JEULAME
Jurnal Hukum Keluarga Islam
Volume 5 No. 1 Juni 2026
P-ISSN: x-xxxx E-ISSN: 2986-1810 | Page: 01-15
DOI: 10.47766/jeulame.v5i1.6858

Reconstruction of Islamic Family Law in the Era of Gender Equality

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ARTICLE INFO

Article History:
Submitted January 22, 2026
Accepted February 13, 2026
Published June 30, 2026

Keywords:
Islamic Family Law,
Reconstruction,
Gender Equality.

ABSTRACT

Islamic Family Law is the most dynamically developing area of law, as it is directly related to social structures, universal values and time. In the modern context, the issue of gender equality is a new challenge for the Islamic legal system, especially with regard to marriage, custody, polygamy, divorce, and inheritance. The purpose of this article is to analyze the relevance of the realignment of Islamic Family Law to remain in accordance with the principles of justice and the common good as the objectives of Shari'ah (maqasid al-Shariah). This research uses qualitative descriptive method with normative and socio-historical approach based on analysis of classical and modern literature. The results showed that many provisions of classical jurisprudence were created in the context of medieval patriarchal societies in which men were the legitimate holders of power. However, in the modern era, this paradigm needs to be restructured to better reflect the principles of al-adl (justice) and al-musawa (equality of human dignity). With the help of the Maqasid al-Sharia approach, Islamic Family Law can be adjusted in such a way as to ensure substantive justice and a balance of rights between men and women. The reform of family law in Indonesia, for example through the drafting of the Islamic legal code (KHI) and The Marriage Law, is an important step towards equality, although more progressive changes in interpretation are needed. The reconstruction of gender-sensitive Islamic Family Law is not a form of Westernization, but rather an attempt to restore the essence of Islam as a religion that supports charity, justice and the good of humanity.

Kata Kunci:
Hukum Keluarga Islam,
Rekonstruksi,
Kesetaraan Gender.

ABSTRAK

Hukum keluarga Islam merupakan bidang hukum yang paling dinamis karena bersentuhan langsung dengan struktur sosial, nilai kemanusiaan, dan perkembangan zaman. Dalam konteks modern, isu kesetaraan gender menjadi tantangan baru bagi sistem hukum Islam, terutama dalam hal perkawinan, perwalian, poligami, perceraian, dan warisan. Artikel ini bertujuan untuk menganalisis urgensi rekonstruksi hukum keluarga Islam agar tetap sejalan dengan prinsip keadilan dan kemaslahatan universal sebagaimana tujuan syariat (maqasid al-syari'ah). Penelitian ini menggunakan metode kualitatif-deskriptif dengan pendekatan normatif dan sosio-historis melalui analisis literatur klasik dan kontemporer. Hasil kajian menunjukkan bahwa banyak ketentuan fikih klasik dibentuk dalam konteks masyarakat patriarkal abad pertengahan yang menempatkan laki-laki sebagai pemegang otoritas penuh. Namun, dalam era

modern, paradigma tersebut perlu direkonstruksi agar lebih mencerminkan prinsip al-'adl (keadilan) dan al-musawah (persamaan martabat manusia). Melalui pendekatan maqasid al-syari'ah, hukum keluarga Islam dapat disesuaikan untuk mewujudkan keadilan substantif dan keseimbangan hak antara laki-laki dan perempuan. Reformasi hukum keluarga di Indonesia, seperti melalui Kompilasi Hukum Islam (KHI) dan Undang-Undang Perkawinan, merupakan langkah penting menuju kesetaraan, meskipun masih diperlukan reinterpretasi yang lebih progresif. Rekonstruksi hukum keluarga Islam yang responsif gender bukanlah bentuk westernisasi, melainkan upaya mengembalikan esensi Islam sebagai agama yang menjunjung tinggi rahmah, keadilan, dan kemaslahatan umat manusia.

INTRODUCTION

Islamic family law occupies a central position in the legal order and social life of Muslims because it governs the most fundamental intimate relations: the formation of the family, the preservation of lineage, the distribution of rights and obligations, and the mechanisms for resolving domestic conflicts. As a branch of law that intersects directly with customary values, morality, and social structure, family law is never static; it continually interacts with economic, political, and cultural change, thereby requiring a rereading of classical norms so that they remain relevant to the needs of contemporary society.[1]

The most prominent contemporary social change is the emergence of demands for gender equality as a normative principle in both public and private spheres. Gender equality, which demands the elimination of sex-based discrimination and the provision of balanced access and opportunity for men and women, raises fundamental questions about a number of provisions of Islamic family law that have long been interpreted within the context of patriarchal social structures.[2] In many Muslim societies, practices such as restrictions on women's autonomy in marriage, the distribution of divorce rights, the allocation of child custody, access to joint marital property, and women's position in family court proceedings reveal a significant gap between religious texts, traditional interpretation, and contemporary principles of justice.[3]

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[1] Abdullahi Ahmed An-Na'im, *Toward an Islamic Reformation: Civil Liberties, Human Rights and International Law* (New York: Syracuse University Press, 1990)., p. 12-50.

[2] Amina Wadud, *Qur'an and Woman: Rereading the Sacred Text from a Woman's Perspective* (Oxford: Oxford University Press, 1999)., p. 3-25.

[3] Margot Badran and Sherine Hafez, *Gender and Islam in Africa: Rights, Reform and Social Change* (New York: Syracuse University Press, 2012)., especially the section on family and jurisdiction.

Theoretically, Islam as a source of law provides a rich normative framework: the *Qur'an*, the *Sunnah*, *qiyas* (analogical reasoning), *and ijma'* (consensus), along with *usuliyyah* principles such as *maqasid al-shari'ah* (the objectives of the shari'ah), which place the preservation of religion, life, intellect, lineage, and property as the primary objectives of shari'ah rulings.[4] The maqasid approach offers a strong normative basis for re-reading (re-interpreting) family law texts by assessing whether the substantive purpose of a given rule still serves the public interest (*maslahah*) and justice under present-day social conditions.[5] However, implementing maqasid requires an interpretive methodology that is sensitive to context: understanding the historical background of the text (nash), its underlying objectives, and the social impact of the legal ruling. In other words, the reconstruction of Islamic family law is not merely a matter of replacing rules, but a juridical-ethical hermeneutic process that combines skill in text, context, and the principle of gender justice.[6]

In legislative practice and jurisprudence, various Muslim countries display a wide spectrum of positions: from relatively conservative codification to progressive reforms that promote gender equality in marriage, divorce, and custody. In Indonesia, for example, the phenomenon of legal pluralism a combination of formal Islamic law (religious courts and legislation such as the Compilation of Islamic Law), customary law, and administrative norms creates its own challenges for reconstruction, because changes in formal norms are not always directly proportional to changes in social practice and local interpretation. Reconstruction studies must therefore take into account the complexity of legal pluralism as well as the dynamics of norms at the community level and within shari'ah court/religious council institutions.[7]

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[4] Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law* (Virginia: IIIT Press, 2008)., p. 15-40.

[5] Mohamed Ghaly, "Maqasid Al-Shari'ah and the Objectives of Muslim Family Law Reform," *Journal of Islamic Law and Culture* 11, no. 2 (2009)., p. 121–153.

[6] Fazlur Rahman, *Islam and Modernity: Transformation of an Intellectual Tradition* (USA: University of Chicago Press, 1982)., p. 70-95.

[7] A. S. A. Maulani, "Pluralisme Hukum Dalam Kehidupan Keluarga Muslim di Indonesia," *Jurnal Hukum dan Pembangunan* (year), discusses the dynamics of formal and customary law.

In addition, structural obstacles such as patriarchal bias in the practice of law-making, low representation of women in fatwa and judicial institutions, and conservative cultural resistance are factors that slow the adoption of gender equality principles in Islamic family law. Unequal access to legal education, economic resources, and political participation also places women at a disadvantage when it comes to enforcing their rights within the family and judicial arenas. Reconstruction must therefore bring together normative approaches (including legislative reform and reinterpretation of *fiqh*), institutional strategies (e.g., improving women's access to courts and policy-making bodies), and socio-cultural programs (education, advocacy, and changes in cultural practice) in order to produce meaningful and sustainable change.[8]

Finally, the reconstruction of Islamic family law from the perspective of gender equality is not a project of secularization or the abandonment of tradition, but rather an ijtihadi effort to actualize the shari'ah values of justice, compassion (*rahmah*), and public good (*maslahah*) within the context of the present age. A reconstructive approach requires openness to contextual ijtihad, the strengthening of gender-sensitive hermeneutical methodology, and productive dialogue among ulama, legal experts, women's advocates, and policymakers. Only through a combination of mature textual analysis, solid maqasidi argumentation, and institutional and educational strategies can Islamic family law be reconstructed into an instrument that protects the dignity and rights of every family member, without losing its shari'ah identity.[9]

RESEARCH METHOD

This study uses a normative-qualitative method with an Islamic legal hermeneutics approach combined with gender analysis. Data were obtained through a literature study of classical *fiqh* texts, legislation (such as the Compilation

[8] Khaled Abou El Fadl, *The Place of Tolerance in Islam* (Boston: Beacon Press, 2002)., p. 101–130.

[9] M. Quraish Shihab, *Wawasan Al-Quran: Tafsir Tematik Atas Pelbagai Persoalan Umat* (Bandung: Mizan, 2007)., p. 253. See also Yusuf Al-Qaradhawi, *Fiqh Al-Mar'ah Al-Muslimah* (Cairo: Maktabah Wahbah, 2000).

of Islamic Law and the Aceh Qanun Jinayah), as well as contemporary research findings and fatwas. The hermeneutic approach is used to reinterpret Islamic legal texts by taking their socio-historical context into account, while gender analysis is used to identify patriarchal bias in the establishment of family-law norms.

The analysis is descriptive-analytical: classical legal provisions are described and then compared with the concept of gender justice within *maqasid al-shari'ah* and with the ijtihad of contemporary scholars such as Fazlur Rahman, Amina Wadud, and Yusuf al-Qaradawi. The results are expected to provide a new conceptual framework for the development of Islamic family law in Indonesia and in the Muslim world more broadly.

RESULTS AND DISCUSSION

A. The Meaning and Urgency of Reconstructing Islamic Family Law in the Era of Gender Equality

1. The Meaning of the Reconstruction of Islamic Family Law

The term *reconstruction of Islamic family law* contains two main dimensions: reconstruction and Islamic family law. Etymologically, the word *reconstruction* comes from the Latin *re-construere*, meaning to rebuild. In the context of Islamic law, reconstruction can be understood as a scholarly effort to rebuild the understanding of law based on new social realities, without discarding the basic values of Islamic shari'ah.[10]

Islamic family law (*al-ahwāl al-syakhshiyyah*) is a set of norms governing family relations, such as marriage, divorce, inheritance, maintenance (nafkah), and child custody. This is the area of Islamic law that most frequently undergoes change, because it is directly connected to social and cultural dynamics and to gender roles in society.[11]

Thus, the reconstruction of Islamic family law means reinterpreting the norms of Islamic family law so that they remain aligned with maqasid al-syari'ah

[10] Syamsul Anwar, *Hukum Islam: Zaman, Ruang, Dan Perubahan* (Yogjakarta: UII Press, 2017)., p. 55.

[11] Amir Syarifuddin, *Hukum Keluarga Islam Di Indonesia* (Jakarta: Kencana, 2011)., p. 3.

(the objectives of Islamic law) and relevant to the modern context, which upholds the values of justice, public good, and equality between men and women.[12]

Reconstruction does not mean changing the law of Allah, but rather re-understanding the meaning and purpose behind legal provisions. Jasser Auda explains that maqasid al-syari'ah functions as an *"epistemological bridge"* between text and context: Islamic law must not be understood only textually, but also functionally and contextually, in keeping with social change and the development of human civilization.[13]

2. Gender Equality from an Islamic Perspective

a. Conceptual Meaning and Theological Basis

The term gender equality refers to a condition in which men and women have the same rights, obligations, responsibilities, and opportunities to develop in every aspect of life whether social, economic, political, or familial. In the Islamic view, gender equality does not mean erasing the biological and natural (*fitrah*) differences between men and women, but rather placing both in a position of moral and spiritual equality before Allah SWT.[14] This principle of equality is derived directly from the Qur'an. Allah states in QS. Al-Hujurat [49]: 13:

يٰٓاَيُّهَا النَّاسُ اِنَّا خَلَقْنٰكُمْ مِّنْ ذَكَرٍ وَّاُنْثٰى وَجَعَلْنٰكُمْ شُعُوْبًا وَّقَبَاۤىِٕلَ لِتَعَارَفُوْاۚ اِنَّ اَكْرَمَكُمْ عِنْدَ اللّٰهِ اَتْقٰىكُمْۗ

اِنَّ اللّٰهَ عَلِيْمٌ خَبِيْرٌ ﴿١٣﴾

"O mankind, indeed We have created you from a male and a female and made you peoples and tribes that you may know one another. Indeed, the most noble of you in the sight of Allah is the most righteous of you."

This verse affirms that human nobility is not determined by sex, race, or social status, but by piety (*taqwa*) toward Allah. Thus, both men and women possess equal human and spiritual value as vicegerents (*khalifah*) on earth (QS. Al-Baqarah [2]: 30). This equality is likewise affirmed in QS. Al-Baqarah [2]: 228:

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[12] Yusuf Al-Qaradhawi, *Fiqh Al-Maqasid* (Cairo: Dar al Syuruq, 2007)., p. 88.
[13] Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law*., p. 56.
[14] Nurcholish Madjid, *Islam, Doktrin Dan Peradaban* (Jakarta: Paramadina, 2000)., p. 221.

...وَلَهُنَّ مِثْلُ الَّذِيْ عَلَيْهِنَّ بِالْمَعْرُوْفِۖ

"…And women have rights similar to those of men over them in a just manner (*ma'ruf*)..."

This verse implies that the relationship between men and women within the household is not one of domination, but a relationship of balance and mutual responsibility. In Ibn Kathir's tafsir, it is explained that ma'ruf means everything that accords with the principles of justice, compassion, and wisdom.[15]

b. **Historical Perspective: From Normative Concept to Social Practice**

In the pre-Islamic period (*Jahiliyyah*), women occupied a very low position. They had no right of inheritance, no personal autonomy, and were often even regarded as part of a man's inherited property. The advent of Islam brought about the greatest social revolution in the history of human civilization, elevating the status of women and establishing rights that had never before been recognized.[16] For example, Islam granted:

1) The right to property and inheritance (QS. An-Nisa [4]: 7),
2) The right to choose one's own spouse (QS. An-Nisa [4]: 19),
3) The right to seek knowledge (Hadith narrated by Bukhari: "Seeking knowledge is obligatory upon every Muslim, male and female"),
4) The right to protection and personal dignity (QS. Al-Mumtahanah [60]: 12).

However, in subsequent historical development, the values of equality offered by Islam were often reduced by social interpretation and the patriarchal structures of Muslim societies. As a result, a mistaken perception arose that Islam is subordinating toward women, when in fact what occurred was an imbalance between the normative text (*nash*) and social reality (*fi'liyyah*).[17]

c. **Gender Equality within the Framework of *Maqasid al-Shari'ah***

Within the framework of *maqasid al-syari'ah* (the objectives of the shari'ah),

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[15] Ibnu Katsir, *Tafsir Al-Qur'an Al-'Azhim Juz II* (Beirut: Dar al Fikr, 2003)., p. 314.

[16] Aisyah Abdurrahman (Bint al-Syathi'), *Al-Mar'ah Fi Al-Qur'an Al-Karim* (Cairo: Dar al Kutub al Ma'arif, 1972)., p. 45–47.

[17] Fatima Mernissi, *Women and Islam: An Historical and Theological Enquiry* (Oxford: Basil Blackwell, 1991)., p. 38.

gender equality is an embodiment of the principles of *al-'adl* (justice) and *al-rahmah* (compassion). According to Imam al-Ghazali and al-Syatibi, the *maqasid al-syari'ah* aim to safeguard five fundamental aspects of life: religion (*hifz al-din*), life (*hifz al-nafs*), intellect (*hifz al-'aql*), lineage (*hifz al-nasl*), and property (*hifz al-mal*).

In this context, any form of gender discrimination that results in the loss of women's rights to education, protection, and public participation is contrary to maqasid al-syari'ah itself.[18] As affirmed by Quraish Shihab, justice in Islam is not absolute sameness, but the proportional placement of something in its proper position. Thus, gender equality does not mean eliminating natural (fitrah) roles, but rather ensuring that there is no inequity or injustice based on sex in any sphere of life.[19]

d. **Critique of Patriarchal Bias in Tafsir and Fiqh**

A number of modern Islamic thinkers, such as Amina Wadud, Riffat Hassan, and Musdah Mulia, point out that gender bias in classical Islamic law arises not from the teachings of Islam itself, but from the interpretation of religious texts by male scholars who lived within patriarchal social contexts.

Amina Wadud, in her work *Qur'an and Woman*, asserts that many egalitarian verses of the Qur'an have been neglected or interpreted with bias because they were influenced by a social structure that privileges men.[20] Similarly, Musdah Mulia describes gender equality in Islam as *a moral ijtihad to uphold the values of rahmah (compassion) and justice, which are the very spirit of all Islamic law.*[21] Reconstructing gender-sensitive tafsir and fiqh is therefore important so that the teachings of Islam remain relevant to social development without losing their fundamental values.

e. **Gender Relations and Social Justice in the Modern Era**

The modern era demands a reinterpretation of the norms of Islamic family law so that they accord with the principle of equality guaranteed by both the

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[18] Al Syathibi, *Al Muwafaqat Fi Ushul Al Syari'ah* (Beirut: Dar al-Kutub al-Ilmiah, 2007)., p. 211–212.

[19] Shihab, *Wawasan Al-Quran: Tafsir Tematik Atas Pelbagai Persoalan Umat*., p. 267.

[20] Wadud, *Qur'an and Woman: Rereading the Sacred Text from a Woman's Perspective*., p. 25–30.

[21] Siti Musdah Mulia, *Islam Dan Inspirasi Kesetaraan Gender* (Jakarta: Lembaga Kajian Agama dan Gender, 2001)., p. 17.

shari'ah and the constitution. Muslim-majority countries such as Indonesia have pursued this through:

1) The 1991 Compilation of Islamic Law (KHI), which began to accommodate wives' rights within the household,
2) Law No. 16 of 2019 on the Amendment of the Marriage Law, which raised the minimum marriage age for women,
3) and affirmative policies for women in the fields of education and law.[22]

Nevertheless, the greatest challenge still lies in the societal mindset that often views women's role as limited to the domestic sphere. Islamic education must therefore be directed toward strengthening the value of equality on the basis of faith and moral character, rather than merely adopting Western gender ideology.

f. **Gender Equality as *Rahmatan lil-'Alamin* (A Mercy to All Worlds)**

Islam came as a religion of rahmah (compassion), placing both men and women as noble beings with equal potential to worship and serve Allah. Gender equality in Islam is in essence a manifestation of divine justice (al-'adl al-ilahi) that rejects every form of oppression. The Prophet Muhammad (peace be upon him) stands as the foremost example in this regard. He involved women in many aspects of life, including education, economic activity, and even political negotiations (such as the Pledge of Aqabah).

In a hadith narrated by Ahmad, the Prophet said: "*Women are indeed the full sisters (twin halves) of men*". This hadith demonstrates an equal spiritual and social relationship between men and women, such that no form of discrimination has any legitimacy in Islam.

3. The Urgency of Reconstruction in the Modern Era

The need for the reconstruction of Islamic family law arises from the very rapid social change of the modern era. In contemporary society, women have attained higher education, hold professional careers, and play a significant economic role within the family. Yet some classical legal norms still rest on

[22] Tim Penyusun, *Kompilasi Hukum Islam Di Indonesia* (Jakarta: Dirjen Bimas Islam, 2015)., p. 45–47.

patriarchal structures that place women in a subordinate position.[23] For example:

1) The right of talaq (repudiation) rests absolutely with the husband, while the wife can only obtain a divorce for specific reasons through a lawsuit (gugat cerai).
2) Marriage guardianship (wali nikah) rests absolutely with a male guardian.
3) Polygamy is still understood in purely legal-formal terms without regard for substantive justice.
4) Household leadership (qiwāmah) is often interpreted as domination rather than as a moral responsibility.

Yet the universal values of Islam actually emphasize *consultation* (musyawarah, QS. Asy-Syura [42]: 38), *compassion* (QS. Ar-Rum [30]: 21), and *justice* (QS. An-Nahl [16]: 90) as the foundation of family relations. Islamic family law therefore needs to be reconstructed so that it continues to reflect the spirit of the times without departing from the fundamental principles of the shari'ah.[24]

B. Principles of the Reconstruction of Islamic Family Law

1. The Principle of Maqasid al-Shari'ah

The main principle in the reconstruction of Islamic law is *maqasid al-syari'ah*, namely the noble objectives of Islamic shari'ah in safeguarding five essentials: religion (*hifz al-din*), life (*hifz al-nafs*), intellect (*hifz al-'aql*), lineage (*hifz al-nasl*), and property (*hifz al-mal*).[25] The maqasid approach emphasizes that law must be directed toward realizing human welfare (maslahah). In the context of gender, maqasid promotes substantive justice rather than merely legal-formal justice.

For example, the permissibility of polygamy (QS. An-Nisa [4]: 3) is essentially situational, intended to protect orphaned and widowed women in times of war — it is not a universal rule for all times. Under the maqasid principle, polygamy may only be practiced if it fulfills strict conditions of justice. If it does not, then its *maqasid* is not achieved, and the practice must be reviewed.[26]

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[23] Mernissi, *Women and Islam: An Historical and Theological Enquiry*., p. 62.
[24] Wadud, *Qur'an and Woman: Rereading the Sacred Text from a Woman's Perspective*., p. 45.
[25] Al Syathibi, *Al Muwafaqat Fi Ushul Al Syari'ah*., p. 8.
[26] K.H. Husein Muhammad, *Fiqh Perempuan; Refleksi Kiai Atas Tafsir Wacana Agama Dan Gender* (Yogjakarta: IRCiSoD, 2019)., p. 107.

2. **The Principle of Substantive Justice**

Justice in Islam does not mean uniformity, but rather a balance of rights and responsibilities based on the needs and capacities of the individual. Quraish Shihab calls this *"proportional justice,"* in which each party receives rights commensurate with their burdens and contributions.[27]

In the context of family law, substantive justice means taking social and economic conditions into account. For instance, in the division of joint marital property (*gono-gini*), a wife's domestic contribution — even though it does not take the form of direct income — is recognized as a form of economic participation in the family.[28]

3. **The Principle of Contextual Ijtihad**

Changing times demand a renewal of ijtihad. Fazlur Rahman offers the *double movement* method, which involves understanding the historical context in which a verse was revealed (the first movement), and then extracting its universal moral principle to apply it to the modern context (the second movement).[29] This method rejects literal understandings that restrict the scope of interpretation, since Islam is not a static religion but a dynamic one.

For example, the right of talaq that was granted only to men in the classical period must be understood within the context of a patriarchal social system that placed men as the party responsible for the family. In modern society, however, women also bear economic and social responsibilities, so the right to end a marriage fairly must likewise be accommodated -for instance through the mechanism of *tafwidh al-thalaq* (delegation of the right of talaq to the wife) or by strengthening judicial khulu' (wife-initiated divorce) in the courts.[30]

4. **The Principle of Participation and Equality of Roles**

The reconstruction of Islamic family law concerns not only the substance of

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[27] M. Quraish Shihab, *Perempuan: Dari Cinta Sampai Seks, Dari Nikah Mut'ah Sampai Nikah Sunnah* (Jakarta: Lentera Hati, 2007)., p. 91.

[28] Badriyah Fayumi, *Islam Dan Feminisme: Pemikiran Riffat Hassan Dan Relevansinya Di Indonesia* (Jakarta: Gramedia, 2015)., p. 119.

[29] Rahman, *Islam and Modernity: Transformation of an Intellectual Tradition*., p. 37.

[30] Ziba Mir-Hosseini, *Islam and Gender: The Religious Debate in Contemporary Iran* (Princeton: Princeton University Press, 1991)., p. 81.

the law, but also the structures and actors involved in the legal process. To date, fatwa institutions, shari'ah courts, and Islamic legal education have remained dominated by men. Yet the presence of women as judges, muftis, and scholars of Islamic law represents a form of structural reconstruction toward gender justice.[31] Women's participation in legal institutions enables more empathetic interpretation of women's issues -such as domestic violence, child custody, and post-divorce maintenance -that are often overlooked by patriarchal interpretation.

C. **Implications of Reconstruction for Family Law in Indonesia**

Indonesia has taken an important step through the 1991 Compilation of Islamic Law (KHI) and Law No. 16 of 2019, which raised the minimum marriage age for women to 19 years. However, a number of articles still need to be reviewed so that they accord with the principle of gender justice. For example:

1) Article 115 of the KHI: a husband may pronounce talaq before a judge without consideration of the wife's psychological or economic condition.
2) Article 79 of the KHI: states that the husband is the head of the household and the wife is the homemaker -a formulation that risks perpetuating gender subordination.

In practice, a number of Shari'ah Courts (Mahkamah Syar'iyah) in Aceh and Religious Courts (Pengadilan Agama) throughout Indonesia have begun to use the *maslahah mursalah* approach in adjudicating cases of divorce, child custody, and the division of joint marital property. This approach marks a paradigm shift from textual fiqh toward contextual fiqh oriented toward the public good (maslahah).[32]

D. **A Model for Gender-Responsive Reconstruction of Family Law**

1) Textual Reinterpretation. Re-reading verses and hadiths related to gender relations through a maqasid-based hermeneutical approach, so that their moral message remains alive and responsive to the demands of the times.
2) Reformulation of National and Regional Regulations. Adjusting the norms

[31] Nur Rofiah, *Nalar Kritis Muslimah: Refleksi Muslimah Atas Keperempuanan, Kemanusiaan, Dan Keislaman* (Bandung: Afkaruna.id, 2020)., p. 44.

[32] Kementerian Agama RI, *Kompilasi Hukum Islam Di Indonesia* (Jakarta: Kemenag RI, 2018)., p. 112.

within the KHI and Aceh's qanun to be more inclusive of women's roles and to prevent patriarchal bias.

3) Reactualization of Social Fiqh. Reviving the spirit of *ijtihad jama'i* (collective ijtihad) through collaboration among ulama, academics, and legal practitioners.
4) Gender Education and Literacy. Encouraging Islamic law curricula in universities to incorporate a gender-equality perspective, so that the younger generation understands Islam as a religion of justice and compassion.[33]

The reconstruction of Islamic family law in the era of gender equality is a necessity for modern Muslims. It is not intended to replace the law of Allah, but to reestablish Islamic moral values within the context of universal humanity. By placing maqasid al-syari'ah as the epistemological foundation and gender justice as the practical objective, Islamic family law will continue to live, remain dynamic, and stay relevant for an ever-changing society.

CONCLUSION

The discussion of *the reconstruction of Islamic family law in the era of gender equality* shows that Islamic law, including in the domain of the family, is dynamic and open to social change so long as it does not violate the fundamental principles of the shari'ah. From an Islamic perspective, gender equality is not a concept that contradicts the shari'ah, but rather an integral part of the principles of *al-'adl* (justice) and *al-musawah* (equality).

The thinking of reformist and Muslim feminist figures such as Amina Wadud, Fatima Mernissi, and Musdah Mulia affirms the need for a gender hermeneutics approach in understanding religious texts. This approach is not intended to change the teachings of Islam, but to reinterpret them so that the Qur'an's moral substance regarding justice, compassion, and the public good can be implemented in accordance with the present-day social realities of humankind.

[33] Nurcholish Madjid, *Islam Agama Kemanusiaan: Membangun Tradisi Dan Visi Baru Islam Indonesia* (Jakarta: Paramadina, 1995)., p. 75.

Thus, the reconstruction of Islamic family law in the era of gender equality is not merely an academic agenda or a discourse of modernization, but an effort to realize the ideal of justice that lies at the very core of Islamic shari'ah. Islam does not reject differences in the roles of men and women, but it does reject discrimination that violates the principle of justice. Reform of Islamic family law must therefore be directed toward creating a legal system that upholds human dignity, protects women's rights, and ensures balanced relations within both the household and society in accordance with the universal values of Islam: *rahmatan lil 'alamin* (a mercy to all worlds).

REFERENCES

Abdurrahman (Bint al-Syathi'), Aisyah. *Al-Mar'ah Fi Al-Qur'an Al-Karim*. Kairo: Dar al Kutub al Ma'arif, 1972.

Al-Qaradhawi, Yusuf. *Fiqh Al-Maqasid*. Kairo: Dar al Syuruq, 2007.

———. *Fiqh Al-Mar'ah Al-Muslimah*. Kairo: Maktabah Wahbah, 2000.

An-Na'im, Abdullahi Ahmed. *Toward an Islamic Reformation: Civil Liberties, Human Rights and International Law*. New York: Syracuse University Press, 1990.

Anwar, Syamsul. *Hukum Islam: Zaman, Ruang, Dan Perubahan*. Yogjakarta: UII Press, 2017.

Auda, Jasser. *Maqasid Al-Shariah as Philosophy of Islamic Law*. Virginia: IIIT Press, 2008.

Fadl, Khaled Abou El. *The Place of Tolerance in Islam*. Boston: Beacon Press, 2002.

Fayumi, Badriyah. *Islam Dan Feminisme: Pemikiran Riffat Hassan Dan Relevansinya Di Indonesia*. Jakarta: Gramedia, 2015.

Ghaly, Mohamed. "Maqasid Al-Shari'ah and the Objectives of Muslim Family Law Reform." *Journal of Islamic Law and Culture* 11, no. 2 (2009).

Hafez, Margot Badran and Sherine. *Gender and Islam in Africa: Rights, Reform and Social Change*. New York: Syracuse University Press, 2012.

Katsir, Ibnu. *Tafsir Al-Qur'an Al-'Azhim Juz II*. Beirut: Dar al Fikr, 2003.

Kementerian Agama RI. *Kompilasi Hukum Islam Di Indonesia*. Jakarta: Kemenag RI, 2018.

Madjid, Nurcholish. *Islam, Doktrin Dan Peradaban*. Jakarta: Paramadina, 2000.

———. *Islam Agama Kemanusiaan: Membangun Tradisi Dan Visi Baru Islam Indonesia*. Jakarta: Paramadina, 1995.

Mernissi, Fatima. *Women and Islam: An Historical and Theological Enquiry*. Oxford: Basil Blackwell, 1991.

Mir-Hosseini, Ziba. *Islam and Gender: The Religious Debate in Contemporary Iran*. Princeton: Princeton University Press, 1991.

Muhammad, K.H. Husein. *Fiqh Perempuan; Refleksi Kiai Atas Tafsir Wacana Agama Dan Gender*. Yogjakarta: IRCiSoD, 2019.

Mulia, Siti Musdah. *Islam Dan Inspirasi Kesetaraan Gender*. Jakarta: Lembaga Kajian Agama dan Gender, 2001.

Rahman, Fazlur. *Islam and Modernity: Transformation of an Intellectual Tradition*. USA: University of Chicago Press, 1982.

Rofiah, Nur. *Nalar Kritis Muslimah: Refleksi Muslimah Atas Keperempuanan, Kemanusiaan, Dan Keislaman*. Bandung: Afkaruna.id, 2020.

Shihab, M. Quraish. *Perempuan: Dari Cinta Sampai Seks, Dari Nikah Mut'ah Sampai Nikah Sunnah*. Jakarta: Lentera Hati, 2007.

———. *Wawasan Al-Quran: Tafsir Tematik Atas Pelbagai Persoalan Umat*. Bandung: Mizan, 2007.

Syarifuddin, Amir. *Hukum Keluarga Islam Di Indonesia*. Jakarta: Kencana, 2011.

Syathibi, Al. *Al Muwafaqat Fi Ushul Al Syari'ah*. Beirut: Dar al-Kutub al-Ilmiah, 2007.

Tim Penyusun. *Kompilasi Hukum Islam Di Indonesia*. Jakarta: Dirjen Bimas Islam, 2015.

Wadud, Amina. *Qur'an and Woman: Rereading the Sacred Text from a Woman's Perspective*. Oxford: Oxford University Press, 1999.