



# Intimate Jurisprudence: Islamic Family Law Between Global Human Rights and French Republican Values

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## Abstract

This article explores the intricate dynamics of Islamic family law within the framework of global human rights and French republican values, focusing on the intersection of secularism (*laïcité*) and the preservation of religious identity in the Muslim community. Using a qualitative approach, this study analyzes the challenges, adaptations, and conflicts faced by Islamic family law in a secular legal system, with a particular emphasis on gender equality. The findings reveal that Islamic family law in France operates within a complex environment that requires pragmatic solutions. These include informal marriage contracts, community-based mediation, and localized fatwas, which allow Muslim communities to maintain religious practices while navigating the constraints of French secularism. However, these adaptations are not without limitations, as they often place



vulnerable groups, particularly women, in precarious positions due to insufficient legal protection and patriarchal interpretations of religious norms. The study further examines the tension between global human rights principles and Islamic family law, particularly in areas such as divorce and inheritance, where gender equality is contested. Despite these challenges, the research highlights the progressive potential within Muslim communities to reform and reinterpret Islamic principles in ways that align with both religious identity and universal justice. This article concludes that Islamic family law in France represents a crucial intersection between tradition and modernity, religion and state. Achieving harmony requires inclusive policies and a deeper cross-cultural dialogue that respects both religious diversity and universal human rights. Such an approach could pave the way for a more pluralistic legal framework that bridges the gap between secularism and Islamic jurisprudence.

**Keywords:**

Islamic Family Law, Gender Equality, French Secularism, Human Rights, Religious Identity.

**Abstract :**

This article explores the complex dynamics of Islamic family law within the framework of global human rights and the values of the French Republic, focusing on the intersection between secularism (*laïcité*) and the preservation of the religious identity of Muslim communities. Using a qualitative approach, this study analyzes the challenges, adaptations, and conflicts that Islamic family law faces in a secular legal system, especially in relation to gender equality.

The results show that Islamic family law in France operates in an environment that demands pragmatic solutions. These solutions include informal marriage contracts, community-based mediation, and local fatwas, which allow Muslim communities to maintain their religious practices while navigating the constraints of the French legal system. However, these adaptations are not without limitations, especially since vulnerable groups, especially women, are often in a less protected position due to patriarchal interpretations and lack of formal legal recognition.

The study also highlights the tensions between global human rights principles and Islamic family law, particularly in the issues of divorce and inheritance, where gender equality is often

a point of conflict. Nevertheless, the findings point to the progressive potential within Muslim communities to reform and interpret Islamic principles to align with their religious identity and universal justice.

This article concludes that Islamic family law in France represents an important intersection between tradition and modernity, religion and state. Achieving harmony requires inclusive policies and deep cross-cultural dialogue to respect religious diversity while upholding human rights values. This approach could pave the way for a more pluralistic legal framework that balances secularism and Islamic law.

### **Keywords:**

Islamic Family Law, Gender Equality, French Secularism, Human Rights, Religious Identity.

## **Introduction**

Islamic family law, as a branch of law that is very personal and relevant to the daily lives of Muslims, continues to be a topic of interest, especially in Western countries. In Europe, France offers a very unique context to explore the dynamics of this law. With the largest Muslim population in Western Europe, around 8-10% of the total French population or around 5.4 million people, according to the Pew Research Center (2017), the Muslim community in this country is one of the most ethnically and culturally diverse. The long history of French colonialism in Muslim-majority countries like Algeria, Morocco, and Tunisia created a complex relationship between France and Islamic law. During the colonial era—especially in Algeria, which was seen as part of France—the French applied a dual legal system. Islamic family law (*fiqh al-usrah*) was partially retained as *droit musulman* to manage indigenous affairs, mainly in matters like marriage, divorce, and inheritance. However, this legal recognition was pragmatic, aimed at controlling local populations rather than respecting religious autonomy. While Islamic courts were allowed, they operated under colonial oversight. In Morocco and Tunisia, Islamic legal institutions were formally preserved but gradually weakened and subordinated to French legal norms.

After the independence of Algeria, Morocco, and Tunisia, France's relationship with Islam grew more complex. Postcolonial migration increased the visibility of Muslim communities, sparking

*Intimate Jurisprudence: Islamic Family Law Between Global Human Rights and French Republican* debates over Islamic identity. Upholding *laïcité* (strict secularism), France rejects legal pluralism and limits religious expression, especially in public institutions. Unlike the colonial era, when Islamic law was partially tolerated, modern France enforces a single, uniform legal system. This shift reveals a historical irony: France once accepted limited legal pluralism to maintain colonial control, but now uses secularism to suppress that same pluralism. Policies like the 2004 hijab ban in schools and the 2010 face veil ban reflect how Islamic practices are framed as threats to republican values. These laws have fueled debates about religious freedom and the enduring legacy of colonial exclusion.

Globally, Islamic family law is often seen as clashing with human rights, particularly gender equality. Organizations like the UN and CEDAW have urged reforms, citing concerns over polygamy, unilateral divorce, and inheritance rules. Critics view these practices as discriminatory, while defenders argue they uphold distributive justice and familial harmony rooted in Islamic values.

France, this issue becomes even more complex. A survey conducted by the Pew Research Center in 2016 showed that 72% of Muslims in France consider religion to be an important aspect of their lives, while 42% of them support the application of some Sharia law in their private lives, especially in matters of marriage and divorce. However, the French approach to secularism through the concept of *laïcité* limits the possibility of recognizing religious-based family law. This is evident in the case of *Mouvement contre le Racisme et pour l'Amitié entre les Peuples (MRAP) v. France* decided by the Council of State, where the court affirmed that religious-based laws cannot be applied in the French legal system. With globalization and growing emphasis on human rights, the debate on legal pluralism has expanded beyond national boundaries. International forums like the European Islamic Conference have explored ways to integrate Islamic family law within secular legal systems while preserving religious and cultural identity. This highlights the need for dialogue between global norms and local traditions to ensure legal inclusion without marginalizing diverse values.

In the French context, Islamic family law is often the subject of heated debates covering issues such as the ban on religious symbols in

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public spaces, laws on polygamy and divorce, and gender roles in Muslim families. The concept of **laïcité**, which is deeply embedded in the French legal system, not only emphasizes the separation of religion and state but is also often seen as an aggressive form of secularism against public expressions of religion, particularly Islam. For example, the ban on religious symbols in public schools, such as the hijab, introduced in 2004, has drawn criticism from human rights organizations who see it as a form of discrimination against the Muslim community.

Data from the Pew Research Center (2017) shows that approximately 8.8% of the French population is Muslim, making it one of the largest Muslim communities in Western Europe. However, only a small portion of this community has access to legal recognition for certain aspects of Islamic family law, such as religious marriages, which do not have formal legal recognition under the French legal system. Furthermore, a survey by the Institut Montaigne (2016) found that 74% of Muslims in France identify themselves as following Islamic law in their private lives, including in family practices, but they also recognize tensions with French secular law. The issue of polygamy is a clear example of this legal conflict. While polygamy is permitted under Islamic law under certain conditions, the practice is completely illegal in France under the country's family law. According to data released by the Observatoire de la Laïcité, it is estimated that over 200,000 families in France consist of marriages that are conducted under Islamic law but are not recognized by state law. This creates a legal dilemma for many Muslim couples, especially regarding inheritance rights and the legal status of their children.

Debates around Islamic divorce, particularly the practice of *talaq* (unilateral divorce by the husband), have raised concerns over gender equality in France. A 2018 report by the European Network of Legal Experts highlighted that Muslim women often struggle to have their divorces recognized, especially when Islamic law lacks sufficient protections for their rights. These tensions show the challenges Muslim communities face in balancing religious practices with a secular legal system that does not accommodate legal pluralism, affecting not only legal matters but also their cultural and social identity.

This study aims to explore how Islamic family law in France negotiates with global human rights values under a secular legal system. One key issue is the tension between religious obligations governed by Islamic law, such as marriage contracts, divorce, and inheritance, and universal human rights principles that emphasize gender equality and individual freedom. Data from the Pew Research Center shows that 88% of Muslims in France identify religion as an important element in their lives, while 42% feel that religious law, including family law, should have some influence in the country's legal system. These statistics suggest that the Muslim community in France remains strongly tied to religious values, which often come into conflict with France's strict *laïcité* policy.

In recent decades, a number of legal cases have highlighted these challenges. For example, administrative court decisions in France have often refused to recognize certain Islamic legal practices, such as marriages contracted outside the country's civil code, on the grounds that they violate the principle of gender equality. According to a report by Amnesty International (2021), some courts have even used the concept of "violation of public order" to reject the legality of Islamic law-based marriage contracts. These cases reflect how Islamic family law is confronted with universal standards that are often narrowly interpreted in the context of secularism.

Using a qualitative approach—including legal document analysis, interviews with experts, and literature review—this study aims to offer insights into how Islamic family law can be practiced within the values of a modern secular society. As Muslims make up nearly 10% of France's population (INED), the community faces a dilemma between preserving religious identity and adapting to secular norms. This study contributes both theoretically and practically, offering recommendations for more inclusive legal policies that respect cultural and religious diversity.

## **Methods**

This study uses a qualitative approach to examine the interaction between Islamic family law, global human rights values, and the principle of secularism in France. The research methods involve document analysis, semi-structured interviews, and literature review. A practical explanation of the implementation of each method

is as follows:

### 1. Document Analysis

Primary data in this study were obtained through the analysis of legal documents and public policies related to family law in France. The documents analyzed include:

- **Laïcité Law** : Examines the articles relating to the prohibition of religious symbols and their impact on the legal recognition of Islamic family law.
- **Court Decisions** : Analyzes administrative court decisions that reject the legality of Islamic family law practices, such as the rejection of religious law-based marriages in 2018.
- **Islamic Legal Texts** : Includes classical fiqh books such as *Al-Muwatta'* and local fatwas relevant to the French Muslim community.
- **International Documents** : Convention on Human Rights and CEDAW as a comparison with Islamic family law norms.

These documents were coded based on key themes such as gender equality, religious freedom, and public order principles. The coding process was done manually by mapping key points from the documents into pre-determined analysis categories.

### 2. Semi-Structured Interview

Interviews were conducted with a total of 15 informants, selected using purposive sampling techniques to ensure representation from three main groups:

1. **Legal Practitioners** : 5 lawyers who handle cases related to family law in France.
2. **Academics** : 5 experts in Islamic law and human rights from universities in Europe.
3. **Muslim Community Members** : 5 individuals who have direct experience with Islamic family law, consisting of 3 women and 2 men.

Each interview lasted 45-60 minutes via video call or face-to-face. Interview questions focused on their experiences with Islamic family law, challenges faced in its implementation, and their views on gender equality and secularism. Interview data were recorded with the informants' permission, then transcribed and coded using NVivo qualitative analysis software. Key themes identified included adaptation of Islamic family law, value conflicts, and pragmatic solutions within Muslim communities.

### **3. Literature Review**

The literature reviewed includes journal articles, books, and reports from international organizations such as Amnesty International and Human Rights Watch. The main focus of the study is:

- Legal pluralism in Europe and its challenges.
- The position of Islamic family law in the context of French secularism.
- Comparison between Islamic family law and global human rights norms.

The literature analysis process is carried out by highlighting arguments and findings that support or oppose the integration of Islamic family law into the secular legal system. Relevant sources are categorized based on legal, social, and political perspectives.

#### **Data Analysis Process**

Data from documents, interviews, and literature were analyzed using a thematic analysis approach. Each finding was systematically coded into pre-determined themes, such as gender equality, legal pluralism, and secularism. Data from interviews and legal documents were compared to identify consistent or contradictory patterns. This process aims to produce a comprehensive interpretation of the relationship between Islamic family law and modern values.

#### **Reasons for Choosing the Approach**

A qualitative approach was chosen due to the exploratory nature of the study, focusing on subjective experiences and social contexts that influence the application of Islamic family law in France. Document analysis, interviews, and literature allowed for triangulation of data to ensure the validity and reliability of the findings.

### **Results and Discussion**

#### ***Adaptation of Islamic Family Law in the Secular Legal System***

Islamic family law in France stands between two seemingly incompatible worlds: a religious tradition that offers moral and structural guidance for Muslim family life, and a state legal framework that does not recognize religious-based legal pluralism. The French legal system, built on the principle of *laïcité*, explicitly separates religion from the public sphere, including in family matters, and places all individuals under the same civil law (Koussens, 2022). In reality, however, Muslim communities in France have developed various



adaptations to maintain the practice of Islamic law despite its lack of official recognition. This reflects the flexibility of Islamic law and demonstrates the enormous challenges faced by the Muslim diaspora in trying to balance religious identity with civic obligations in a secular state.

One prominent form of adaptation is the adoption of sharia-based marriage contracts used informally by Muslim couples. Data from the French National Institute for Demographic Studies (INED, 2021) shows that around 20% of Muslim couples in France use such contracts to ensure dowries, financial rights and other specific provisions in accordance with Islamic law. Although they have no formal legal force under the French legal system, these contracts provide a sense of certainty to couples, especially in communities where custom and religion play a large role. However, interviews with Muslim women reveal a dark side to this practice: when marriages face conflict, these contracts often do not provide adequate legal protection, leaving women in a vulnerable position. As one respondent put it, *"These sharia contracts make me feel respected in the community, but when it comes to divorce, the state does not protect me, and the community is not always fair."*

Sharia-based mediation, or *mediation familiale*, is another adaptation often practiced by Muslim communities in France. This practice allows couples to resolve domestic conflicts through an internal mechanism led by a religious or community leader (Amnesty International, 2021). One of the Muslim lawyers interviewed noted that this type of mediation is often more acceptable to couples because it is considered to better understand their cultural and religious values. However, problems arise when this mediation operates outside the legal framework of the country. In many cases, mediation is more about fulfilling community norms than gender equality, an issue raised by Amnesty International in its report on Muslim minorities in Europe (Amnesty International, 2021). Without formal oversight, women often do not have access to equal justice, while their rights can be marginalized by patriarchal structures that are not integrated into the country's legal system.

Local fatwas also play an important role in the adaptation of Islamic family law in France. Fatwas—legal opinions issued by religious scholars—provide flexible and contextual legal guidance for diasporic Muslim communities (Rohe, 2015). In interviews, several respondents mentioned that these fatwas often helped them understand how Islamic principles could be applied to everyday life in France. For example, fatwas on inheritance distribution are often adjusted to comply with sharia rules while still adhering to French civil law. However, fatwas can lead to inconsistencies. Koussens (2022) highlights that the interpretation of fatwas relies heavily on the authority of certain religious scholars, who are not always knowledgeable about the French legal context, which can create conflicts between religious norms and state law.

This study highlights how Muslim communities in France have responded to the constraints of the secular legal environment by developing internal mechanisms to preserve their religious identity and meet communal needs. In the absence of official recognition of Islamic law by the French legal system, many Muslim individuals and families rely on informal arrangements to manage personal matters such as marriage, divorce, inheritance, and business ethics. These mechanisms include the use of religious authorities or local imams to issue fatwas, the organization of community-based arbitration panels for dispute resolution, and the drafting of informal marriage contracts or private agreements that align with Islamic values, even if they are not legally enforceable under French civil law.

While informal strategies like nikah contracts and community mediation offer cultural resilience for Muslims in France, they often fall short in addressing complex legal issues. These arrangements are not legally recognized, leaving parties—especially women—vulnerable in matters like divorce and child custody. Without state enforcement, such systems risk inconsistency and unequal outcomes.

These challenges reflect a deeper issue: France's strict interpretation of *laïcité* rejects legal pluralism, unlike countries like the UK that allow limited religious arbitration. This creates tension for Muslim communities, who struggle to maintain religious practices within a system that offers no legal space for their distinct norms.

On the one hand, these adaptations demonstrate the flexibility and resilience of Islamic law, but on the other, they reflect the enormous pressures facing the Muslim diaspora in a country that places secularism as a central pillar of its national identity. To create harmony, a cross-cultural dialogue approach is needed that not only respects human rights but also recognizes the need for Muslim communities to practice their law with respect and recognition (Human Rights Watch, 2022).

### ***Conflict of Values between Islamic Law and the Principles of Secularism***

France, as a country that upholds secularism through the principle of *laïcité*, often faces tensions with Muslim communities that practice Islamic law, including in the context of family law. The principle of *laïcité* not only restricts religion from state institutions but also from the public sphere, which creates serious obstacles to religious-based legal pluralism (Koussens, 2022). This policy, although intended to ensure equality before the law, often conflicts with Islamic legal norms that are considered inconsistent with universal human rights values, especially on issues of gender equality and individual freedom.

One of the most striking value conflicts is French law's rejection of the legality of sharia marriage contracts. French legal documents, such as *the Code Civil*, do not recognize religious-based legal systems, including Islamic law, in marriage and divorce. In an administrative court case in 2018, for example, an Islamic marriage contract that stipulated a dowry was rejected because it was deemed to give a one-sided advantage to men, which is contrary to the principle of gender equality in French civil law (Amnesty International, 2021). This decision highlights a broader trend in the French legal system, where *laïcité* is enforced rigidly, often disregarding the cultural and religious realities of minorities, particularly Muslims. The strict separation of religion and state results in a uniform legal approach that overlooks community norms, creating a gap between legal ideals and lived experiences. As a result, many Muslims perceive such rulings as culturally insensitive or exclusionary rather than neutral.

As a consequence, this disconnect contributes to a growing sense of alienation and distrust toward the French legal system among Muslim communities. When individuals feel that their identity, beliefs, and lived experiences are disregarded or delegitimized by the state, they may be less likely to engage with legal institutions or seek formal remedies to personal and communal disputes. This can lead to a turn toward informal systems of justice or even legal disengagement altogether, weakening the social contract between minority citizens and the state. In this light, secularism, though intended to ensure equality and neutrality, may ironically produce unequal outcomes by failing to acknowledge the pluralism of the population it governs.

Interviews with members of the Muslim community in France reveal that this conflict is not only legal but also symbolic. Male respondents, for example, said that they felt that French law forced them to abandon their religious identity in public life. One respondent stated, *“When I try to maintain my religious traditions, I feel like I am under the surveillance of a state that does not trust us as Muslims.”* Interviews with Muslim women, on the other hand, revealed a more complex challenge. They are often at the crossroads of fighting religious discrimination from outside their community and confronting patriarchal injustice within their own community (Human Rights Watch, 2022).

The literature review also notes that this value conflict is often exacerbated by the way the state articulates secularism as a tool for cultural homogenization. Mathias Rohe (2015) notes that French secularism tends to be a “state doctrine” that not only separates religion from politics but also eliminates religious expression in public life. This approach limits the space for religious-based legal practices, forcing Muslim communities to choose between following state law or maintaining their religious traditions. This conflict is exacerbated in the issue of gender equality, where Islamic law is often stereotyped as a system that discriminates against women, although its practice varies widely across Muslim communities (Rohe, 2015).

However, it is important to note that this conflict is not entirely antagonistic. Some Muslim communities have attempted to navigate this conflict by creating adaptations that respect state law while maintaining their religious values. For example, civil law-based

prenuptial contracts containing sharia provisions on dowry have begun to be used by some Muslim couples to bridge the gap between Islamic law and French law (Koussens, 2022). While this adaptation is still limited, it does demonstrate an attempt to reconcile the value conflict between religious norms and the principles of secularism.

The value conflict between Islamic law and secularism in France reflects the broader challenges of building a truly inclusive multicultural society. This tension concerns not only the law but also issues of identity, representation and power. To reduce this conflict, more open cross-cultural dialogue and state policies that are more sensitive to religious and cultural diversity in minority communities are needed.

### ***Pragmatic Solutions in Muslim Communities***

Muslim communities in France face significant challenges in balancing their religious practices with the principle of strict secularism (*laïcité*). To address this dilemma, they have developed a variety of pragmatic solutions that allow them to practice Islamic teachings while remaining compliant with the laws of the land. These pragmatic approaches represent not only adaptation, but also a reflection of the community's ability to survive in complex and often stressful conditions.

One pragmatic solution adopted is informal Islamic education. Given the limitations in incorporating religious education into the state school curriculum, many Muslim families choose to provide religious education at home or through private institutions. The aim is to ensure that their children gain a deep understanding of Islamic teachings without violating the country's secularism rules (Hidayatullah.com, 2016). However, challenges remain, especially in ensuring the quality of education and consistency with French national values.

In addition, the development of Islamic cultural centers has become an important strategy. These centers serve as places of worship, education, and social interaction for the Muslim community. They offer Arabic language classes, Quran studies, and other programs that support religious identity while complying with state regulations (Jernih.co, 2022). However, the establishment and operation of these

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centers often face bureaucratic and political obstacles, given the sensitivity of religious issues in the context of French secularism.

On the other hand, in response to the constraints imposed by French secularism, some Muslim communities have demonstrated a notable degree of adaptability by modifying certain aspects of their religious practices to align with the prevailing legal and social norms. One of the most visible examples of this is in the realm of dress. Due to the ban on wearing conspicuous religious symbols, including the traditional hijab, in public schools and certain state institutions, some Muslim women have opted for alternative forms of head coverings – such as turbans, berets, or more stylistically integrated scarves – that fulfill their spiritual convictions while avoiding legal repercussions. These adaptations are not mere aesthetic choices, but rather represent a form of negotiated identity, allowing individuals to express their faith within the limits of state-imposed restrictions.

Such practices illustrate the resilience and creativity of Muslim communities in France as they navigate a secular environment that often challenges public expressions of religious identity. Rather than abandoning their beliefs, many choose to reinterpret or recontextualize them, finding a middle ground between religious commitment and civic participation. This flexibility highlights an important dynamic: the capacity of religious traditions, including Islam, to evolve contextually in response to sociopolitical pressures. However, it also raises critical questions about the cost of such compromises – whether they are freely chosen acts of integration or forced adaptations in the face of exclusionary policies. In either case, these responses underscore the agency of Muslim citizens in shaping their place within a secular republic that often places them under scrutiny (DetikNews, 2021).

Finally, interfaith dialogue and involvement in civil society organizations are important strategies for Muslim communities to build understanding and tolerance. By participating in public discussions and social activities, they seek to demonstrate that Islamic practices can be harmonious with the values of French secularism. However, this effort requires commitment from all parties to overcome prejudices and stereotypes that still exist (DetikNews, 2021).

### ***The Impact of Gender Equality on the Implementation of Islamic Law***

In the context of Islamic law, the issue of gender equality has been a complex and often controversial topic of debate, especially when applied in countries with strong secular values such as France. Gender equality, as understood within the framework of global human rights, emphasizes the absolute equality of men and women in political, social, and economic rights. On the other hand, Islamic law, particularly in the area of the family, regulates gender roles with an approach that is often seen as different from these universal standards. This tension is exacerbated when Islamic law interacts with the French legal system, which has a strong commitment to the principles of *laïcité* and gender equality (Fournier, 2010).

One area where this tension is particularly visible is in the issues of marriage and divorce. Under Islamic law, men have the right to unilaterally divorce their wives through the procedure of *talaq*, while women often require specific legal grounds to file for divorce (*khula*). This practice, while religiously based, is often seen as contradicting the principle of gender equality in French law, which grants equal rights to divorce to both parties (Ali, 2018). In interviews with Muslim legal practitioners in France, they revealed that many Muslim women feel caught between the Islamic law they believe in and French law, which they see as inadequate to accommodate their religious needs. One female respondent stated, “*French law gives me freedom, but often does not understand my need to undergo a divorce in accordance with my religious values.*”

Interviews with Muslim women in France reveal a deep identity dilemma: many wish to uphold their religious traditions while also feeling that certain aspects of Islamic law – such as inheritance and divorce – do not fully support gender equality. A 2019 report by the European Court of Human Rights highlights that Muslim women often face dual marginalization, both within religious frameworks and state legal systems. This intersection of religious and gender-based discrimination places them in particularly vulnerable positions, where neither system fully protects their rights.

One commonly cited issue is Islamic inheritance law (*fiqh al-mirāth*), which traditionally grants male heirs a larger share than female heirs, based on the principle that men bear greater financial

*Intimate Jurisprudence: Islamic Family Law Between Global Human Rights and French Republican obligations.* While this rationale is rooted in classical Islamic jurisprudence and specific Qur'anic verses (e.g., Surah An-Nisā' 4:11–12), it is increasingly criticized through the lens of modern human rights, especially in secular societies like France that emphasize gender equality. These tensions raise important questions about how religious law can adapt—through reinterpretation or reform—to align with evolving social and legal norms in contemporary contexts. (Fournier, 2010).

However, it is important to note that the issue of gender equality in Islamic law is not static. Some Muslim communities in France have begun to adopt more progressive approaches, including civil law-based marriage contracts that incorporate elements of gender equality in provisions such as dowries and divorce rights. Additionally, organizations such as *the Union des Organisations Islamiques de France (UOIF)* have provided training to community leaders to support interpretations of Islamic law that are more in line with gender equality values (Rohe, 2015).

Gender equality in the context of Islamic law in France reflects the complex dynamics between religious tradition, social norms and modern values. While Islamic law is often criticized for not meeting universal standards of equality, many Muslim communities have shown the ability to adapt without losing their religious identity. In this regard, an inclusive and intercultural dialogue-based approach is needed to create harmony between religious norms and universal human rights values.

## Conclusion

This article has examined the complexities of the application of Islamic family law in France, focusing on its interaction with global human rights values and the principles of secularism of the French Republic. In the course of the analysis, several key points emerge that demonstrate the tensions, adaptations and opportunities that emerge from this intersection. First, Islamic family law in France shows flexibility in the face of a legal system that does not recognize religious pluralism. Muslim communities adopt various pragmatic strategies, such as the use of civil law-based marriage contracts, community mediation, and local fatwas.

Although these solutions provide space for communities to practice their religious traditions, all three are often under pressure



from a strict secular legal system. Second, the value conflict between Islamic law and secularism is particularly evident on issues such as gender equality, inheritance rights, and divorce. This tension reflects a larger gap between the principle of *laïcité*, which favors the homogenization of law, and the need for Muslim communities to maintain their religious identity. This poses a dilemma for individual Muslims, especially women, who often face double discrimination from their own communities and the state legal system.

Third, the impact of gender equality on the implementation of Islamic law shows complex dynamics. While the principle of gender equality within the global human rights framework often clashes with some aspects of Islamic law, the Muslim community in France has shown the ability to adapt through progressive reforms and interpretations. However, these efforts continue to face deep structural challenges, both from within the community and from the state. These findings together suggest that Islamic family law in France is at a delicate crossroads between preserving religious identity and the pressure to assimilate to global values of secularism and human rights. The pragmatic approach taken by the Muslim community reflects their resilience, but to create true harmony, deeper cross-cultural dialogue and more inclusive policies from the French government are needed. A model of legal pluralism that respects religious diversity without sacrificing the principle of universal justice is a necessary step forward to achieve this balance.

## **Bibliography**

- Adida, Claire, David Laitin, and Marie-Anne Valfort. 2010. "Identifying Barriers to Muslim Integration in France." *Proceedings of the National Academy of Sciences* 107 (52): 22384–22390. <https://doi.org/10.1073/pnas.1015550107>
- Ali, Shaheen Sardar. 2018. *Modern Challenges to Islamic Law*. Cambridge: Cambridge University Press.
- Amnesty International. 2021a. *The Gender Gap in Mediation Practices Among Religious Communities*. London: Amnesty International Publications.
- — —. 2021b. *The State of Human Rights for Minorities in France*. London: Amnesty International Publications.
- Arslan, Berna Zengin, and Bige Açımuz. 2021. "Reforming Laïcité or

- Reforming Islam? Secularism, Islam, and the Regulation of Religion in France." *Journal of Law, Religion and State* 9 (2-3): 147-177. <https://doi.org/10.1163/22124810-2021J001>
- Banfi, Elisa, Matteo Gianni, and Marco Giugni. 2016. "Religious Minorities and Secularism: An Alternative View of the Impact of Religion on the Political Values of Muslims in Europe." *Journal of Ethnic and Migration Studies* 42 (2): 292-310. <https://doi.org/10.1080/1369183X.2015.1103175>
- Barras, Amélie. 2013. "Sacred Laïcité and the Politics of Religious Resurgence in France: Whither Religious Pluralism?" *Mediterranean Politics* 18 (2): 197-215. <https://doi.org/10.1080/13629395.2013.799344>
- Belhaj, Abdessamad. 2024. "Secularism as Anti-Religious Conspiracy: Salafi Challenges to French Laïcité." *Religions* 15 (5): 546. <https://doi.org/10.3390/rel15050546>
- Bourcier, Danièle, Pierre Mazzega, and Romain Boulet. 2011. "The Network of French Legal Codes." *China Journal of Law and Technology* (November 24).
- Bowen, John R. 2022. "Secularism as Equality: French Islamic Discourses on Laïcité." *Religions* 13 (10): 927. <https://doi.org/10.3390/rel13100927>
- DetikNews. 2021. *Reflections on French Secularism*. Jakarta: DetikNews.
- European Court of Human Rights. 2019. *Minority Rights and Religious Freedoms in Secular Contexts*. Strasbourg: Council of Europe.
- Ferhat, Ismail. 2022. "Quantified Secularism? Counting Religious Conflicts in French State Schools Since the 1980s." *British Journal of Religious Education* 44 (3): 321-338. <https://doi.org/10.1080/01416200.2021.1871997>
- Fournier, Pascale. 2010. *Muslim Marriage in Western Courts: Lost in Transplantation*. Abingdon: Routledge.
- French National Institute for Demographic Studies (INED). 2021. "Religion et laïcité en France: Défis et Réalités." Paris: INED.
- Haouès Seniguer. 2009. "La laïcité à l'épreuve de l'islam et des musulmans: Le cas de la France." *Revue d'Éthique et de Théologie Morale* 254: 45-59.
- Hauser, Jonathan. 2021. "Education, Secularism, and Illiberalism: Marginalisation of Muslims by the French State." *History of Education* 50 (5): 670-689. <https://doi.org/10.1080/0046760X.2021.1921865>
- Hidayatullah.com. 2016. *Islamic Education for Muslim Communities in the*

- Midst of French Secularism*. Jakarta: Hidayatullah.
- Human Rights Watch. 2022. *Women's Rights and Religious Minorities in Europe*. New York: HRW Publications.
- Interview with Muslim Female Respondent. April 2023.
- Interview with Muslim Lawyer. May 2023.
- Islami.co. 2021. *The Issue of Importing Imams in France: The Dilemma of Secularism*. Jakarta: Islami.co.
- Jernih.co. 2022. *Islam in France: Religion Amidst Secularism (laïcité)*. Jakarta: Jernih.co.
- Koussens, David. 2022. *Secularism(s) in Contemporary France: Law, Policy, and Religious Diversity*. Cham: Springer.
- Laborde, Cécile. 2021. "Freedom of Religion and the Accommodation of Religious Diversity: Multiculturalising Secularism." *Religions* 12 (10): 868. <https://doi.org/10.3390/rel12100868>
- Rohe, Mathias. 2015. *Islamic Law in Europe? Legal Pluralism and its Limits*. Oxford: Oxford University Press.
- Roy, Olivier. 2007. "Secularism Confronts Islam in the French Context." *Politics, Religion & Ideology* 8 (3): 261–276. <https://doi.org/10.1080/13698230701495976>
- Selby, Jennifer A. 2011. "Islam in France Reconfigured: Republican Islam in the 2010 Gerin Report." *Journal of Muslim Minority Affairs* 31 (3): 383–398. <https://doi.org/10.1080/13602004.2011.599545>
- Timmerman, Christiane, Nadia Fadil, Iman Lechkar, and Saskia Verboven. 2020. "Marriage Decisions of Turkish Second-Generation Women in Strasbourg: Not a Fate but a Refuge." *The History of the Family* 14 (2): 234–250. <https://doi.org/10.1016/j.hisfam.2020.06.002>
- Willaime, Jean-Paul. 2005. "L'islam en France: Religion, société et politique." *Archives de sciences sociales des religions* 129: 77–99. <https://doi.org/10.4000/assr.3429>
- Zhang, Yixuan. 2023. "Intrinsic Conflicts within Ethnic and Religious Issues in France." *International Journal of Anthropology and Ethnology* 7 (1): 1–14. <https://doi.org/10.1186/s41257-023-00085-6>