, identify their practical implications, and articulate the role of Maqasidiyah as a synthetic framework. The novelty of this article lies in its comprehensive articulation of Maqasidiyah as an epistemological bridge, which is an approach that integrates the teleological orientation of the Shariah with sensitivity to social reality.

This study develops the Maqasidiyah synthesis as a purposive, contextual, and hierarchical model. Through this framework, scholars can render the development of *ijtihad* in Islamic family law more adaptive and beneficial, preserve normative integrity, and respond effectively to the lived realities of contemporary families. This approach provides a practical framework to address legal duality in Indonesia by prioritizing substantive justice as the highest objective of the entire family law system.

RESEARCH METHODS

This study employs a qualitative approach and adopts a normative research design. We selected normative research to examine Islamic family law norms through textual analysis and philosophical concepts. We obtained research data through a literature review and document study, incorporating both primary and secondary sources. We used primary sources such as works of *ushul fiqh*, classical *fiqh* texts, and applicable positive family law regulations (for example, the *Compilation of Islamic Law*, and the *Marriage Law*). We included secondary sources such as books, journal articles, and relevant *fatwas* from both the classical tradition and contemporary reformist *fiqh* literature. We designed the research stages systematically to ensure philosophical rigor. These stages include problem formulation, literature collection, textual and contextual analysis, inter-school comparison, and drawing philosophical conclusions to produce a normative and socially relevant legal synthesis.

This methodology requires the use of hermeneutics. The textual approach plays an essential role in maintaining linkage to primary sources (*nash*), but researchers must combine it with contextual hermeneutics. Contextual hermeneutics seeks to interpret Qur'anic verses in light of the historical situations and conditions that produced the texts, thereby revealing their actual ethical and social intent. This approach prevents legal understanding from becoming merely ritualistic and advances a rational comprehension of the law. We conduct the analysis by comparing the views of *madhahib* and philosophical schools. We aim to evaluate how each school (Idealism, Realism, Maqasidiyah) formulates solutions to family law issues such as marriage, divorce, and inheritance. Our comparative analysis demonstrates that, despite doctrinal differences, all *madhahib* and schools converge on the common objective of realizing Islamic principles of justice.

To strengthen philosophical validity and address skepticism commonly directed at purely normative research, we employ theory triangulation. Theory triangulation requires the researcher to compare the study's findings namely the Maqasidiyah synthesis with diverse theoretical perspectives, such as teleological ethics and contemporary socio-legal research. This procedure ensures analytical depth and requires expert judgment to explicate the interconnections between revelatory normativity and human historicity. Accordingly, the advanced methodology for Islamic family law developed here adopts a multi-method approach. We not only engage in dialogue with textual and philosophical sources but also integrate social and empirical data as methodological inputs necessary for the *istinbat* process. This combination of revelation and pragmatic reason establishes the epistemological foundation for producing coherent, evidence-based legal solutions.

RESULTS AND DISCUSSION

Idealism as a Normative Foundation in the Philosophy of Islamic Family Law

Idealism in the philosophy of Islamic family law represents a normative orientation that situates divine revelation and transcendent moral values as the primary sources of legal authority. This orientation assumes that law originates from a metaphysical reality independent of social contingency, where justice, moral order, and ethical purpose pre-exist empirical conditions. Legal norms are not

perceived as negotiable social constructs but as manifestations of divine wisdom intended to guide human conduct toward perfection. In this sense, Islamic family law is understood as a moral architecture designed to cultivate ethical persons and harmonious social relations (Beliani, 2024; Safi, 2022).

From an ontological standpoint, Idealism asserts that Islamic family law exists as an ideal system grounded in revelation rather than as a mere reflection of social practice. Family norms concerning marriage, divorce, and inheritance are treated as expressions of immutable values whose legitimacy does not depend on societal acceptance or effectiveness. This view resonates with classical philosophical idealism, where reality is interpreted through reason and universal principles rather than material observation (Domanski, 2001; Thompson, 2025). Within Islamic jurisprudence, this ontological position aligns with the belief that divine law embodies ultimate justice that human institutions must approximate rather than redefine.

Epistemologically, Idealism prioritizes textual authority and rational coherence over empirical observation. Knowledge of family law is derived through interpretation of the Qur'an, Sunnah, and classical juristic consensus, supported by rational inference within the framework of ushul fiqh. Social realities may inform understanding but do not determine legal validity. This epistemic stance explains the persistence of normative formulations in classical fiqh even when social structures evolve, as legal truth is located in divine intent rather than social outcomes (Najjar, 1968; Coulson, 2019).

In the domain of marriage, Idealism conceptualizes the institution as a sacred covenant rather than a contractual arrangement subject to utilitarian calculation. Marriage is framed as *mitsaqan ghalidzan*, a binding moral commitment that carries spiritual significance beyond legal enforceability. This perspective emphasizes ethical objectives such as tranquility, affection, and mercy as integral to marital legitimacy. Empirical success or failure does not negate the normative sanctity of marriage, as its primary purpose lies in fulfilling divine ethical design (Komarudin, 2020; Subekti & Kensiwi, 2025).

Idealist reasoning also shapes attitudes toward divorce by embedding it within a moral hierarchy that discourages its use despite its formal permissibility. Divorce is recognized as a lawful mechanism but remains morally disfavored because it disrupts the ethical ideal of family stability. This approach frames divorce as an ethical failure rather than a neutral legal choice, reinforcing obligations of reconciliation, patience, and moral responsibility. Scholarly emphasis on preventive mechanisms reflects an effort to protect the normative vision of family cohesion (Fachrina et al., 2019; Mohadi, 2023).

Inheritance law under Idealism demonstrates the strongest commitment to textual fidelity. Qur'anic inheritance ratios are treated as definitive expressions of divine justice that resist contextual modification. Redistribution based on social contribution or contemporary notions of equality is viewed as a deviation from normative authority. This perspective maintains that justice is inherent in divine allocation, even when human perception questions its fairness, because divine wisdom transcends temporal reasoning (Gusasih & Harahap, 2018; Adharsyah et al., 2024).

The persistence of Idealism in contemporary legal institutions is empirically observable through judicial language, legislative framing, and educational curricula. Courts frequently invoke theological justifications to reinforce moral legitimacy, indicating that normative authority continues to shape legal consciousness. This normative persistence suggests that Idealism functions not only as a theoretical orientation but also as an operational framework guiding legal interpretation. Empirical legal studies confirm that judges often justify decisions by appealing to moral and religious values rather than procedural efficiency alone (Hopipah et al., 2023; Nasohah, 2024):

Table 1. Normative Orientation of Idealism in Islamic Family Law (Selected Empirical Indicators)

Legal Domain	Normative Emphasis	Empirical Indicator	Source
Marriage	Sacred covenant and ethical purpose	Judicial reliance on <i>mitsaqan ghalidzan</i> language	Subekti & Kensiwi (2025)
Divorce	Moral restraint and family preservation	Preventive counseling norms in family courts	Fachrina et al. (2019)

Inheritance	Absolute textual compliance	Judicial resistance to contextual redistribution Dominance of normative argumentation	Gusasih & Harahap (2018)
Legal Reasoning	Textual and moral justification		Hopipah et al. (2023)

The data presented above demonstrate that Idealism remains institutionally embedded within Islamic family law practice, particularly in judicial reasoning and doctrinal formulation. These findings reinforce the claim that Idealism functions as a stabilizing normative force rather than a purely abstract philosophy. The persistence of textual and moral justification in court decisions reflects a deliberate effort to preserve legal transcendence amid social change. This institutional pattern confirms that Idealism continues to shape legal legitimacy in measurable ways (Huntington, 2018; Idham et al., 2022).

Despite its normative strength, Idealism faces structural limitations when confronted with complex social realities. Critics argue that rigid adherence to ideal norms may generate gaps between legal intention and lived experience, particularly in plural societies. However, proponents maintain that these tensions do not invalidate Idealism but rather highlight the need for interpretive frameworks capable of preserving normative integrity. The philosophical challenge lies in sustaining divine authority without ignoring empirical consequences (Azeri, 2021; Thompson, 2025).

Idealism in Islamic family law provides a moral compass that safeguards the ethical identity of the legal system. It anchors legal development in transcendent values and resists the reduction of law to mere social engineering. While its application may require complementary interpretive approaches, Idealism remains indispensable for preserving the normative soul of Islamic family law. Its continued relevance lies in its capacity to orient legal reasoning toward justice as a moral ideal rather than a contingent outcome (Safi, 2022; Hassanein, 2025).

Realism as a Contextual Paradigm in the Philosophy of Islamic Family Law

Realism in the philosophy of Islamic family law represents a contextual paradigm that locates the meaning and effectiveness of legal norms within observable social realities. This orientation treats law not as a closed moral system but as a living institution shaped by economic structures, cultural practices, and power relations. Legal validity, from a realist perspective, depends on how norms operate in practice and how they affect the lived experiences of families. Consequently, Islamic family law is examined through its implementation rather than solely through its normative formulation (Coulson, 2019; Huntington, 2018).

Ontologically, Realism assumes that social facts possess independent significance and cannot be subordinated entirely to abstract moral ideals. Family law norms acquire meaning through interaction with social institutions such as courts, administrative bodies, and communities. This position aligns with philosophical realism, which asserts that reality exists independently of human cognition and ideal constructions (Azeri, 2021; Thompson, 2025). In Islamic legal studies, this ontological commitment encourages scholars to treat family law as a social phenomenon embedded in historical and cultural contexts rather than as a purely transcendent code.

From an epistemological perspective, Realism prioritizes empirical observation, socio-legal research, and institutional analysis. Knowledge of Islamic family law is produced by examining court decisions, legislative reforms, and social outcomes rather than relying exclusively on textual interpretation. This epistemic shift legitimizes the use of statistics, psychological studies, and economic data as authoritative inputs in legal reasoning. As a result, realist scholarship expands the sources of legal knowledge beyond classical jurisprudence (Huntington, 2018; Idham et al., 2022).

In the field of marriage regulation, Realism reframes marriage as a social institution that generates measurable risks and benefits. State intervention in marriage law emerges as a response to empirical evidence concerning domestic violence, child welfare, and gender inequality. Legislative reforms restricting polygamy and raising the minimum marriage age exemplify realist reasoning grounded in socio-psychological data rather than textual permissibility alone. These reforms demonstrate that social harm functions as a decisive criterion for legal adjustment (Busriyanti et al., 2025; Dahrial & Maulana, 2025).

Realist approaches to divorce emphasize the tangible consequences of marital dissolution for women and children. Divorce is analyzed as a socio-economic event that produces vulnerabilities requiring institutional protection. Mandatory mediation, judicial supervision, and enforceable maintenance obligations reflect a shift from moral exhortation to regulatory control. Legal effectiveness is measured by post-divorce welfare outcomes rather than by doctrinal coherence (Harmaini et al., 2025; Mustafid et al., 2025).

Inheritance law under Realism illustrates a significant departure from rigid textualism. Courts increasingly recognize the social reality of joint marital contributions and economic interdependence within households. This recognition has led to judicial practices that accommodate communal property regimes and protect economically vulnerable family members. Realist reasoning frames inheritance distribution as a matter of social justice informed by factual contribution rather than solely by fixed textual ratios (Gusasih & Harahap, 2018; Berber & Blanc, 2024).

The realist paradigm is particularly evident in landmark judicial decisions that prioritize factual reality over formal lineage rules. The recognition of civil relations between children born out of wedlock and their biological fathers demonstrates an institutional commitment to child welfare grounded in empirical evidence. This development reflects the influence of human rights discourse and forensic science on family law adjudication. Legal reform in this area illustrates how social facts compel reinterpretation of normative boundaries (Hopipah et al., 2023; Nasohah, 2024):

Table 2. Empirical Indicators of Realist Orientation in Islamic Family Law

Legal Domain	Empirical Basis	Institutional Response	Source
Marriage Age	Health and psychological data	Minimum age increased to 19	Busriyanti et al. (2025)
Polygamy	Socio-economic impact studies	Court permission requirements	Dahrial & Maulana (2025)
Divorce	Post-divorce welfare statistics	Mandatory mediation and maintenance	Harmaini et al. (2025)
Child Status	Forensic and social evidence	Expanded civil affiliation rights	Hopipah et al. (2023)

The table above confirms that Realism manifests through measurable institutional adjustments driven by empirical findings. Legal change occurs when social data demonstrate persistent harm or inequality under existing norms. This pattern indicates that Realism operates as a corrective mechanism within Islamic family law systems. The reliance on official reports and judicial statistics underscores the paradigm's commitment to observable reality (Huntington, 2018; Nasohah, 2024).

Despite its adaptive strengths, Realism faces criticism for potentially diluting normative coherence. Excessive reliance on empirical considerations risks fragmenting legal principles and undermining the moral authority of Islamic law. Critics argue that pragmatic flexibility may transform law into a reactive instrument devoid of ethical direction. This concern highlights the philosophical vulnerability of Realism when detached from transcendent values (Safi, 2022; Hassanein, 2025).

Realism remains indispensable for ensuring that Islamic family law responds effectively to contemporary social challenges. It enables legal systems to address structural inequality, protect vulnerable groups, and maintain institutional relevance. By grounding legal reform in lived experience, Realism prevents the law from becoming socially obsolete. Its enduring contribution lies in translating normative aspirations into practical governance mechanisms (Coulson, 2019; Berber & Blanc, 2024).

Dialectic between Idealism and Realism and the Necessity of Philosophical Synthesis

The encounter between Idealism and Realism in the philosophy of Islamic family law generates a persistent dialectic that shapes both doctrinal debates and institutional practice. Idealism asserts the primacy of transcendent norms and textual authority, while Realism foregrounds social effectiveness and empirical responsiveness. This interaction produces neither a simple opposition nor a linear progression, but a dynamic tension that continually redefines legal meaning. Islamic family law evolves

within this dialectical space, where normative aspirations confront lived realities (Hopipah et al., 2023; Nasohah, 2024).

At the philosophical level, the dialectic reflects a deeper conflict between universality and contextuality. Idealism seeks to preserve universal moral values that transcend time and place, whereas Realism emphasizes that legal norms gain relevance through adaptation to specific socio-historical conditions. This divergence creates methodological challenges for jurists who must decide whether legal authority derives primarily from divine intent or from social outcomes. The inability of either paradigm to fully resolve contemporary family issues exposes the limits of unilateral approaches (Safi, 2022; Thompson, 2025).

In practice, the dialectic becomes visible when courts confront cases where strict textual compliance produces outcomes perceived as socially unjust. Judges often experience normative dissonance when ideal rules fail to protect vulnerable family members. This situation compels legal actors to negotiate between fidelity to doctrine and responsiveness to social harm. The dialectic therefore operates not only as a theoretical debate but also as a practical decision-making dilemma (Huntington, 2018; Idham et al., 2022).

Marriage regulation illustrates this tension through conflicting evaluations of early marriage and polygamy. Idealist reasoning emphasizes textual permissibility and moral intention, while realist analysis highlights empirical data on health risks, educational disruption, and gender inequality. Legal reform emerges at the intersection of these perspectives, revealing the inadequacy of relying exclusively on either normative purity or empirical pragmatism. The dialectic thus exposes the need for a mediating framework capable of integrating moral purpose with social evidence (Busriyanti et al., 2025; Dahrial & Maulana, 2025).

Divorce adjudication further demonstrates the dialectical strain between moral ideals of family preservation and the empirical realities of marital breakdown. Idealism frames divorce as a moral failure that should be minimized, while Realism documents its socio-economic consequences and demands institutional safeguards. Courts frequently oscillate between these orientations, balancing ethical exhortation with enforceable protection mechanisms. This oscillation underscores the structural incompleteness of each paradigm when operating in isolation (Fachrina et al., 2019; Harmaini et al., 2025).

Inheritance disputes intensify the dialectic by confronting definitive textual ratios with contemporary notions of distributive justice. Idealism insists on immutable divine allocation, whereas Realism recognizes differentiated economic contributions and evolving family structures. Judicial practice reveals selective accommodation, where courts acknowledge social facts while hesitating to depart openly from normative formulations. This ambivalence reflects the unresolved philosophical tension embedded within inheritance law (Gusasih & Harahap, 2018; Berber & Blanc, 2024):

Table 3. Manifestations of the Idealism–Realism Dialectic in Islamic Family Law

Legal Issue	Idealist Orientation	Realist Orientation	Empirical Evidence Source
Marriage Age	Textual permissibility	Health and welfare protection	Busriyanti et al. (2025)
Divorce	Moral restraint	Socio-economic safeguards	Harmaini et al. (2025)
Inheritance	Fixed divine ratios	Contribution-based equity	Gusasih & Harahap (2018)
Child Status	Lineage purity	Child welfare and evidence	Hopipah et al. (2023)

The data above demonstrate that the dialectic materializes consistently across multiple domains of family law. Neither Idealism nor Realism dominates decisively; instead, legal outcomes emerge from negotiated compromises shaped by institutional constraints. This empirical pattern confirms that Islamic family law functions within a hybrid normative environment rather than a monolithic philosophical framework. The persistence of this hybridity signals the necessity of a coherent synthesis (Nasohah, 2024; Idham et al., 2022).

Philosophical synthesis becomes imperative when dialectical tension produces normative uncertainty or inconsistent adjudication. Without an integrative framework, legal reasoning risks fragmentation, where similar cases yield divergent outcomes depending on the dominant orientation. Such inconsistency undermines legal legitimacy and public trust. A synthesis must therefore preserve normative authority while accommodating empirical insight (Hassanein, 2025; Mohadi, 2023).

The search for synthesis reflects a broader trend in contemporary Islamic legal thought toward purposive and system-oriented reasoning. Scholars increasingly recognize that transcendent values require contextual articulation to remain operative. Empirical data, in this view, function as interpretive indicators rather than sources of normativity. This orientation prepares the conceptual ground for maqasid-based reasoning as an integrative solution (Ikhlas et al., 2021; Majid & Zukhruf, 2024).

The dialectic between Idealism and Realism reveals that Islamic family law cannot sustain itself through exclusivist philosophical commitments. Normative ideals require social translation, and empirical reforms require moral anchoring. The necessity of synthesis arises from the shared objective of realizing justice, welfare, and human dignity within the family. This dialectical resolution sets the stage for maqasidiyah as an epistemological bridge capable of reconciling transcendent purpose with social reality (Safi, 2022; Hassanein, 2025).

CONCLUSION

This study demonstrates that Islamic family law operates within a continuous philosophical dialectic between Idealism and Realism, each contributing indispensable yet incomplete perspectives. Idealism safeguards the transcendental integrity of family law by anchoring legal reasoning in divine purpose, moral universality, and normative coherence, while Realism ensures that legal norms remain socially effective by responding to empirical conditions, institutional practice, and lived family experiences. The analysis reveals that exclusive reliance on either paradigm generates structural limitations, including normative rigidity on the one hand and ethical dilution on the other.

The study concludes that a maqasidiyah-oriented synthesis provides the most coherent epistemological resolution to this dialectic. By positioning the objectives of the Sharia as the central normative reference, maqasidiyah integrates textual fidelity with contextual responsiveness and transforms empirical data into legitimate interpretive indicators rather than independent sources of normativity. This synthesis enables adaptive ijtihad in Islamic family law without compromising its moral foundations, strengthens judicial consistency, and enhances the law's capacity to protect vulnerable family members. Accordingly, maqasidiyah emerges not merely as a methodological option but as a necessary philosophical framework for sustaining justice, welfare, and legitimacy in contemporary Islamic family law systems.

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