



The Problematic of Marriage and Divorce in Islamic Law: Normative and Sociological Analysis

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ABSTRACT

This study examines the issues of marriage and divorce in Islamic law through the integration of normative and sociological approaches. The main problem lies in the gap between the ideal concepts in fiqh and the practical realities in society, which are influenced by social, economic, cultural, and psychological factors. This study aims to analyze the normative concepts of marriage and divorce, identify developing sociological realities, and formulate an integrative model that can provide a more comprehensive understanding. The method used is qualitative research with a literature-based approach, which examines Islamic legal sources such as the Qur'an, hadiths, as well as classical and contemporary fiqh literature, accompanied by an analysis of relevant social data. The research results indicate that the normative approach provides a strong legal foundation, while the sociological approach reveals the empirical dynamics that influence marriage and divorce practices. The integration of both through the maqashid al-shariah framework results in a more adaptive, contextual, and welfare-oriented understanding. The implications of this study emphasize the importance of an interdisciplinary approach as well as the role of legal and educational institutions in responding to the challenges of modern families, so that Islamic law remains relevant and solution-oriented in facing dynamic social changes.

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INTRODUCTION

Marriage from the perspective of Islamic law is a sacred institution that not only functions as a legal bond between a man and a woman, but also as the foundation for forming a harmonious, prosperous family based on religious values (Harun, 2026; Ismail et al., 2024; Laluddin et al., 2014). In fiqh studies, marriage is understood as a contract that has legal, social, and moral consequences, encompassing the rights and obligations of each party (Antognini & Appleton, 2021; Matsumura, 2019). On the other hand, divorce, although permitted, is seen as a last resort that is avoided because it has the potential to damage the order of the family and society. In practice, the dynamics of marriage and divorce continue to change along with the development of the times, modernization, and changes in social structure. This phenomenon shows that Islamic law does not exist in a vacuum, but always interacts with the evolving social reality. This complexity demands

an approach that is not only normative, but also contextual and sociological. A comprehensive study becomes important to understand how the principles of Islamic law are applied in real life.

In modern society, marriage and divorce are no longer solely influenced by religious factors, but also by economic, educational, cultural, and psychological aspects (Ismail et al., 2024; Ottakkam Thodukayil et al., 2026). The rising divorce rates in various countries, including Indonesia, indicate an imbalance between the normative ideals of Islamic law and the social realities faced by society. Factors such as changing gender roles, economic pressures, and the influence of globalization also affect household stability. On the other hand, the development of information technology also opens new spaces in family relationships, which can strengthen or weaken marital bonds (Tammissalo & Rotkirch, 2022). Islamic law as a normative system is demanded to be able to provide adaptive solutions to these various issues. An approach that focuses solely on the text without considering the social context often fails to address complex problems. This condition highlights the importance of integrating normative and sociological analysis in understanding the phenomena of marriage and divorce.

The issues of marriage and divorce in Islamic law can be seen from the tension between normative provisions in fiqh and the practices that occur in society. For example, the concept of talaq, which in classical Islamic law grants greater authority to the husband, often raises questions of gender justice in a modern context. In addition, divorce practices that occur outside of court are still quite significant in some regions, even though they are not recognized under positive law. Other problems also arise in matters of child custody, division of joint property, and fulfillment of post-divorce maintenance. From a sociological perspective, factors such as domestic conflict, domestic violence, and changes in family values also contribute to the increasing rates of divorce. This condition shows that the issues of marriage and divorce cannot be understood from just one point of view.

Several previous studies have examined marriage and divorce in Islamic law from various perspectives. Research that focuses on a normative approach generally emphasizes the analysis of fiqh texts, including the Qur'an and hadith, in determining laws related to marriage and divorce. These studies provide a deep understanding of the basic principles of Islamic law, such as justice, welfare, and the protection of individual rights. In addition, some studies also examine the reform of Islamic family law in various countries, including Indonesia, in an effort to adapt the law to the development of the

times. This approach shows that there is a dynamic in the interpretation of Islamic law that is not static. These studies provide an important contribution in enriching the body of knowledge of Islamic law. However, the dominant focus on normative aspects often has not fully accommodated the complex social realities.

On the other hand, research with a sociological approach has revealed various factors that influence the occurrence of marriage and divorce in society. These studies highlight the role of economic, educational, cultural factors, as well as power relations within the household as the main determinants of family stability. Some studies also examine the impact of divorce on women and children, including the psychological and social aspects that arise. This approach provides a more empirical depiction of how Islamic law is practiced in daily life. In addition, there are also studies that combine legal and sociological approaches in analyzing divorce cases in religious courts. Nevertheless, the integration between normative and sociological analysis has not yet been carried out in depth and systematically. This indicates a need to develop a more comprehensive and integrative study.

Based on a review of previous research, there appears to be a gap between the normative approach, which focuses on legal texts, and the sociological approach, which emphasizes empirical reality. Most studies tend to separate these two approaches, resulting in a partial understanding of the issues of marriage and divorce in Islamic law. In addition, research specifically examining the interaction between fiqh norms and social practices in the context of dynamic modern society is still limited. This gap indicates the need for an interdisciplinary approach that can simultaneously integrate legal and social dimensions. This research offers a new perspective by combining normative and sociological analysis within a single comprehensive framework. This approach is expected to provide a more comprehensive understanding of existing problems. The main contribution of this research lies in the effort to reconstruct the understanding of Islamic law to be more contextual and responsive to social changes.

This study aims to analyze the problems of marriage and divorce in Islamic law through normative and sociological approaches. Specifically, this research seeks to examine how the principles of Islamic law in fiqh are implemented in the practice of marriage and divorce in society. In addition, this study also aims to identify the social factors that influence the occurrence of divorce and its impact on individuals and families. This research is expected to be able to bridge the gap between Islamic legal theory and

the developing social reality. Thus, the results of this study can contribute to the development of more adaptive and contextual Islamic family law.

METHOD

This study uses a qualitative approach with a library research design that integrates normative and sociological approaches (Mustofa, 2023). The normative approach is used to examine sources of Islamic law such as the Qur'an, hadith, as well as classical and contemporary fiqh literature related to marriage and divorce, while the sociological approach is used to understand social practices that occur in the community along with the factors that influence them. This research is descriptive-analytical in nature, which not only describes phenomena but also analyzes them critically and in depth. The type of data used is secondary data sourced from fiqh books, scientific books, national and international journals, previous research results, as well as official documents such as religious court decisions and divorce statistics. The selection of sources is based on credibility, relevance, and the recency of the data to produce a valid analysis.

The data collection technique was carried out through documentary studies by collecting, classifying, and organizing various literature according to the research theme, such as normative concepts of marriage and divorce as well as the social factors that influence them (Safarudin et al., 2023). The obtained data was then analyzed using qualitative analysis techniques in an interactive model through the stages of data reduction, data presentation, and drawing conclusions. In the normative approach, analysis was conducted through text interpretation using ushul fiqh methods, such as maqashid al-shariah and qawa'id fihiyyah, while the sociological approach was used to understand the relationship between legal norms and social reality. The analysis process was conducted continuously to produce in-depth interpretations. To maintain data validity, this study used source triangulation techniques by comparing various references from different perspectives. The validity of the data is also strengthened through the use of credible and relevant academic sources.

This research is not bound to a specific location because it is literature-based, but contextually it focuses on Islamic family law practices in Indonesia while considering global comparisons. The research time was conducted gradually according to the process of data collection and analysis until the expected depth of study was achieved.

Theoretically, this research is expected to enrich the body of knowledge in Islamic law through an integrative approach between normative and sociological perspectives. Practically, the results of this research are expected to serve as a reference for academics, legal practitioners, and policymakers in formulating regulations that are more responsive to the dynamics of society.

RESULT AND DISCUSSION

1. The Normative Concept of Marriage and Divorce in Islamic Law (Fiqh) and Its Basic Principles

Marriage in Islamic law (fiqh) is understood as a contract that is both sacred and social, aimed at building a family life that is tranquil, full of love, and merciful (Uddin, 2023). Its normative dimension not only emphasizes the legality of the relationship between a man and a woman but also contains worship values oriented towards spiritual closeness to God. The Qur'an and hadith provide a strong foundation regarding the importance of marriage as a means of preserving honor, lineage, and social order. Fiqh scholars have formulated the pillars and conditions that must be fulfilled, such as the presence of a guardian, witnesses, and a valid offer and acceptance. The rights and obligations of husband and wife are also detailed to maintain balanced relations within the household. The principles of responsibility and justice serve as the main foundation in this relationship. Relasi yang harmonis menjadi tujuan utama yang terus ditekankan dalam berbagai literatur hukum Islam. Pemahaman normatif ini menjadi fondasi dalam membangun struktur keluarga yang ideal.

The purpose of marriage from the perspective of fiqh goes beyond merely fulfilling biological needs, as it encompasses the formation of a family as a social unit that functions to educate and instill religious values (Fahrub et al., 2023; Mohadi, 2023). The family is positioned as the first environment in shaping individual character. The principle of *mu'asyarah bil ma'ruf* serves as a guideline in building relationships full of respect and kindness. The concept of *maqashid al-shariah* places marriage as a means to safeguard progeny and human dignity. The social function of marriage is evident in efforts to maintain societal stability through a strong family institution. The balance between individual rights and collective interests becomes part of this legal structure. Moral and ethical values are an inseparable part of legal

provisions. Pemahaman ini memperlihatkan bahwa pernikahan memiliki dimensi yang sangat luas dalam Islam.

Divorce is recognized in Islamic law as an exit when the purpose of marriage can no longer be maintained. This allowance comes with strict limitations to prevent misuse. Forms of divorce in fiqh include talak, khulu', and fasakh, each of which has different legal mechanisms. Talak should not be carried out recklessly, but must consider the conditions and consequences it generates. Women also have the right to file for divorce through certain mechanisms recognized in Islamic law. Protection of post-divorce rights, such as alimony and child custody, becomes an important part of these regulations. The value of justice remains the main principle in every divorce process. This regulation shows that divorce remains within a structured ethical and legal framework.

The basic principles in marriage and divorce law include justice, welfare, and balance. Justice requires that each party receives their rights proportionally without any harmful domination. Welfare directs the law to achieve greater benefits for individuals and society. Balance serves as the foundation in regulating the relationship between rights and obligations within the family. These three principles form the basis of various legal provisions formulated by scholars. The flexibility of the law is evident from the existence of differing opinions that allow adaptation to various social conditions. This shows that Islamic law is not static. These principles provide guidance in resolving various family issues. The existence of these principles becomes the main support in the structure of Islamic family law.

The framework of maqashid al-shariah provides a broader understanding of the objectives of marriage and divorce laws (Busriyanti et al., 2025; Muttaqin et al., 2026). Efforts to protect religion, life, intellect, lineage, and property are reflected in existing family regulations. Marriage functions to preserve lineage and honor, while divorce becomes a mechanism to avoid greater harm. This approach allows for a more contextual and goal-oriented legal interpretation. Legal texts are not understood rigidly but are linked to the objectives to be achieved. This opens space for ijtihad in addressing new issues. The relevance of Islamic law remains preserved through this approach. Understanding based on objectives becomes important in facing social dynamics.

The role of ushul fiqh is very significant in formulating adaptable laws of marriage and divorce. Methods such as qiyas, ijma', and istihsan are used to address issues not explicitly found in the texts. The process of ijtihad allows Islamic law to develop in accordance with societal needs. Scholars have a strategic role in interpreting and developing the law. Diversity of opinions becomes an intellectual wealth that provides alternative solutions. This shows that Islamic law is dynamic and open to change. This approach allows the law to remain relevant in various situations. This dynamism becomes a strength in the Islamic legal system.

The normative concept of marriage and divorce in Islamic law shows a balance between ideal values and the realities of life. The law not only regulates but also provides ethical values that must be practiced in family life. Basic principles provide guidance in resolving conflicts that arise in the household. Flexibility in interpretation allows the law to adapt to the developments of the times. The complexity of modern life requires a broader understanding of family law. The values contained in Islamic law remain relevant in various social situations. This normative foundation becomes an initial foothold in understanding the dynamics of social practice. The balance between norms and reality is key to understanding Islamic family law.

2. Sociological Reality of Marriage and Divorce Practices in Society and the Influencing Factors

Social reality shows that marriage practices are often influenced by various factors beyond the normative provisions of Islamic law (Khatturi, 2017). Local culture, traditions, and social values play an important role in determining the form and process of marriage. In some cases, the practices that occur are not entirely in accordance with fiqh principles. The interaction between religious law and local culture creates variations in marriage practices. Rapid social changes also affect the community's perspective on the family institution. The younger generation tends to have a more flexible perspective on marriage. This dynamic shows a shift in societal values. This phenomenon demonstrates the importance of a sociological approach in understanding marriage practices.

The increase in divorce rates has become a fairly significant phenomenon in modern society. Economic factors often serve as the main trigger, especially in conditions of financial instability (Vo et al., 2019). Unresolved household conflicts also become a major cause of divorce. Changes in gender roles impact the dynamics of

relationships within the family. Women's economic independence affects their bargaining position in household relationships. The level of education also contributes to an individual's courage to make the decision to separate. This situation indicates that divorce is influenced by various complex factors. This reality shows the difference between norms and social practices.

Psychological aspects play a significant role in determining the sustainability of marriage. The ability to manage emotions and conflicts becomes an important factor in maintaining household harmony. A lack of effective communication often becomes the main source of problems within the family. Social pressures and expectations regarding marriage also affect relationship stability. Changes in societal values make divorce no longer considered taboo. Individuals are more open in making decisions to end unhealthy relationships. These psychological factors are often not visible in normative analysis. A sociological approach helps to uncover these dimensions more deeply.

The development of technology and social media also affects the dynamics of marriage. Social media can strengthen communication, but it also has the potential to cause conflicts. Digital infidelity has become one of the new challenges in married life. Broad access to information affects individuals' expectations of their partners. These changes create new standards in marital relationships. A lack of management in the use of technology can worsen existing conflicts. These external factors have a significant influence on family stability. This dynamic shows that marriage is not separate from the influence of the times.

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Local culture has a strong influence in determining attitudes toward marriage and divorce. Family honor values often become the main consideration in maintaining

relationships. In some communities, divorce is still considered a disgrace that must be avoided. This condition causes individuals to stay in unhealthy relationships. On the other hand, there are communities that are more open to divorce. These differences show the cultural variations in viewing marriage. Local values significantly influence individual decisions. Understanding culture becomes important in sociological analysis.

Sociological reality shows that marriage and divorce practices are influenced by various interrelated factors. Economic, cultural, psychological, and technological factors play a role in shaping family dynamics (Amin, 2023). Islamic law cannot be understood separately from the existing social conditions. Social analysis provides a more realistic picture of the phenomena that occur. Understanding these factors helps identify various challenges in the implementation of the law. A more contextual approach is needed to address the issues at hand. The connection between norms and reality becomes important in this study. Deepening the social aspects enriches the understanding of Islamic family law.

3. Integration of Normative and Sociological Approaches in Understanding the Problems of Marriage and Divorce

The need to integrate normative and sociological approaches in the study of marriage and divorce in Islamic law has become increasingly strong along with the complexity of modern family issues. The normative approach provides a legal foundation sourced from the Qur'an, hadith, and fiqh, while the sociological approach presents the empirical reality occurring in society. When these two approaches are combined, an understanding emerges that is not only legalistic but also contextual and humanistic. The normative basis, as in Qur'an Surah Ar-Rum verse 21, states:

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ
يَتَفَكَّرُونَ

Its meaning: Among His signs is that He created for you mates from among yourselves so that you may find tranquility in them. He placed between you affection and mercy. Indeed, in that are truly signs for people who reflect. (Q.S Ar Rum;21)

The above emphasizes that the purpose of marriage is to achieve peace, love, and affection (sakinah, mawaddah, rahmah), which indicates both social and spiritual dimensions in family relationships. These values cannot be fully understood without

considering the social reality of the couple in living their married life. This integration allows Islamic law to be understood not only as a set of rules but also as a guide to life that is adaptable to change. This coherence becomes important in addressing the increasingly complex issues of family life. This approach presents a balance between the idealism of the text and the reality of life.

The maqashid al-shariah approach has become one of the main instruments in bridging the gap between norms and social reality. The objectives of the sharia, such as preserving lineage (hifz al-nasl) and protecting honor (hifz al-'ird), become the basis for understanding the importance of marriage and the regulation of divorce. In QS. Al-Baqarah verse 231, it states:

وَإِذَا طَلَّقْتُمُ النِّسَاءَ فَبَلَغْنَ أَجَلَهُنَّ فَأَمْسِكُوهُنَّ بِمَعْرُوفٍ أَوْ سَرِّحُوهُنَّ بِمَعْرُوفٍ وَلَا تُمْسِكُوهُنَّ ضِرَارًا لِّتَعْتَدُوا وَمَنْ يَفْعَلْ ذَلِكَ فَقَدْ ظَلَمَ نَفْسَهُ

It means: If you divorce your wife(-ves), until (almost) the end of her waiting period (iddah), hold them (for reconciliation) in a proper manner or divorce them in a proper manner (as well). Do not hold them (for reconciliation) to cause harm so that you exceed the limits. Whoever does so has truly wronged themselves (Q.S Al Baqarah: 231)

The verse above explains that husbands should not hold their wives with the intention of causing harm, but rather treat them well or release them in a good manner. This verse shows that divorce is not only a legal issue, but also a social ethical matter that must be maintained. Integrating normative and sociological approaches allows the verse to be understood in the diverse realities of life, including cases of domestic violence or prolonged conflicts. Consideration of public welfare becomes very important in determining legal decisions. This approach provides space for ijtihad that is more responsive to social conditions. Understanding the law does not stop at the text, but also includes its purpose and impact. This shows that Islamic law has flexibility in addressing the challenges of the times.

The reform of Islamic family law has become one of the tangible forms of integration between normative and sociological approaches. Various Muslim countries, including Indonesia, have made legal adjustments to respond to evolving social dynamics. Regulations such as the Compilation of Islamic Law reflect efforts to accommodate fiqh principles while considering the needs of modern society. In QS. An-Nisa verse 35, it states:

وَأَنْ خِفْتُمْ شِقَاقَ بَيْنِهِمَا فَابْعَثُوا حَكَمًا مِّنْ أَهْلِهِ وَحَكَمًا مِّنْ أَهْلِهَا إِنْ يُرِيدَا إِصْلَاحًا يُوَفِّقِ اللَّهُ بَيْنَهُمَا إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا

Meaning: If you (the guardians) fear that a dispute may occur between the two, appoint a mediator from the man's family and a mediator from the woman's family. If both intend to reconcile (peace), surely Allah will grant guidance to both. Indeed, Allah is All-Knowing, All-Aware (Q.S An-Nisa:35)

The verse above explains the importance of involving mediators from both parties when a domestic conflict occurs. This verse shows that conflict resolution is not only legal but also social and communicative. This integration demonstrates that Islamic law provides space for a dialogical approach in resolving family conflicts. Legal reform does not mean changing the basic principles, but adjusting their implementation. This approach strengthens the relevance of Islamic law in society. Legal adaptation becomes part of an inseparable dynamic.

An interdisciplinary approach becomes an important element in strengthening the integration between normative and sociological aspects. The study of marriage and divorce cannot be analyzed solely through a legal perspective, but also requires contributions from sociology, psychology, and anthropology. Psychological factors such as communication, emotions, and personality have a significant influence on the sustainability of marriage. Meanwhile, social factors such as culture, economy, and environment also affect family stability. Integration of various disciplines allows for a more comprehensive identification of problems. The solutions generated become more applicable and in accordance with the needs of society. This approach also opens up space for innovation in the development of Islamic family law. The involvement of various disciplines enriches the analysis conducted. The synergy of knowledge becomes a necessity in facing the complexity of family issues.

The role of legal and educational institutions is also very important in supporting this integration. Religious courts not only function as dispute resolution institutions, but also as mediators who strive to maintain family integrity. The mediation process becomes one form of sociological approach in the formal legal system. Premarital education also serves as a strategic means to equip couples with a comprehensive understanding of household life. In QS. At-Tahrim verse 6, which reads:

يَا أَيُّهَا الَّذِينَ آمَنُوا قُوا أَنْفُسَكُمْ وَأَهْلِيكُمْ نَارًا وَقُودُهَا النَّاسُ وَالْحِجَارَةُ عَلَيْهَا مَلَائِكَةٌ غِلَاظٌ شِدَادٌ لَا يَعْصُونَ
اللَّهُ مَا أَمَرَهُمْ وَيَفْعَلُونَ مَا يُؤْمَرُونَ

Meaning: O you who believe, protect yourselves and your families from the fire of Hell, whose fuel is men and stones. Its guardians are harsh and stern angels. They do not disobey Allah in what He commands them and always carry out what is commanded (Q.S At Tahrim;6)

There is a command to protect oneself and one's family from harmful things, which shows the importance of education within the family. The integration between normative and sociological approaches is seen in preventive efforts through education. This indicates that the law is not only repressive but also educational. The role of institutions becomes very important in the implementation of the law. These efforts strengthen family resilience in society.

Global developments in the study of Islamic law indicate a tendency towards a more contextual and integrative approach. Academics are developing various methods to understand legal texts in a way that is more relevant to the ever-changing social realities. The dialogue between Islamic law and other legal systems is increasingly open, thereby enriching perspectives in understanding family law. In QS. Al-Hujurat verse 13, it states:

يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنْثَىٰ وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ لِتَعَارَفُوا إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَتْقَىٰكُمْ إِنَّ اللَّهَ
عَلِيمٌ خَبِيرٌ

Meaning: O mankind, indeed We have created you from a male and a female. Then, We made you into nations and tribes so that you may know one another. Indeed, the most noble of you in the sight of Allah is the most righteous. Indeed, Allah is All-Knowing, All-Aware (Q.S al Hujurat:13)

The verse above explains that humans are created in diversity to get to know one another, which can be interpreted as a basis for opening dialogue across cultures and legal systems. This integration allows Islamic law to contribute to the global discourse. An adaptive approach becomes the key to maintaining the relevance of the law. Global studies provide broader insights into family law practices. This shows the continuously evolving dynamics of Islamic law.

The integration between normative and sociological approaches provides a more comprehensive understanding of the issues of marriage and divorce in Islamic law. The analysis not only focuses on legal texts but also considers the social conditions surrounding individuals and families. This approach allows Islamic law to be more responsive and solution-oriented to various emerging problems. The space for *ijtihad* becomes increasingly open in formulating laws that meet the needs of society. Modern challenges can be addressed with a more adaptive and contextual approach. Contributions to the development of Islamic legal scholarship become increasingly significant through this integration. The relevance of Islamic law remains maintained in facing dynamic social changes. A comprehensive understanding becomes the key in reading and responding to the dynamics of Islamic family law.

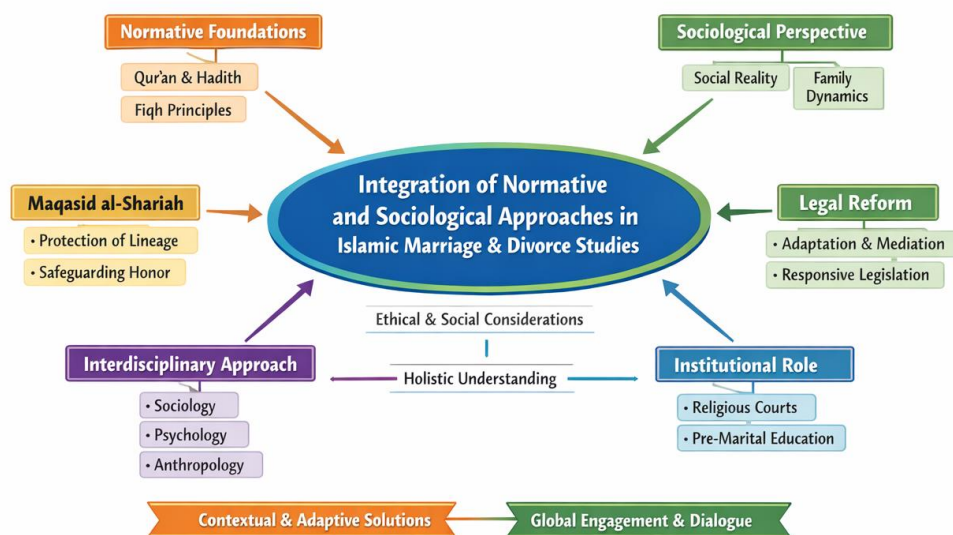


Figure 1 model integration of Normative and Sociological Approaches

CONCLUSION

The integration of normative and sociological approaches in the study of marriage and divorce in Islamic law presents a more comprehensive understanding, because it is not only based on the texts of the Qur’an, Hadith, and fiqh, but also considers the social realities developing in society. This approach is able to bridge the gap between ideal norms and empirical practices, so that Islamic law is not understood rigidly, but rather adaptively and contextually. The utilization of the maqashid al-shariah framework and an interdisciplinary approach strengthens the analysis in addressing increasingly complex family issues. In addition, the role of legal and educational institutions becomes important

in implementing legal values preventively, educationally, and solution-oriented. Thus, Islamic law remains relevant, dynamic, and capable of providing solutions oriented towards the welfare of modern family life.

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