

Prevention and Annulment of Marriage in the Perspective of Islamic Law in Indonesia

Muti'ah Nuha Mumtazah

Universitas Islam Negeri Raden Mas Said Surakarta
mutiahnuhamumtazah21@gmail.com

Bagas Eka Syahputra

Universitas Islam Negeri Raden Mas Said Surakarta
syahputrabagas542@gmail.com

Khoridatul Bahiyah

Universitas Islam Negeri Raden Mas Said Surakarta
ridabiyah@gmail.com

Muhammad Zufar Al Faruqi

Universitas Islam Negeri Raden Mas Said Surakarta
zufarelfaruq@gmail.com

Novita Fitriani

Universitas Islam Negeri Raden Mas Said Surakarta
fitrianiinovita916@gmail.com

Kholis Firmansyah

Universitas Islam Negeri Raden Mas Said Surakarta
kholis.firmansyah@staff.uinsaid.ac.id

Received: 15-06-2026	Accepted: 17-07-2026	Published: 30-07-2026
----------------------	----------------------	-----------------------

Abstract

This study demonstrates that the Compilation of Islamic Law (Kompilasi Hukum Islam/KHI) has established an integrated system of marriage validity and legal protection through the provisions of Articles 60–97. The validity of marriage is ensured through the mechanisms of marriage prevention and marriage annulment, which function as legal instruments to guarantee that every marriage is conducted in accordance with Islamic principles and applicable legal provisions. Marriage prevention serves as a form of preventive legal protection aimed at avoiding marriages that contain legal defects, while marriage annulment functions as a form of repressive legal protection against marriages that are proven not to fulfill the required conditions and pillars of marriage. In addition to safeguarding the validity of marriage, the Compilation of Islamic Law also provides legal protection for the continuity of family life through the regulation of the rights and obligations of spouses as well as marital property. These regulations reflect the principles of justice, balance, and public welfare (*maslahah*), which constitute the primary objectives of Islamic family law. Legal certainty regarding the status of husband and wife, as well as the classification of jointly acquired property and individual property, provides protection for the rights of the parties involved while minimizing the potential for disputes within family life. Based on the findings of this study, it can be understood that the provisions of Articles 60–97 of the KHI function not only as legal norms governing family relationships but also as instruments of legal protection that support the realization of families characterized by harmony, justice, and legal certainty. Therefore, efforts to enhance public understanding and effective implementation of these provisions should continue

to be promoted among both society and legal practitioners so that the objectives of Islamic family law may be achieved effectively.

Keywords: Marriage Validity, Legal Protection, Marriage Prevention, Marriage Annulment, Compilation of Islamic Law.

Abstrak

Penelitian ini bertujuan untuk menganalisis konsep keabsahan dan perlindungan hukum perkawinan dalam Kompilasi Hukum Islam (KHI), khususnya berdasarkan ketentuan Pasal 60–97. Fokus penelitian meliputi keabsahan perkawinan melalui mekanisme pencegahan perkawinan dan pembatalan perkawinan, serta bentuk perlindungan hukum yang diberikan melalui pengaturan hak dan kewajiban suami istri serta harta kekayaan dalam perkawinan. Penelitian ini merupakan penelitian hukum normatif dengan menggunakan pendekatan perundang-undangan dan pendekatan konseptual. Sumber data terdiri atas bahan hukum primer berupa Kompilasi Hukum Islam dan Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan sebagaimana telah diubah dengan Undang-Undang Nomor 16 Tahun 2019, serta bahan hukum sekunder berupa buku, artikel jurnal, dan literatur yang relevan. Data dikumpulkan melalui studi kepustakaan dan dianalisis secara deskriptif kualitatif. Hasil penelitian menunjukkan bahwa pencegahan perkawinan dan pembatalan perkawinan berfungsi sebagai instrumen perlindungan hukum preventif dan represif untuk menjamin keabsahan perkawinan sesuai dengan syariat Islam dan ketentuan hukum yang berlaku. Selain itu, pengaturan mengenai hak dan kewajiban suami istri serta harta kekayaan dalam perkawinan mencerminkan prinsip keadilan, keseimbangan, dan kemaslahatan dalam hukum keluarga Islam. Penelitian ini menyimpulkan bahwa Pasal 60–97 Kompilasi Hukum Islam membentuk sistem keabsahan dan perlindungan hukum perkawinan yang terintegrasi guna mewujudkan keluarga yang harmonis, berkeadilan, dan berkepastian hukum. Oleh karena itu, peningkatan pemahaman dan implementasi ketentuan tersebut perlu terus dilakukan untuk mendukung tercapainya tujuan hukum keluarga Islam di Indonesia.

Kata Kunci: Keabsahan Perkawinan, Perlindungan Hukum, Pencegahan Perkawinan, Pembatalan Perkawinan, Kompilasi Hukum Islam.

INTRODUCTION

Marriage is one of the social and legal institutions that holds a significant position in human life. From an Islamic perspective, marriage is not merely understood as a biological relationship between a man and a woman, but also as a solemn covenant (*mitsaqan ghalidzan*) aimed at establishing a family characterized by *sakinah* (tranquility), *mawaddah* (love), and *rahmah* (compassion). Therefore, the implementation of marriage must comply with Islamic legal principles and applicable statutory regulations to ensure that the objectives of marriage can be achieved optimally. The existence of legal regulations concerning marriage is crucial because marriage affects not only the husband and wife but also the status of children, kinship relations, inheritance rights, and other social aspects of community life.

In Indonesia, regulations concerning marriage for Muslims are derived not only from the Qur'an and Hadith but are also governed by the Compilation of Islamic Law (Kementerian Agama RI, 2020). The KHI serves as a legal instrument that provides legal certainty in the administration

of Islamic family law. One of the important aspects regulated in the KHI is the provision concerning the prevention of marriage, annulment of marriage, rights and obligations of husband and wife, and marital property, as stipulated in Articles 60–97 of the KHI. These provisions demonstrate that Islamic marriage law is not only concerned with the legality of the marriage contract but also provides legal protection for the parties involved in the marital relationship.

Marriage prevention is a preventive legal instrument designed to ensure that a marriage fulfills the requirements and conditions established by law. Through this mechanism, the law seeks to prevent marriages that may result in legal violations or harm to the parties concerned. Marriage prevention reflects the principle of prudence in Islamic law, which emphasizes preventive measures before more complex legal disputes arise (Iqbal et al., 2019). Furthermore, marriage prevention serves as a form of legal protection for individuals and families to prevent them from entering into marital relationships that contradict Islamic principles or statutory regulations.

In addition to the preventive mechanism, the KHI also regulates marriage annulment as a corrective measure for marriages that have already taken place but are later found to contain legal defects. Marriage annulment differs from divorce because it concerns the validity of the marriage from the outset. A marriage may be annulled if it fails to meet the essential requirements and pillars of marriage or violates prohibitions established under Islamic law and positive law. The existence of the annulment mechanism indicates that the law not only regulates valid family relationships but also provides solutions for marriages that do not legally satisfy the applicable requirements.

Legal protection within marriage is also realized through the regulation of the rights and obligations of husband and wife. The marital relationship in Islam is based on the principle of balancing rights and responsibilities, aimed at creating a harmonious household. Such regulations not only position husband and wife as legal subjects with respective rights and obligations but also serve as instruments for protecting family rights. Furthermore, the KHI regulates property within marriage, including jointly acquired property and individual property owned prior to marriage. These provisions provide legal certainty regarding ownership status, management, and distribution of property within marriage, thereby minimizing the possibility of future disputes.

Several previous studies have examined marriage prevention, marriage annulment, and the rights and obligations of spouses separately. Explained that marriage prevention and annulment are legal instruments intended to preserve the validity of marriage and protect parties from adverse legal consequences (Faisal., 2017). Analyzed marriage annulment from the perspective of Law Number 1 of 1974 and found that annulment serves as a mechanism to correct violations of marriage requirements (Rusli, 2013). Emphasized the importance of regulating the rights and

obligations of spouses as a foundation for establishing a harmonious and equitable family (Azizah, 2024).

Nevertheless, previous studies generally discuss these aspects separately and partially. There remains a lack of comprehensive research examining the relationship between the validity of marriage and legal protection within marriage under a single normative framework based on Articles 60–97 of the KHI. In fact, the provisions regarding marriage prevention, marriage annulment, the rights and obligations of husband and wife, and marital property constitute an integrated legal system aimed at preserving the validity of marriage and providing legal protection within the institution of marriage.

Based on the foregoing discussion, this research is important to analyze how the concepts of marriage validity and legal protection are constructed within the Compilation of Islamic Law through the provisions of Articles 60–97 of the KHI. This study is expected to contribute academically to the development of Islamic family law and enrich the understanding of the function of legal protection within the institution of marriage.

This research focuses on two main research questions. First, how is the concept of marriage validity in the Compilation of Islamic Law viewed through the provisions concerning marriage prevention and marriage annulment? Second, what forms of legal protection are provided in the Compilation of Islamic Law through the regulation of the rights and obligations of husband and wife as well as marital property?

Based on these research questions, the study aims to analyze the concept of marriage validity in the Compilation of Islamic Law and to examine the forms of legal protection afforded to parties in a marital relationship under the provisions of Articles 60–97 of the KHI.

This research employs the theory of legal protection and the theory of *maqashid al-shari'ah*. The theory of legal protection explains that law functions to protect the rights and interests of legal subjects through both preventive and repressive instruments. In the context of marriage, marriage prevention constitutes a form of preventive legal protection, while marriage annulment represents a form of repressive legal protection against violations of marriage law provisions.

In addition, this study utilizes the theory of *maqashid al-shari'ah*, which places the protection of religion (*hifz al-din*), lineage (*hifz al-nasl*), property (*hifz al-mal*), and honor (*hifz al-'ird*) as the primary objectives of Islamic law. The regulations concerning marriage prevention, marriage annulment, the rights and obligations of husband and wife, and marital property are manifestations of efforts to achieve public welfare (*maslahah*) and prevent harm (*mafsadah*) in the lives of Muslim families.

METHODS

This study is normative legal research employing both the statutory approach and the conceptual approach. The statutory approach is used to examine the provisions of Articles 60–97 of the Compilation of Islamic Law (Kementerian Agama RI, 2020), which regulate marriage prevention, marriage annulment, the rights and obligations of spouses, and marital property. Meanwhile, the conceptual approach is utilized to analyze the concepts of marriage validity and legal protection within the perspective of Islamic family law.

The sources of data consist of primary legal materials, including the Compilation of Islamic Law and Law Number 1 of 1974 on Marriage, as amended by Law Number 16 of 2019, as well as secondary legal materials in the form of books, journal articles, and other literature relevant to the research topic. Data were collected through library research and analyzed using a descriptive qualitative method to obtain a comprehensive understanding of the concepts of marriage validity and legal protection based on the provisions of Articles 60–97 of the Compilation of Islamic Law.

RESULT AND DISCUSSION

Marriage Validity through Marriage Prevention

Marriage validity is a fundamental element of Islamic family law because it determines the legality of the legal relationship between husband and wife. In the Compilation of Islamic Law (Kompilasi Hukum Islam/KHI), efforts to maintain the validity of marriage are implemented through the mechanism of marriage prevention as regulated in Articles 60–69. These provisions demonstrate that the law not only functions to resolve disputes after violations occur but also serves as a preventive instrument to prevent marriages that contradict Islamic principles and statutory regulations.

Marriage prevention may be carried out when there are circumstances that cause a marriage to fail to meet legal requirements, such as marriage prohibitions arising from blood relations, affinity, fosterage (milk kinship), an existing marital bond with another spouse, or the failure to fulfill administrative and substantive requirements of marriage. These provisions indicate that the validity of marriage in the KHI is determined not only by the performance of the marriage contract (*akad nikah*) but also by the fulfillment of all legal requirements preceding the contract. Therefore, marriage prevention functions as an instrument of legal protection aimed at preserving the integrity and legality of a marriage.

From the perspective of legal protection theory, marriage prevention constitutes a form of preventive legal protection because it is undertaken before legal consequences arise. Through this

mechanism, the law provides interested parties with the opportunity to raise objections to a proposed marriage suspected of violating legal provisions. This preventive measure is important because the legal consequences of marriage extend beyond the husband and wife to include the status of children, family relations, inheritance rights, and property matters.

Which states that marriage prevention is a legal instrument intended to maintain the validity of marriage and prevent violations of marriage requirements and pillars. According to Faisal, marriage prevention is an essential component of the Islamic family law system because it protects the parties from adverse legal consequences in the future (Faisal., 2017).

When analyzed through the theory of *maqashid al-shari'ah*, the provisions on marriage prevention reflect efforts to protect lineage (*hifz al-nasl*) and honor (*hifz al-'ird*). The prohibition of marriages that fail to meet legal requirements aims to prevent uncertainty regarding family status, lineage, and other legal relationships. Therefore, marriage prevention should not be viewed merely as a restriction on individual rights but rather as an instrument for protecting broader societal interests.

Furthermore, the existence of marriage prevention demonstrates a balance between the individual right to marry and the state's obligation to ensure legal order. Through the Religious Courts, the state is granted authority to assess whether a petition for marriage prevention has a valid legal basis. This mechanism reflects the principle of due process of law, as every petition must be examined based on evidence and applicable legal provisions.

The results of this analysis indicate that marriage prevention under the KHI not only serves to preserve the formal validity of marriage but also functions as an instrument of legal protection oriented toward the welfare of families and society. Therefore, the provisions of Articles 60–69 of the KHI play a strategic role in preventing marriages that may potentially lead to legal disputes and social conflicts in the future.

Marriage Validity through Marriage Annulment

While marriage prevention functions as a preventive instrument, marriage annulment serves as a repressive instrument used to correct marriages that have already taken place but are subsequently found to contain legal defects. The provisions concerning marriage annulment are regulated in Articles 70–76 of the KHI and are intended to ensure that every marriage recognized by law genuinely fulfills the required conditions and pillars of marriage.

Marriage annulment differs from divorce. Divorce terminates a valid marriage, whereas marriage annulment concerns the validity of the marriage from its inception. In other words, annulment is carried out because a legal violation exists that causes the marriage to fail to satisfy

the established legal requirements. This condition demonstrates that Islamic family law not only regulates the continuity of family life but also safeguards the validity of legal relationships established through the marriage contract.

Who argues that marriage annulment is a legal mechanism for correcting marriages that fail to comply with legal provisions, thereby providing legal certainty for the parties involved (Rusli, 2013). Explains that the concept of marriage annulment in Islamic law is comparable to the concept of *fasakh*, namely the dissolution of a marital relationship due to specific causes that contradict Islamic principles or positive law (Daharis., 2025).

From the perspective of legal protection theory, marriage annulment represents a form of repressive legal protection because it is carried out after a violation of marriage law has been identified. Such protection is provided through a court decision aimed at restoring the legal situation in accordance with applicable legal provisions. Through this mechanism, the law seeks to protect the injured party while simultaneously maintaining legal certainty within society.

An analysis of Articles 70–76 of the KHI demonstrates that marriage annulment plays a crucial role in preserving the integrity of the marriage law system. Without an annulment mechanism, various violations of marriage requirements and pillars could create legal uncertainty affecting family status, children, and property rights. Therefore, marriage annulment constitutes an indispensable instrument in maintaining the validity of marriage within Islamic family law.

Legal Protection of the Rights and Obligations of Husband and Wife

Legal protection in marriage is not only realized through the regulation of marriage validity but also through the regulation of the rights and obligations of spouses as stipulated in Articles 77–84 of the Compilation of Islamic Law (Kementerian Agama RI, 2020). These provisions serve as the normative foundation for establishing a harmonious, balanced, and responsible family relationship. In Islamic law, the relationship between husband and wife is not positioned as a subordinate one but rather as a partnership based on the principle of complementing one another in carrying out family functions.

The KHI emphasizes that both husband and wife have the obligation to establish a household characterized by *sakinah* (tranquility), *mawaddah* (love), and *rahmah* (compassion). This provision demonstrates that the purpose of marriage is not limited to fulfilling biological needs but also includes creating a family environment capable of providing protection, peace, and welfare for all family members. Therefore, the rights and obligations of spouses must be understood as an inseparable unity.

Normatively, the husband is obligated to provide maintenance, protection, education, and guidance to his wife and family members. Conversely, the wife is obligated to safeguard her dignity, the honor of the family, and the property that constitutes their shared responsibility. This distribution of rights and obligations is not intended to create inequality within the family relationship but rather to establish a proportional system of responsibilities according to the respective functions of each party within the household.

Which argues that the regulation of the rights and obligations of spouses in Islamic family law aims to create a balanced family relationship based on the principles of justice and responsibility (Azizah, 2024). According to Azizah, family harmony cannot be achieved if one party merely demands rights without fulfilling corresponding obligations. Therefore, a balance between rights and obligations constitutes the primary foundation of family life.

Who explains that the concept of the rights and obligations of spouses in the Qur'an is founded upon the principles of cooperation (*ta'awun*) and mutual respect (*mu'asyarah bil ma'ruf*). These principles indicate that the marital relationship is not oriented toward the dominance of one party over the other but rather toward the establishment of a fair and harmonious relationship (Suhartawan., 2022).

When analyzed through the theory of legal protection, the regulation of the rights and obligations of spouses in the KHI represents a form of preventive legal protection aimed at preventing conflicts within the household. By clearly stipulating the rights and obligations of each party, the law provides guidance for husbands and wives in managing family life. These provisions also function as legal standards that may serve as a basis for dispute resolution should conflicts arise within the household.

Furthermore, the regulation of the rights and obligations of spouses reflects the implementation of the principle of justice in Islamic law. Justice in this context does not necessarily mean absolute equality but rather the allocation of rights and responsibilities according to the functions and obligations of each party. Thus, legal protection in marriage is directed not only toward the protection of individuals but also toward the preservation of the family institution as an important social unit within society.

From the perspective of *maqashid al-shari'ah*, the regulation of the rights and obligations of spouses aims to protect lineage (*hifz al-nasl*) and honor (*hifz al-'ird*). A harmonious family relationship creates a conducive environment for the growth and development of family members, particularly children. Conversely, an imbalance in the fulfillment of rights and obligations may generate conflicts that threaten family stability.

Therefore, the provisions of Articles 77–84 of the KHI not only serve a normative function as legal rules but also perform a social function in fostering families based on the values of justice, responsibility, and public welfare (*maslahah*). These provisions constitute one form of legal protection provided by both the state and Islamic law to preserve the continuity of the institution of marriage.

Legal Protection of Property within Marriage

In addition to regulating the personal relationship between husband and wife, the Compilation of Islamic Law also provides legal protection for the economic aspects of family life through the regulation of marital property as stipulated in Articles 85–97 of the KHI. These provisions are important because property-related issues often become a major source of disputes in family life, both during the marriage and after its dissolution.

The KHI classifies marital property into two main categories: jointly acquired property (*harta bersama*) and individual property (*harta bawaan*). Jointly acquired property refers to assets obtained during the course of the marriage, while individual property consists of assets owned by each spouse prior to marriage or acquired through gifts and inheritance. This distinction demonstrates the existence of legal certainty regarding property ownership, thereby minimizing the potential for future disputes.

From the perspective of legal protection, the regulation of jointly acquired property represents a form of protection for the contributions made by both spouses within family life. Although one party may not directly generate income, contributions in the form of household management and child-rearing are nevertheless recognized as essential elements in the accumulation of jointly acquired property. Therefore, the law acknowledges the rights of both spouses over property obtained during the marriage.

The regulation of individual property also reflects the commitment of the law to protecting individual property rights. Assets owned prior to marriage or acquired through gifts and inheritance remain under the control of the respective owner. This provision demonstrates a balance between family interests and individual rights within the Islamic family law system.

When analyzed through the theory of legal protection, the provisions concerning marital property perform both preventive and repressive functions. The preventive function is reflected in the existence of rules that provide legal certainty regarding the status and management of property during marriage. Meanwhile, the repressive function is reflected in provisions that may serve as a legal basis for resolving property disputes arising from divorce or other family conflicts.

From the perspective of *maqashid al-shari'ah*, the regulation of marital property constitutes a form of protection of property (*hifz al-mal*). One of the primary objectives of Islamic law is to safeguard property rights and prevent unlawful appropriation of wealth. Therefore, regulations concerning the status, management, and distribution of property within marriage are essential components in promoting justice and public welfare.

An analysis of Articles 85–97 of the KHI demonstrates that legal protection of marital property is intended not only to regulate the economic relationship between husband and wife but also to provide legal certainty regarding the rights of the parties involved. Such legal certainty is crucial in preventing disputes and ensuring fairness in the distribution of property when a marriage ends due to divorce or other causes.

Accordingly, the regulation of marital property constitutes an integral component of the system of legal protection of marriage under the Compilation of Islamic Law. These provisions illustrate that Islamic family law is not solely concerned with the spiritual and social dimensions of marriage but also pays significant attention to the economic aspects of family life as an essential element in achieving household welfare.

CONCLUSION

This study demonstrates that the Compilation of Islamic Law has established an integrated system of marriage validity and legal protection through the provisions of Articles 60–97. The validity of marriage is ensured through the mechanisms of marriage prevention and marriage annulment, which function as legal instruments to guarantee that every marriage is conducted in accordance with Islamic principles and applicable legal provisions. Marriage prevention serves as a form of preventive legal protection aimed at avoiding marriages that contain legal defects, while marriage annulment functions as a form of repressive legal protection against marriages that are proven not to fulfill the required conditions and pillars of marriage.

In addition to safeguarding the validity of marriage, the Compilation of Islamic Law also provides legal protection for the continuity of family life through the regulation of the rights and obligations of spouses as well as marital property. These regulations reflect the principles of justice, balance, and public welfare (*maslahah*), which constitute the primary objectives of Islamic family law. Legal certainty regarding the status of husband and wife, as well as the classification of jointly acquired property and individual property, provides protection for the rights of the parties involved while minimizing the potential for disputes within family life.

Based on the findings of this study, it can be understood that the provisions of Articles 60–97 of the KHI function not only as legal norms governing family relationships but also as instruments of legal protection that support the realization of families characterized by harmony, justice, and legal certainty. Therefore, efforts to enhance public understanding and effective implementation of these provisions should continue to be promoted among both society and legal practitioners so that the objectives of Islamic family law may be achieved effectively.

REFERENCES

- Azizah, A. I. (2024). Hak dan kewajiban suami istri dalam hukum keluarga Islam. *Maliki Interdisciplinary Journal*, 1(2), 45–58.
- Daharis. (2025). Pembatalan perkawinan dalam hukum Islam dan hukum positif Indonesia. *Jurnal Kajian Syariah*, 8(1), 112–128.
- Faisal. (2017). Pencegahan dan pembatalan perkawinan dalam perspektif hukum Islam dan peraturan perundang-undangan di Indonesia. *Al-Qadha: Jurnal Hukum Islam dan Perundang-Undangan*, 4(2), 35–49.
- Iqbal, M., dkk. (2019). Pencegahan perkawinan dalam perspektif hukum keluarga Islam. *Jurnal Hukum Keluarga Islam*, 6(1), 23–38.
- Kementerian Agama Republik Indonesia. (2020). Kompilasi Hukum Islam. *Jakarta: Direktorat Jenderal Bimbingan Masyarakat Islam*.
- Mahdi, M., dkk. (2023). Pembatalan perkawinan dalam perspektif hukum Islam. *Jurnal Hukum dan Syariah*, 15(2), 67–81.
- Republik Indonesia. (1974). *Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan*. Jakarta: Sekretariat Negara.
- Republik Indonesia. (2019). *Undang-Undang Nomor 16 Tahun 2019 tentang Perubahan atas Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan*. Jakarta: Sekretariat Negara.
- Rusli, T. (2013). *Pembatalan perkawinan berdasarkan Undang-Undang Nomor 1 Tahun 1974 tentang perkawinan*. *Jurnal Pranata Hukum*, 8(1), 1–12.
- Suhartawan. (2022). Hak dan kewajiban suami istri dalam perspektif Al-Qur'an. *Tafakkur: Jurnal Ilmu Al-Qur'an dan Tafsir*, 3(1), 21–35.
- Zakaria, A., dkk. (2024). Pencegahan perkawinan sebagai instrumen perlindungan hukum dalam hukum keluarga Islam. *Jurnal Al-Ahwal*, 17(1), 55–72.