

## Mubadalah in Fulfilling the Rights and Obligations of Contemporary Husbands and Wives

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### Abstract

The man is the head of the household, and the wife is the housewife. That is the paradigm embedded in our society in general, because so far men have always been the main ones at the forefront while wives have always been in a limited area. The problem is that contextually, the role of women is no longer in the domestic area alone, but many have also played a role outside the home to help their husbands earn a living. The question is how can the rights and obligations of husband and wife be exercised in this context? The purpose of this research is to obtain a reconstruction of new rights and obligations that are based on fikih mubadalah. This research is a literature review, qualitative type with a mubadalah approach. The result of this research is that the partners between men and women in realising justice in the household must be equal, such as mutual deliberation, mutual democracy and mutual kindness in relationships.

**Keywords:** Contemporaneo, Mubadalah, Rights and Obligations



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## INTRODUCTION

Classical jurisprudence has regulated the roles of men and women in a household, where the man's position is as the leader in the household and the wife is the housewife (Nurani 2021). The role of the man as head of the household means that he is absolutely responsible for the livelihood needed by his wife and children, as well as the role of the wife who is also always obliged to take care of all the needs in the house, starting from her role of helping and serving her husband, as well as taking care of and caring for children at home (Hermanto, Meriyati, and Setianto 2021). This is also in line with Indonesian legislation, both Law Number 1 of 1974 concerning Marriage and the Compilation of Islamic Law (KHI) (Aswat, Hazarul, and Rahman 2021). The roles of men and women normatively, both in classical fiqh studies and Indonesian legislation, have explicitly regulated that the husband is the head of the household, and the wife is the housewife.

Legislation of laws and regulations in Indonesia is allegedly inseparable from the process that makes classical fiqh studies the main source of reform in Indonesia. The classical fiqh concept of the role and position of husband and wife is based on the word of Allah, in Surah al-Nisa verse 34 and al-Tahrim verse 6 and in the hadith of the Prophet Muhammad, "It is enough for a man to sin when he wastes his dependents." (HR. Muslim). (Khairuddin and Salam 2021).

Most scholars, including Hanaffiyah, Malikiyah, Syafi'iyah and Hanabilah, have no disagreement about the concept of the roles of men and women in the household (Masruchin and Nuraeni 2021). Law No. 1 of 1974 in Articles 30 to 36 and the Compilation of Islamic Law (KHI) in Articles 77 to 78 (Nurjanah et al. 2022).

In the context of fiqh, it has instilled the values of equality between husband and wife in the form of rights and obligations, if the rights and obligations of husband and wife are each carried out properly, then there will be no problems in running the wheels of the household. But not a few in a household there is a conflict caused by the non-implementation of rights and obligations between them properly, this is due to the patrilineal and superior system between husband and wife, so that a good partner is not built. The lack of good communication is due to the lack of rahmah and akhlakul karimah, because if mutual love and accompanied by noble morals, there will be no internal conflict in a household.

The study of mubadalah is important to realise a sakinah family that is accompanied by the existence of harmony between them which is realised by the realisation of rights and obligations between them and carrying out their responsibilities in accordance with their functions, both husband and wife. If this concept is well implemented, it will realise a harmonious family and will contribute to the renewal of the concept of rights and obligations built on the concept of mubadalah.

There have been many studies that discuss the concept of family law, such as the dissertation of UIN Syarif Hidayatullah. Ahmad Tholabi Kharlie, Indonesian Family Law, in accordance with its mission, the modernisation of family law in Indonesia can manage the behaviour of Indonesian society. This can be seen from several aspects of modernisation. Modernisation of family law has also been able to reduce the number of polygamy and divorce in Indonesia. Abdul Halim's dissertation, Political Islamic Law in Indonesia, this dissertation proves that the policy of transforming Islamic law into national law has no relationship with the struggle towards an Islamic state or Islam as the basis of the state. On the contrary, the legislation of Islamic law into state legislation has a positive contribution in strengthening the bonding power of Muslims to the commitment of the nation state (nation state) because syariah can go hand in hand and compatible with Pancasila and the 1945 Constitution. The process of transforming Islamic law into national law is labelled as "constitutional theory" and "democratic theory". (Halim 2008).

Dissertated by Abdul Mustaqim, discussing the "Feminist Tafsir Paradigm of Reading the Quran with Women's Optic Discussing Riffat Hasan's Thought on Gender Issues in Islam", hermeneutic analysis (fiqh tafsîr al-ta'wîl), he views that feminist mufasssirs only want to contextualise the understanding of the Qur'an, by capturing the spirit of the idea behind the literal text. They do not change or reject the Qur'an. Rather, they only want to develop the interpretation of the Qur'an. Because rejecting a product of interpretation of the Qur'an is not the same as rejecting the Qur'an itself. This tends to study in general related to this matter. Yunahar Ilyas's dissertation, Seminism in the Study of Classic and Contemporary Tafsir al-Qur'ân, examines that the verses of the Qur'ân are fair in viewing human degrees, only devotion measures a person. In another book entitled Gender Equality in the Qur'an Studies of the Thoughts of the Mufasssirs, which discusses several verses that are considered discriminatory against women, namely about equality in creation, equality in prophetic rights, equality in

marriage (guardianship, divorce, polygamy, interfaith marriage, and leadership in the family), equality in inheritance and equality in public roles. (Ilyas 2006)

Nasaruddin Umar's dissertation, *Arguments for Gender Equality in the Perspective of the Qur'an*, thoroughly examines verses that are considered contrary to gender equality, interpreting the interpretation of verses that are considered incompatible with the religious mission of justice (Umar 2001), and Dewani Romli's dissertation, *Indonesian Islamic Family Law Reform in the Perspective of Maqāshid al-Syarī'ah and Its Application (Analysis of Counter Legal Draft-Compilation of Islamic Law)*. Examines CLD-KHI, especially related to marriage guardians, witnesses in marriage, inheritance distribution and polygamy. (Romli 2016)

Some of the studies above have offered a strategy to build a *sakinah* family by continuing to carry out the rights and obligations between husband and wife with the awareness that a *sakinah* family is a common goal and does not belong to one of them. However, the research above has not implicitly elaborated in detail on the role of both by looking at a *mubadalah* study that instils the values of *rahmah* and *akhlakul karimah*, because a right and obligation can be built by each family or household, but there is no progressive concept in the form of alignment between the two, generally patrilineal, bilateral and even gender-based bilateral systems, but it has not instilled the value of love that must be built based on *akhlakul karimah*.

Therefore, it is actually very important if the concept of *fikih mubadalah* can be instilled and initiated so that all possibilities of conflict can be resolved in a wise, wise and beneficial way. There have been many theories of conflict, and even problem-solving against violent cases, but this study is oriented towards *fikih mubadalah*, as well as being able to initiate new products in the world of *ijtihad*. The door to *ijtihad* is always open and never closed, it's just that to realise different patterns of legal products (which are influenced by social and cultural), it must also use different methods. Likewise, in initiating a new style of *fiqh*, in this case gender theory is offered, which is carried by Muslim feminists, whether liberal, radical, Marxist or socialist.

## RESEARCH METHODS

This research is a type of qualitative research in the form of a library study, which is a literature study that examines the thoughts of classical and contemporary scholars about the offer of the concept of a *sakinah* family in carrying out the rights and obligations of husband and wife, then this study is analysed with a new study in the form of a *mubadalah* study which is a new contribution to be able to realise family law reform based on *mubadalah* and in partnership between the two.

## RESULTS AND DISCUSSION

*Mubâdalah* is an Arabic word that means exchange, whether physical such as trade or non-physical such as tolerant behaviour (Kodir 2019), it also means reciprocity, reciprocity, or reciprocity. This word is used for an understanding and movement of resistance to all forms of values and behaviours that are tyrannical, hegemonic, discriminatory and oppressive, and changes to norms and perspectives on women's and men's relations that lead to values of reciprocity, loyalty, cooperation, equality and togetherness, for a better, fairer, peaceful and prosperous life. Precisely, for the happiness of both in this world and in the hereafter.

Linguistically, it is the perspective of equality. In terminology, it can be defined as "Islamic principles regarding the interdependence of men and women in carrying out their gender roles in the domestic and public spheres, based on equality between them, justice and benefit for both, so that one does not hegemonise the other, or become a victim of injustice from the other. Rather, it is a relationship of mutual support, co-operation, and mutual assistance".

In a simple explanation of this mubādalāh perspective, if smiling, friendliness, serving, and all pleasant actions are good for the wife to do to the husband, then it is also good for the husband to do to the wife. Likewise, if speaking badly, being ungrateful, insulting, swearing, hitting, violence, and performing any unpleasant actions are bad for the husband to receive from the wife, they should also be avoided by the husband so that they do not happen to the wife at all. This is an example of an explanation in domestic life. (Kodir 2019)

In the public sphere, the mubādalāh perspective requires the equality of women and men as citizens in the eyes of the law. Thus, both have the same rights and obligations, in order to complement, strengthen, and build a good social life for the whole community. Like men, women must also be given ample opportunities to contribute to the public sphere and benefit from it. At the same time, men should also be encouraged to contribute to the domestic sphere and enjoy intimacy with their families, especially children (Kodir 2017). Of course, this does not exclude the possibility of distinctive differences between men and women. There are even differences among individuals, especially those with special needs.

This life belongs to both men and women, so it should benefit both. Islam was also revealed for the benefit of both, so its texts must be read to ensure that both receive this benefit. In the meantime, there are many aspects of life that are only for men, but not for women. Similarly, many aspects of domestic life are imposed on women, but not on men. Likewise, Islamic texts are read, mostly, with men as the subject of the text and women as its object. (Werdiningsih 2020)

For example, we are only familiar with the concept of a righteous wife for a husband. But rarely are we introduced to the concept of a righteous husband for a wife. We are also often instilled with the assumption that women are seducers and charmers (*fitnah*), so control and all kinds of restrictions on their activities become legitimate. We forget that men are also seducers and charmers, and we let them do all the real damage. We also often give credit to men as fathers of households and breadwinners. We forget to appreciate, even deny, the many facts of women who support the family. For these things, the perspective and method of mubadalah is important to present. (Refrensi Mubadalah 2016)

There are many verses that form the basis of mubādalāh. Among the most obvious is at-Taubah verse 71. This verse confirms the equality between men and women. Where one is a helper, support, lover, and supporter of the other. Various classical commentaries, both from the textual (*bi al-ma'tsūr*) and rational (*bi al-ra'yi*) schools, interpret the phrase *ba'dhum awliya' ba'din* as helping (*tanāṣur*), loving (*tarāḥum*), loving (*taḥābub*) and supporting (*ta'ādud*) each other. One another. With these meanings, the phrase (*ba'dhum awliya' ba'din*) shows the parallel and equality between one another.

There are many other verses, such as (al-Baqarah, 2: 197; 232; 233, Ali Imrân, 3: 195, and an-Nisâ 4: 19) which specifically emphasise the perspective of explicit equality between

men and women, both in the social and domestic spheres (Santoso 2020). In addition to general verses on the importance of equality in life, such as verses al-Mâidah (5: 2) and al-Anfâl (8: 72).

The most inspiring hadith text for mubadalah is the following narration: "It was narrated from Anas ra, that the Prophet said: "None of you has faith until he loves for his brother what he loves for himself". The Muslim narration adds: "or for his neighbour what he loves for himself". In the narration of al-Nasa'i there is an addition: "what is loved for himself from good things". Ahmad's narration reads: "None of you has faith unless he loves for others what he loves for himself". (Sahih Bukhari no. 13, Sahih Muslim no. 179, Sunan at-Turmudhi no. 2705, Sunan an-Nasai no. 5034, Sunan Ibn Majah no. 69, and Musnad Ahmad no. 14083).(Refrensi Mubadalah 2016).

The concept of mubâdalah is actually one of the methods that directly integrates with gender issues, more than that, the concept of mubadalah actually becomes a counterweight to liberal gender theory (the liberal in question is excessive in addressing human rights, giving rise to negative accusations against men, with the argument of equality). The concept of mubâdalah can actually be used as a rule of text interpretation, and more than that it can also initiate a new style of fiqh that is neglected, especially those related to gender relations issues. Thus, texts that are linguistically for men can target women, as well as texts for women also include men. As long as the message of the text is general and covers both genders. Meanwhile, the dichotomy between texts for men and texts for women has given birth to various interpretations of Islam regarding gender that are absolute, sexist, unequal, and perpetuate various violence against women. This dichotomy has also given birth to a dominant, hegemonic and ultimately destructive culture of one gender over another.(Kodir 2019)

When confronted with a text, whether Qur'anic or Hadith, do not fixate on the subject object which usually contains male and female elements. The Arabic language is very thick with typical male or female word and sentence structures. Instead, focus on the message the text is trying to convey. Relate this message to the principles of equality that are scattered in various other verses and hadith. Then apply the message in a reciprocal way. If it is literally from men to women, then it can be from women to men. So that the message of the text can be applied by and for both of them.

For example, the verse ar-Rûm (30:21), in Arabic, is for the man as the speaker so the object is the wife. "Allah created for you (Arabic "kum" meaning you men) wives so that you may find peace from them (wives)". This is a literal translation. But the main message of the text is about marriage creating mutual tranquillity between husband and wife (see for example QS. 2: 187). The technique of reciprocal interpretation: take the main message and then reverse the subject and object. So, "Allah also created you (O women) your husbands so that you can find peace from them". Since the Indonesian language does not recognise gender, it can actually be directly translated which is more reciprocal. Namely: "Among His verses, He created for all of you couples (marriage), so that you can find peace from them".

For example, the verse in al-Baqarah (2:223) states that "your wives are a field (of sex) for you, so deal with them in a way that pleases you". This is of course a literal interpretation by seeing the text inviting men to speak and women becoming their objects. If it is to be interpreted in mubâdalah, then it can be interpreted: "your husbands, O wives, are a field of sex

for you, so deal with them accordingly and in a way that can bring you pleasure". This is because sexual activity and pleasure, as explained in various verses and hadiths, is a shared right between husband and wife. Therefore, the verse must be interpreted reciprocally. Otherwise, it will be unequal, and women can never be subjects in terms of sexual activity and benefits.

The first interpretation is a literal interpretation, while the second is a mubâdalah/reciprocal interpretation. If in more neutral Indonesian, the translation of the verse in mubâdalah could be as follows: "Your marriage partner is your sexual field, so you can have sex with them according to your (pleasure)".

In general, not just religious texts but all texts and realities. Because the reality of life can never be separated from the identity of men and women. If we believe in the principles and values of equality, then the method can be applied. But of course, as the fiqh rule "likull qa'idatin mustatsnayat", the exceptions are also undoubted. Especially for things that are biological in nature, such as pregnancy and breastfeeding. Therefore, this rule of interpretation still needs to be refined by various parties. (Anggoro 2019)

Mafhûm mubâdalah can also be developed as a node of teachings and laws related to issues of men and women's relations in Islam. This node is commonly known as the "Rule of Fiqh Law". Thus, the fiqh rule of mubâdalah can be formulated in the following sentence: "What is maslahat (good) for one of the sexes must be brought in for both of them and what is mudarat (bad) for one of them must also be kept away from both of them." (deskripsi tingkat perspekti dan metode mubadalah 2016).

### **Forms of Gender Injustice**

Gender injustice is a system and structure where both men and women are victims of the system (Hermanto 2017a). According to Masdar Farid Mas'ud, quoted by Sofyan in Feminist Jurisprudence. There are five forms of gender injustice as a manifestation of gender bias, namely, First, Burden, women bear more and longer domestic workloads than men. Second, Subordination, the underestimation (subordinating) of women in all fields (education, economy, politics). Third, Marginalisation, the process of impoverishment of women because they are not involved in decision-making in important matters related to the family economy. Fourth, Stereotype, the negative labelling of women, because they are considered as additional breadwinners. Fifth, Violence, the existence of physical and psychological violence against women because of the husband's assumption as the sole ruler in the household. (Hermanto 2017a)

According to Mansour Fakh, gender injustice is manifested in various forms of injustice, namely; 1) marginalisation or the process of economic impoverishment, 2) subordination or insignificance in political decisions, 3) stereotype formation or through negative labelling, 4) violence, 4) burden, longer and more workloads, and socialisation of gender role value ideology. (Hermanto 2017b)

According to Yunahar Ilyas, gender injustice comes from a misunderstanding of the concept of gender with the concept of sex. Although from a linguistic point of view gender and sex have the same thing, namely sex, but conceptually the two words have many meanings of inequality. (Ilyas 2006)

There are many factors that cause women to experience gender bias (inequality), so they are not yet equal. 1) the patriarchal culture that has dominated society for so long, 2) political

factors, which have not been fully in favour of women, 3) economic factors, where the global capitalism system that has swept the world, often exploits women, 4) gender-biased interpretation of religious texts.(Mustaqim 2008)

According to Masour Fakhri there are five factors, which make women oppressed, namely, First, the existence of male arrogance which does not provide opportunities for women to develop optimally. Second, the assumption that men are the main breadwinners in the family. Third, the existence of a culture that always favours men has taken root in society. Fourth, discriminatory legal norms and political policies. Fifth, Women are very vulnerable to rape or sexual harassment and if it happens it will damage the image and norms both in the family and society, so women must be restrained by special rules that translate women in the domestic area only.

According to Nasharuddin Umar, as follows; 1) the lack of clarity between sex and gender in defining men and women. 2) the influence of Isra'iliyyat stories that developed widely in the Middle East. 3) the method of interpretation that has so far referred to the textual approach rather than contextual. 4) Another possibility is that the reader is not neutral in assessing the texts of the Qur'anic verses or is influenced by other perspectives in reading the verses related to gender, so that it seems as if the Qur'an favours men and supports the patriarchal system which is considered by feminists to be detrimental to women. Gender bias can be caused by reading gender verses in a partial manner.(Umar 2001)

According to Iskandar Ritonga, cited by Sufyan that the factors causing gender discrimination and injustice are caused by; 1) the interpretation of religious texts (Islam) that are gender biased, 2) the existence of social constructions (customs and culture) that place women in a position that is not equal to men, 3) the existence of labelling that is detrimental to women, 4) the existence of discriminatory laws, 5) the attitude of law enforcers who are not sensitive to legal issues.(Sofyan Zulkarnain Suleman 2014)

Husein Muhammad said, sociologically and culturally, Islam was first present in Arab society which was very thick with patriarchal culture. They glorified men and maleness, and on the contrary, they underestimated the potential of women. Such a culture influenced and shaped the awareness and assumptions that women are passive beings, while men are destined to be active. Such awareness and assumptions have also greatly influenced the forms of religious appreciation that we have inherited to this day.(Muhammad 2007)

Yunahar continues that the construction and historical journey of human civilisation is influenced by various factors, namely; social, cultural, economic, political, including interpretations of religious texts.(Ilyas 2006)

According to Syafiq, Hasyim, there are at least seven basic characteristics of jahiliyah treatment of women that Islam rejects, namely; First, women are human beings who are not recognised by law. Second, women at this time were perceived as property. Secondly, women do not have the right to divorce. Third, women do not have the right of inheritance, but even inherited like land, animals and other objects of wealth. Fourth, women do not have the right to care for their children. Fifth, women do not have the freedom to spend their property. Sixth, the burial of baby girls alive.(Hasyim 2001)

### Concept of Gender Justice

The Qur'an basically principles justice, equality, democracy and good neighbourliness, namely by; First, the principle of justice (al-adl). There is no doubt that the formation of Islamic fiqh discourse is inseparable from the principle of justice, the Imams built the discourse of fiqh with justice and dhabit-annya. So, in this context, the principle of justice in fiqh is the balance in viewing the rights and obligations between women and men in a professional manner, in accordance with the nature of the origin of the two types of humans who were created equal (equal) and balanced by Allah SWT. This kind of justice is in line with the nature of Allah Swt., who is the Most Just and clearly stated in the Qur'an that God never does injustice. The Qur'an as the word of God cannot be used as a source of human injustice, and justice towards Muslim women cannot be understood as God-derived.

The goal of Islam is to establish justice on earth. Equality and balance as the main principles of justice referred to above must be scheduled in the context of forming a new fiqh from the perspective of gender justice. Gender justice means seeing men and women as equal, not based on differences, not differences that are natural.(Hasyim 2001)

Second, the principle of equality (musâwah). This equality must cover various fields and levels of life. What is meant by the principle of equality in this case is not to equate physically between men and women. And this is also strongly denied by feminists. Equality here means equality between the rights and obligations of men and women in front of Allah, because many of the inequalities between men and women are caused by socio-cultural constructions, not by religion itself. Allah, the Almighty, states that all servants of Allah, the Almighty, are equal before him. The only difference is the value of piety. Piety is not gender-biased because everyone is given the right to achieve it.(Hasyim 2001)

Third, deliberation (shura). Although deliberation is only mentioned once in the Qur'an, in the practice of the Prophet's life, deliberation was often carried out, especially when he wanted to carry out war strategies or other matters of public interest. In this deliberation between the Prophet and the Companions, they did not always have the same viewpoint; in fact, they could sometimes differ sharply. This happened, for example, when the Apostle and the Companions made a strategy for the Battle of Uhud.

In the modern world, the concept of shura is often identified with democracy. It may be epistemologically similar, but that does not mean there are no similarities between the two, especially in practice. The most important similarity is that they both absorb the aspirations of the community and decision-making is not only based on the opinion of one person but follows the most reasonable vote or the one that gets the most support. This is why modern Islamic intellectuals equate shura and democracy as synonymous.

It turns out that the concept of shura is not only useful for macro matters (public life), such as state affairs, but also useful for micro matters (private life), for example, in family life. In the context of family life, it is expected that this shura becomes a mechanism in resolving conflicts that may occur. In relation to the agenda of reconstructing a new gender-perspective fiqh, the concept of shura is also expected to provide an epistemological platform that a science must be compiled based on democratic principles, meaning free from certain biases, including gender bias.



Fourth, *Mu'asyarah bi al-ma'rûf*. *Mu'asyarah bi al-ma'rûf* is an act that humanises humans because this principle considers all humans to be treated well, especially in the relationship between husband and wife. *Ma'ruf* is not only related to good (*khair*), but also contains goodness that pays attention to particularity and locality. The application of *mu'asyarah bi al-ma'ruf*, as well as making particularities related to the character of women at least understandable. (Hasyim 2001)

### **Recognising Parity in Rights and Obligations**

Jurisprudence is a science of *shar'iyyah* rulings obtained through the process of *istidlal*, but these rulings are often referred to as *fiqh*. Nowadays, the term *fiqh* is no longer intended as a set of knowledge about the law, but the *fihiyyah* laws themselves are called *fiqh*. In other words, *fiqh* is a legal product produced by scholars based on their understanding of a text. Therefore, the truth of *fiqh* is not an absolute truth (*qadh'i*), but a *dhanni* truth. (Sofyan Zulkarnain Suleman 2014)

Materially, the seeds of women's (feminist) *fiqh* (Bhasin 1995) have been around for a long time, although the form is still very simple, namely just a categorisation and classification of which matters are the affairs and responsibilities of women and which matters are prohibited for women, both in worship, *muamalah* and *al-ahwâl al-syakhsiyyah*, even though what is emphasized is the dryness of *fiqh* from a gender perspective and a rational defence of women.

Feminist jurisprudence in the context of Islamic tradition is very important and urgent for the present, with the realisation of social transformation, especially in Indonesian society, in this case to free Muslim women and men from social structures and teaching systems that do not allow them to build equal and equitable patterns of relationships.

Throughout the history of Islam, we have recorded several efforts to reform Islamic law, both radically and gradually. This is not surprising because efforts to reform Islamic law are very possible as long as they still refer to the moral values of the Qur'an which are translated into six main principles as follows; 1) the dynamics of the times that continue to develop which gave birth to various forms of social change, 2) Islamic law reform is carried out on matters not concerning *shari'i* (basic principles of religion), but only revolves around *fihi* issues (the results of scholarly thinking on *shari'ah* that is *insaniyyah*, and temporal), 3) Islamic law reform based on the principle of "keeping the old that is still relevant, and taking a new one that is better". 4) Islamic legal reform must be followed by a critical attitude towards the treasures of classical scholars without losing respect for them, 5) Islamic legal reform means understanding and reassessment of the entire Islamic tradition, including the interpretation of the Qur'an or *hadith* and also the law, by understanding morally, intellectually and contextually, and not fixated solely on the formal legal aspects of the law that tend to be *persial* and local, 6) Islamic legal reform still adheres to *maqashid al-ahkam al-syar'iyyah* and for the sake of achieving the benefit of the people. (Munti 2005)

According to Ferdinand de Saussure, quoted by Syafiq Hasyim, there are two kinds of methods in reading texts, namely; 1) *tazammuni* (synchronicity), reading a text by linking a past reality with the reality of the present, 2) *isqathi* (diachrony), reading a text with a meaning that develops with the contemporary period breaking all ties of past meanings. (Hasyim 2001).

According to Khoiruddin Nasution, there are two traits of modern Islamic law reform, namely; 1) *intra doctrinal* reform, this trait appears with the reform of Islamic family law carried

out by combining the opinions of several madzhab imams or taking the opinions of madzhab imams outside the madzhab adopted. 2) extra doctrinal reform, which reforms family law by giving a completely new interpretation to the existing texts. This is what is then called *ijtihad*. (Nasution 2012).

Gender is basically a difference in sex that is not biological and not God's nature. While sex is God's nature and therefore permanently and universally different, gender is a socially constructed difference between men and women. A difference that is not actually God's nature, but a difference that is deliberately created, both on the part of men and women through a very long social and cultural process.

The Qur'an and Sunnah, as a guide to life for Muslims, contain universal values that guide human life. These values include humanity, justice, equality, freedom and so on. Regarding the value of equality and justice, Islam never tolerates differences and discrimination. It is proven that the position of men and women is equal. Among others QS. Al-Baqarah/2: 187, QS. Ali Imran/3: 195, QS. Al-Taubah/9: 71 and others. All of them prioritise the principle of equality in viewing women and men, both in terms of worship and domestic life.

Islam teaches everyone about equality, that women do not only work in the household, but they also have the right to receive education equal to men. The concept of equality in the household has become an interesting discussion along with the emergence of feminism that demands equality between men and women in all aspects. Discussions about women's nature also coloured this debate.

Talking about feminism etymologically Emancipation of women, (Al-Barry 1994) means talking about the nature of feminism by investigating the nature and reality of feminism with rational reflection and logic synthesis analysis. This can vary according to the paradigm, i.e. the view of the fundamentals on the subject matter of the object under study (subject matter).

Feminist mufassirs actually only want to contextualise the understanding of the Qur'an, by capturing the spirit of the idea behind the literal text. They do not change or reject the Qur'an. But only want to develop the interpretation of the Qur'an. Indeed, rejecting a product of interpretation of the Qur'an is not the same as rejecting the Qur'an itself.

The feminist interpretation paradigm model tends to assume that verses about gender relations are contextual, not a normative statement that is a state of being, but a state of becoming. In other words, verses such as those on inheritance, polygamy, leadership, hijab, testimony and the rights and duties of husband and wife, only explain the socio-historical reality of Arab society at that time. Unfortunately, by the classical mufassirs and their followers, the verses that are actually sociological in nature tend to only be understood in a literal and textual manner, so that the results of interpretation when read in the current context look gender biased.

Along with the emergence of gender issues that are increasingly lively echoed by women activists, both on a local, national and international scale, the reconstruction of the method of interpretation of the Qur'an becomes something that is undoubtedly, in order to produce interpretations that are more gender sensitive and able to capture social humanitarian problems.

According to Asghar Ali Engineer, that in terms of equality between men and women, at least implies two things; 1) in its general sense, this means acceptance of the dignity of both sexes in equal measure, 2) people must know that men and women have equal rights in the social, economic and political fields. (Engineer 1994)

When talking about *fiqh* which is the result of *ijtihad*, it will actually produce *istibath* which is *furu'i*. *fiqh* will always develop and update according to the situation and conditions. In the concept of *fiqh mubâdalah*, there are several important things contained in it, namely; First, how the relationship between husband and wife in a family. Second, this book offers the concept of piety with justice which is also a critique of the concept of modern feminism theory. Furthermore, Faqihuddin, the author of *Qiraah Mubadalah*, explains that equality in the relationship between husband and wife in Indonesia is still not fully implemented. Social constructions that position women lower than men hinder the fulfilment of this justice, so that women are often in a difficult position when faced with household conflicts. (Hakim 2020)

The concept of *mubâdalah* basically teaches us to view others and ourselves as equally honourable human beings, this is in accordance with the hadith "*laa yu'minu ahadukum hatta yuhibba li akhihi ma yuhibba linafsihi*," In responding to the theory of global feminism, by looking back at the concept of justice sourced from the Qur'an and hadith in order to provide criticism and counterbalance western theory to pesantren science that prioritises the benefit of the people sourced from the teachings of *salafus shalih*. (Kodir 2019)

The book *Qira'ah Mubadalah* offers interpretations and works of interpretation of texts and traditions with the perspective of equality between men and women, or *mubadalah*, on the verses of the Qur'an, hadith texts, and the heritage of classical scientific traditions. This interpretation comes in the spirit of *Islam rahmatan lil 'alamin*, that the grace of Islam is for men and women. Both, not just one of them. What is needed is cooperation based on mutual trust, not mutual suspicion and fear. Moreover, exploitation, coercion, and violence.

This *mubâdalah* interpretation is based on a reciprocal perspective that consciously places women and men as whole and equal human subjects, each other not hegemonic, but mutually supportive and complementary. It is an interpretation that tries to transform hierarchical relations into egalitarian, co-operative, and reciprocal ones. So that justice is not defined essentially for moral and social order where men are positioned higher and served, but true and substantial justice where both men and women are positioned as equal human beings and partners who cooperate with each other. Equality while paying special attention to the biological differences of women who menstruate, become pregnant, give birth, and breastfeed, as well as the potential of those who are socially marginalised.

In the perspective of *mubâdalah*, religious interpretations and religious practices should not be used as a basis for the domination of one sex over the other. Moreover, allowing tyranny and preserving hegemony. That there are differences between men and women is undoubtedly. But not to distinguish one as more noble and more important than the other. Morally and religiously, one should not be more selfish and arrogant than the other. Nor should one be marginalised and humiliated because of the other. Neither should anyone be a victim of physical, mental, economic, political and social violence. Especially in the name of Islam.

This book emphasises a religious perspective that focuses on the balance of relations and interconnectedness. I call this perspective and approach as *mubdalah* or the perspective of equality in interpreting issues of gender relations in Islam, based on source texts and Islamic scientific traditions.

Of course, the *mubâdalah* perspective in this book also disagrees with the opposite perspective, which places women always in the right state and places men as the culprit and

source of problems. This book is not promoting women, to blame, corner, degrade and discredit men. Rather, it emphasises the realisation that the world is too simple to be approached only from a male perspective. Instead, the world must be seen through the eyes of both men and women, managed by both men and women, and enjoyed by both men and women. The relationship between the two must be a true partnership and co-operation, strengthening, complementing, supporting, and helping each other.

The perspective of mubadalah in this book comes as part of the da'wah work of perfecting (itmam) morals that were previously good, good and noble. Da'wah of refinement is the main mission of the Prophet Muhammad PBUH that we still must do continuously. The academic tradition of interpreting Islamic texts has been good. But for one reason or another, distortions occur and require refinement. The distortion in question is when the texts are only approached from the side of men as subjects without involving women. (Hakim 2020)

The refinement is with the perspective and method of mubadalah that wants to ensure the presence of women as subjects in approaching the text. Thus, morals that are maslahat must be maslahat for men and women. Good morals are good if they are good for men and women. Likewise, noble morals are only perfectly noble if women and men are equally glorified. It is in this role that this mubadalah book comes.

Abu Hurairah (RA) reported that the Messenger of Allah (SAW) said: "Verily, I was sent to perfect morals that are maslahat". (Musnad Ahmad, no. Hadith: 9074). Another narration: "I was sent to perfect good manners" (Muwatta' Malik, no. Hadith: 1643). Another narration: "I was sent to perfect good manners" (Sunan Baihaqi, no. Hadith: 20782).

The qiraah mubāḍalah offered by this book is actually an important contribution, not only in understanding religious texts, but also as a way of looking at the world. Although this method is intended to respond to primary texts in Islam that use language with a certain gender consciousness, the same method can also be a new way of looking at social diversity so as not to create inequality in relations. Relational inequality, whatever it is, can lead to injustice because it starts with a negative view of the differences between the parties in the relationship. One of the serious challenges to realising gender justice is the dichotomous view of men and women. Men and women are different, so they are seen as opposed to each other. One party must conquer the other. If they don't, then they will be conquered. The patriarchal system plays a big part in this dichotomous perspective. Men are placed in a superior position, while women are inferior as their servants. A woman's value is determined by the extent to which she benefits men. The principle of mubāḍalah or parallelism is not only applied to husband-wife or household relationships. But it can also be applied in the relationship of an organisation or company.

## CONCLUSION

The result of this study is that partners between men and women in realising justice in the household must be equal, such as mutual deliberation, mutual democracy and mutual kindness in relationships. Islam ideally-normatively does not differentiate between men and women, let alone discriminate against women. In fact, bringing the benefit and mercy of all nature (rahmatan li al-alam), Islam places the elevation of the degree and position of women as evidence of its primacy. Gender bias judgement basically comes from three basic assumptions about religious beliefs, namely, 1) dogmatic assumptions that explicitly place women as

complements, 2) matrealistic views, the ideology of pre-Islamic Makkah society that underestimates the role of women in the production process.

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