

## The Relevance of Gender Mainstreaming in Indonesia to Women's Rights in Islamic Law

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Submitted: October 11, 2022; Reviewed: March 09, 2023; Accepted: March 27, 2023

| Article Info   | Abstract   |
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| <p><b>Keywords:</b><br/> <i>Gender mainstreaming, women's rights, Islamic law.</i></p> <p><b>DOI:</b><br/> <i>10.25041/lajil.v5i1.2757</i></p> | <p><i>Gender mainstreaming is a government effort to uphold women's rights as part of human rights. Protection of human rights is a manifestation of Pancasila- Indonesia's ideology and the Preamble to the 1945 Constitution of the Republic of Indonesia. Gender mainstreaming has been enforced through Presidential Instruction Number 9 of 2000 concerning implementing Gender Mainstreaming (PUG). This qualitative descriptive research describes the development of gender mainstreaming, the justice system, and gender equality within the Islamic perspective. Protecting human rights is the main goal of Islamic law, which also includes protecting women's rights. Islamic ideas and relevant events that happened in the past were comprehensively examined. This research also discusses the pre-Islamic history, in which women were demeaned. The findings of this research show that women's rights have been neglected, and even misleading Islamic arguments were often used to prevent women from gaining their rights. It is expected that this research raise awareness regarding this issue to stop violence against women. This research also affirms that gender mainstreaming and development are the keys to gender equality and justice, and they should be adapted in the planning, budgeting, implementation, and monitoring stages of program and policy development.</i></p> |

### A. Introduction

Gender mainstreaming incorporates women's experiences as an integral dimension in formulating the design, implementation, and evaluation of any planned action, including laws, policies, or programs to eliminate inequality and achieve gender equality, as stated in the Beijing Conference. Gender equality in Indonesia is regulated in Presidential Instruction No.

9/2000 on Gender Mainstreaming in National Development, which was developed during the reign of President Abdurrahman Wahid.<sup>1</sup>

The state's protection of women is an important part of governance. The rule of law requires protection over the human rights of every citizen to ensure community welfare and arbitrary actions of the authorities. The concept of the Rule of Law places elements of legal protection for human rights side by side with other elements, such as human rights related to all dimensions of life.<sup>2</sup> Gender justice is also an important issue in Islam. Discussions on justice and gender equality have been interesting in formal and non-formal education. Unfortunately, the implementation of gender justice and equality still needs improvement, particularly related to domestic inequality, sexual abuse, and exploitation.

Cases of sexual violence against underage women in Islamic Boarding Schools need to be immediately solved. The public has raised huge concern and attention to these cases, and the government is held responsible for addressing these issues. As reported by the Online Information System for the Protection of Women and Children (SIMPONI PPA), by June 3, 2021, there were 3,122 cases of violence against children. From these data, the number of sexual violence still dominates. Deputy for Special Child Protection at the Ministry of Women's Empowerment and Child Protection (PPPA) Nahar said that there were still incomplete and not completed handling of cases of violence without further follow-ups.<sup>3</sup>

In the book "Perempuan dan Ketidak Adilan Sosial" by Mahatma Gandhi, it is stated that women have consistently been subjected to violence and have not been regarded as human beings. It is highlighted that, in social class, they have always been the victims of violence, such as in cases of marital violence, the crime of prostitution, and the presence of numerous widows who are still underage. Surprisingly, the rate of this violence has not been reduced with the progress of time.<sup>4</sup>

Women's Commissions at the end of 2020 released a data record entitled "Perempuan Dalam Himpitan Pandemi" or Women in the Hump of a Pandemic. During the COVID-19 pandemic, the number of Violence against Women (KtP) cases reached 299,911 cases, 291,677 of which were handled by the District Court/Religious Court (PN/PA). Women's Commissions partner service institutions handled 8,234 cases, and 2,389 cases were handled by the Women's Commissions Service and Referral Unit (UPR), of which 2,134 cases were gender-based and 255 were not gender-based.<sup>5</sup> The data show that violence against women until the COVID-19 pandemic still occurred. As the country put more emphasis on the pandemic, the handling of cases of violence against women was not optimal.

Using the terms 'wanita' and 'perempuan' also affects societal development. The word 'wanita' is rooted in Javanese, meaning *wani ditata-tata* (woman must be willing to be regulated). Meanwhile, 'perempuan' has a negative connotation from the *empire*, which means the inability to grip tightly and hold firmly without the master's presence.<sup>6</sup> Before the Reformation, the term 'wanita' was more frequently used, while perempuan was used more often after the Reformation era. It was used more. In Arabic, women are equated with the word

<sup>1</sup> Ashilly Achidsti, *Gender Gus Dur: Tonggak Kebijakan Kesetaraan Gender Era Presiden Abdurrahman Wahid* (Yogyakarta: Gading Publishing, 2021).p. 5.

<sup>2</sup> Rossa Ilma Silfiah, *Otoritas Negara terhadap Agama dan Kehidupan Beragama di Indonesia* (Pasuruan: Yudharta Press, 2018) 33.

<sup>3</sup> Risna Halidi, "Data Kemen PPPA: Laporan Kekerasan Seksual Pada Anak Masih Mendominasi", (7 June 2021), online: <<https://www.suara.com/health/2021/06/07/202416/data-kemen-pppa-laporan-kekerasan-seksual-pada-anak-masih-mendominasi>>.

<sup>4</sup> Mahatma Gandhi, *Kaum Perempuan Dan Ketidak Adilan Sosial* (Yogyakarta: Pustaka Pelajar, 2011).p. 5–10.

<sup>5</sup> Rifa' Rosyaadah and Rahayu, (2021), *Perlindungan Hak Asasi Manusia Perempuan terhadap Kasus Kekerasan dalam Rumah Tangga di Indonesia dalam Perspektif Hukum Internasional*, Jurnal HAM, 12(2), p. 264.

<sup>6</sup> Zaitunah Subhan, *Tafsir Kebencian, Studi Bias Gender dalam Al-Qur'an* (Yogyakarta: LkiS, 1999), p. 17.

*nisa'*, rooted in the word *nasiya*, which means forgetting due to a weakness of mind.<sup>7</sup> The language somehow places women in the second class after men.

In general, there is no difference in terms of rights between men and women as explained in Surah An-Nisa's verse 32: Meaning: For men, there is a right/share of what they work for, and for women, there is a right/share of what which she worked on. This verse explains that there is no difference between men and women in what they strive for. The only factor that matters is humans' devotion and piety to Allah regardless of gender (QS. Al-Hujurat: 13). In Islam, a good woman is a woman who live up to the Qur'an and Hadith, carries out her roles, rights, and obligations as stated in surah An-Nahl, verse 97: Whoever does righteous deeds, both men and women in a state of faith, we will indeed give them a good life and indeed we will reward those who are more generous, better than what they have done.

This verse also explains that in good deeds and faith, the position of men and women is equal. Therefore, women are no less responsible than men in upholding faith in Allah and doing righteous deeds as Allah promises them both that they would be given a good life (Hayatan Thayyibah), and the noblest of them is the more pious.<sup>8</sup> Views that discriminate between men and women are rejected by the Qur'an, which asserts that both are of the same breed and that God created offspring from both of them that are both male and female. God confirms this with the consideration: "Verily Allah does not waste the deeds of those who do good deeds, both men and women" (QS. 3:195). On this basis, it is said that every man and woman has the same rights because not a single provision in the Qur'an is understood as prohibiting the involvement of women in social life. This reality can also be found in the time of the Prophet, Companions, *Tabi'in*, and the heyday of Islam, even today, where they appear in various fields. Active women were very fond of by the Prophet himself; this was proven by his wife Khadijah, who was a successful businesswoman and conglomerate, and his other wife, Aisyah, who was a scientist in the field of Hadith and was allowed to participate in the struggle. Ash Syifa' (w640 AD) was appointed by the caliph Umar ibn Al-Khatib to handle the market in Medina.<sup>9</sup>

This normative legal research<sup>10</sup> examined and reviewed the norms and principles of gender equality and women's rights. Research on legal norms and principles is commonly referred to as doctrinal research<sup>11</sup>, characterized by the inventory of positive law to develop basic principles and philosophical foundations (dogmas and doctrines). As a legal consequence of the existence of the First Precept of God Almighty, the concept of Islamic law is explored as one of the sources of material law, utilizing a value-oriented approach<sup>12</sup> to take the values of equality in Islam. Besides, the Shari'ah concept serves as the framework for the arguments<sup>13</sup> of this research.

## B. Discussion

The domestication of women in Indonesia appeared in the form of restrictions against women's freedom, which in Indonesia was common during Soeharto's era. Domestication puts women in the subordination of men. In 1972, the government launched the Family Welfare Empowerment Program (PKK) in all rural areas of Indonesia with the jargon of *Panca Dharma Wanita*, namely: 1) Women as husband's companions, 2) Women as housewives, 3) Women as

<sup>7</sup> Louis Ma'luf, *Al-Munjid fi al-Lughah wa al-i'lam* (Dar Al- Masyrik, Beirut, 1986), p. 807.

<sup>8</sup> Nur Hayati & Mal Al Fahnum, (2017), Hak-Hak Perempuan menurut Perspektif Al-Qur'an, Mawrah, Jurnal Perempuan, Agama dan Jender, 16(2), p. 188.

<sup>9</sup> *Ibid* 190.

<sup>10</sup> Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: UI-Press, 1986), p. 81.

<sup>11</sup> Zainuddin Ali, *Metode Penelitian Hukum*, 4th ed (Jakarta: Sunar Grafika, 2013), p. 88.

<sup>12</sup> Barda Nawawi Arief, *Bunga Rampai Kebijakan Hukum Pidana: Perkembangan Penyusunan konsep KUHP Baru* (Jakarta: Kencana Prenadamedia, 2014), p. 29.

<sup>13</sup> Zainuddin Ali, *supra* note 11, p. 73.

successors and child educators, 4) Women as additional breadwinners, and 5) Women as citizens and members of society.<sup>14</sup> This program is still running to date with some adjustments to the current conditions.

The government has made quite strict regulations regarding the equality of women's rights. However, the patriarchal culture is still passed down from generation to generation.<sup>15</sup> Even in state administration, discrimination and injustice against women still occur. Women are often victimized in terms of economy, education, health, employment, and politics. In a society with a patriarchal culture, men are given more authority. In the era of Reformation, despite women beginning to rise and fill strategic positions, on the other hand, many women still fall victim to violence.

In global discourse, gender mainstreaming has begun to be applied in several countries since the 1995 Beijing Conference, which prioritized women's empowerment and gender mainstreaming in government. The Beijing Conference raised awareness of the importance of gender mainstreaming from the two previous streams: Women in Development and Gender and Development.

Women in Development (WID) is a strategy to open access for women for equal treatment in education. This stream considers the inability of women roots in inequality in socio-cultural access. This strategy was applied in Indonesia by establishing the Youth Ministry for Women's Roles in 1978. However, this approach failed to reduce the rate of violence experienced by women, domestic discrimination, or exploitation of women.

The Gender and Development (GAD) was developed around the 1980s. The GAD approach views women as the victims of development due to injustice in the public and private domains. Therefore, efforts to bolster the status of women have expanded beyond the scope of Women in Development initiatives. This led to the establishment of the Convention on the Elimination of Discrimination against Women (CEDAW). However, a limitation of CEDAW is its failure to explicitly address the barriers contributing to the glass ceiling effect in public institutions. This glass ceiling represents a significant hindrance, preventing women from attaining key positions within governmental organizations.<sup>16</sup>

CEDAW is a testament to the long history of international women's struggle for gender equality with men. Since the 1979 United Nations conference in Mexico City, it has been agreed that women's rights are equal to men's. CEDAW is the legal basis for the protection of women's human rights in the world. When a country signs CEDAW and ratifies it in national law, it is bound to CEDAW.<sup>17</sup> Therefore, Indonesia must align its legal framework with international standards by ratifying the Convention on the Elimination of Discrimination against Women (CEDAW) and incorporating its principles into national laws and regulations.

Even in Indonesia, a country once led by a female president, uplifting women's status remains challenging. Equality is difficult to achieve, especially in law, where justice is difficult to obtain.<sup>18</sup> Gender Mainstreaming is enacted in various Presidential Instructions, laws, and regulations: Law Number 39 of 1999 concerning Human Rights, Law Number 23 of 2004 concerning the Elimination of Domestic Violence, Law Number 12 of 2006 concerning Citizenship, Law Number 21 of 2007 concerning Eradication of the Crime of Trafficking in Persons, and Political Laws (UU No. 2 of 2008 and Law No. 42 of 2008). Presidential Decree No. 181 of 1998 concerning the Establishment of the National Commission on Violence Against Women or *Komnas Perempuan* was amended by Presidential Decree No. 65 of 2005.

<sup>14</sup> Ashilly Achidsti, *supra* note 1, p. 2.

<sup>15</sup> Dede Kania, "Hak Asasi Perempuan dalam Peraturan Perundang-undangan di Indonesia" (2015) 12 no 4 Jurnal Konstitusi.

<sup>16</sup> Ashilly Achidsti, *supra* note 1, pp. 80–81.

<sup>17</sup> Rasyaadah & Rahayu, *supra* note 5, 268.

<sup>18</sup> Dede Kania, *supra* note 15, p. 718.

The reform era has changed the community's perspectives about women. In the era of President Gus Dur, presidential instructions no. 9 of 2000 concerning gender mainstreaming were enacted. This regulation has brought significant change, as shown by a greater proportion of women occupying strategic posts as decision-makers. Other regulations also uphold women's status and protect women, including Law No. 23 of 2004 concerning the Elimination of Domestic Violence and Law No. 12 of 2022 concerning Crimes of Sexual Violence.

To make this research more comprehensive, gender is defined through different perspectives. Understanding statutory regulations is incomplete without delving into the root of the problem. The fight for women's rights has traversed a lengthy historical path. Consequently, elucidating the definition of gender, both in biological and social terms, will aid in addressing the issue of gender inequality that persists.

The distinction between "gender" and "sex" is vital. In contrast, "sex" pertains to the genetic or physical characteristics a person is born with, and "gender" refers to the societal roles that both men and women can assume. These roles are not inherently linked to the biological attributes that humans inherit at birth. Therefore, it is essential to differentiate between "gender," which is socially constructed, and "sex," which is biologically determined. Regarding the explanation mentioned above, it can be concluded that gender cannot be separated from society's culture as the culture constructs it. However, this view differs in different societies. Hence, the gender roles between men and women differ from one society to another.

Traditional Javanese society still regards patriarchal culture. In this context, cooking is entitled to the housewife. Meanwhile, cooking has been considered an inappropriate task for men. Meanwhile, in today's modern Javanese society, cooking is considered a woman's job and a shared task.

The term "Gender" originates from English, signifying the roles associated with sex.<sup>19</sup> According to the Women's Studies Encyclopedia, gender is identified as a cultural construct that delineates distinctions in roles, behaviors, mentalities, and emotional characteristics between men and women as developed within society. Hillary M. Lips, in her book "Sex and Gender: An Introduction," defines gender as the cultural expectations set for women and men. For instance, women are traditionally perceived as gentle, beautiful, emotional, and nurturing, while men are considered strong, rational, assertive, and authoritative. However, these characteristics are not fixed and can be interchangeable; some men embody gentleness, and conversely, some women exhibit strength and rationality. The fluidity of these traits allows for their evolution over time and variation across different cultures.<sup>20</sup>

From a biological perspective, the differences between men and women are not interchangeable. Hence, efforts to eliminate gender discrimination should not overlook the undeniable biological realities. The female reproductive function is essential for the continuation of life on earth, underscoring the importance of recognizing biological distinctions. As a social construct, gender is relative and contextual, varying significantly across cultures and communities. The perception and roles associated with gender in Balinese society differ markedly from those in Minang or Javanese communities.

The differences between men and women become problematic when they result in injustice, which causes superiority between the two. This term attempts to eliminate gender inequality and tap into practical issues, philosophy, and religion. This study will focus on gender in religion, particularly how Islam regulates justice and gender equality in both the domestic and public domains.

Table: Differences in terms of sex and gender

<sup>19</sup> John M Echols & Hasan Shadily, *Kamus Inggris Indonesia* (Jakarta: Gramedia, 1983), p. 265.

<sup>20</sup> Mansour Faqih, *Analisis Gender dan Transformasi Sosial* (Yogyakarta: Pustaka Pelajar, 1997), pp. 8–9.

| <b>SEX</b>   | <b>GENDER</b>  |
|--|--|
| Biological   | Social culture   |
| God's gift is universal (anywhere at any time)                 | Taught through local and temporal community socialization  |
| It cannot be changed   | Can be changed   |
| Biological roles between men and women are not interchangeable | Social roles can be exchanged according to local social culture agreements   |
| Men = Production<br>Women = Reproduction                       | Educating children, cooking, cleaning the house, and making a career in the public world are done by both men and women. |

According to Mufidah,<sup>21</sup> the standardization of roles and views that are gender biased are sourced from patriarchal and matriarchal cultures, potentially triggering injustice to both women and men. Patriarchal culture prioritizes men over women, while matriarchal culture tends to prioritize women over men. The manifestations of gender injustice originating from the culture mentioned above are explained in the following section.<sup>22</sup>

#### 1. Stereotypes

Gender labeling always has a negative connotation, which can trigger problems. For instance, women have been regarded as weak, timid, fussy, and emotionally unable to take responsibility, etc. Meanwhile, men/males are seen as strong, hard, rude, rational, selfish, and jealous. Such labeling is detrimental to both sides because it will have implications for an unequal division of roles and injustice.

#### 2. Subordination

Gender stereotypes perpetuate unfair views, leading to unequal status, roles, and relationships between genders. Typically, these stereotypes position men as superior, placing them in dominant roles with significant responsibilities in production and decision-making. Conversely, women are often relegated to subordinate roles, which hinders their access to participation and control, especially in decision-making matters.

#### 3. Marginalization

Marginalization, whether deliberate or accidental, entails systematically denying one gender access to, and the benefits of, societal resources and opportunities due to stereotypes and subordination. This results in women being significantly disadvantaged compared to men across various societal domains, including education, the economy, and politics.

#### 4. Disproportionate Workload

Coercion or neglect leading one gender to shoulder an excessive burden arises from the standardization of productive and reproductive roles assigned to men and women. This situation fosters an inflexible division of labor and creates dichotomous work patterns based on gender. Consequently, this situation can exacerbate gender inequality due to the increased workload

<sup>21</sup> Mufidah, *Paradigma Gender* (Malang: Bayu Media Publishing, 2003) 51.

<sup>22</sup> Mufidah, *supra* note 22.

placed on one gender. This situation is common among women as housewives and as workers who have a greater burden and load.

## 5. Gender-Based Violence

The gender bias views places men as superior and women as inferior. This affects the non-equal hierarchical relationships, posing women to violence. In general, gender-based violence is more frequently experienced by women than men, which the labeling could cause that women are weak creatures lacking independence.<sup>23</sup> The study of Islamic law regarding the equality of women and men is widely stated in the Qur'an. For instance:

“Indeed, Muslim men and women, believing men and women, men and women who are obedient, righteous men and women, patient men and women, humble men and women, men, and women who give in charity, men and women who fast, men and women who keep their honor, men and women who mention (name) Allah a lot, Allah has provided forgiveness and a great reward.” (Qs al-Ahzab, 35).

### 1. Islamic Studies on Woman

Islamic studies that explain the existence of women result from Islamic theologian interpretation, most of whom are male theologians. Most interpretations of religion tend to be gender biased. This can be seen from the following interpretation/comprehension:<sup>24</sup>

#### a. Interpretation/comprehension of the woman's status from which she was created.

Among Muslims, there is a deep-rooted belief that Eve was created from Adam's rib, even though this story is not from the Qur'an but from the Bible. Whereas Surah An-Nisa 'verse 1 explains:

“O mankind, fear your Lord, who created you from the same kind, and Allah created mates and dispersed from both of them many men and women.”

The verse illustrates that men and women were created from the same essence. According to interpretations by the Ministry of Religion of the Republic of Indonesia and scholars like Quraish Shihab, "the same kind" refers to their origin from a single individual (Adam). Quraish Shihab further clarifies that the reference to curved ribs, as mentioned in a Hadith narrated by Bukhari, should be understood metaphorically. This signifies that men should approach their interactions with women with understanding and wisdom, recognizing that women possess distinct traits, characteristics, and tendencies. Awareness of these differences is crucial; attempting to alter the inherent nature of women can be as detrimental as trying to straighten a curved bone, underscoring the importance of accepting and valuing these differences rather than forcing change.

#### b. Interpretation/comprehension of women brings disaster

Satan's temptations target both men and women, as highlighted in Surah Al-A'raf Verse 20, where it is mentioned, “Then the Satan whispered evil thoughts to both of them.” This reference is in the dual form (*mutasanna*), explicitly pointing to Adam and Eve. Furthermore, Surah Taha Verse 120 elaborates, “Then Satan whispered to him; he said, 'O Adam, shall I direct you to the tree of eternity and possession that will not deteriorate?’” This verse counters the misconception that it was Eve who was solely tempted and misled by Satan, leading to their expulsion from Paradise. Thus, it dispels the notion that women are the source of misfortune, emphasizing that temptation was directed at both individuals, not just women.

<sup>23</sup> Mansour Faqih, *supra* note 21.

<sup>24</sup> Huzaemah T Yanggo, *Fiqh Perempuan Kontemporer* (Jakarta: Al-Mawardi Prima, 2001).

c. Interpretation/comprehension of violence against women

Husbands are given the right to educate wives about disobedience and disrespect to the husband (*nusyuz*) in three ways, as stated in Surah An-Nisa 'Verse 34, advising, separating from bed, and hitting. These three ways should be performed in order. Hitting can only be performed when the wife repeatedly does the actions mentioned above. According to Imam Syafi'i, the husband may only hit without injuring, not on her face or head. Fiqh scholars agree that it is better to avoid hitting because the Prophet SAW said: "Do not do violence to women." Aisha also said that the Prophet Muhammad never hit his wife or his maid. Judging from the context, beating the wife is allowed if the woman's attitude has gone too far in violating religious rules or disrespecting her husband.

d. Interpretation/comprehension of the right to break the marriage

In Islam, divorce is within the husband's rights. In the household, the wife is entitled to good treatment from her husband, as mentioned in Surah in An-Nisa 'Verse 19 "And live with them with kindness." Appropriate/good treatment is a polite act done by the husband to the wife. Then, the wife will be polite to the husband. In Islam, the wife is also given the right of *khula* (divorce suit) after a reconciliation effort through a third party (hakam) if the husband does not want to provide a decent living or if the husband commits rudeness, cheating, and immorality.

e. Interpretation/comprehension of the differences in the urine of boys and girls

A hadith narrated by Bukhari and Muslim, relayed from Ummi Qais (Umairah), recounts that she brought her young son, who had yet to consume food other than breast milk, to the Prophet Muhammad. During the visit, the child urinated in the Prophet's room. In response, the Prophet Muhammad requested water to sprinkle over the urine instead of washing it away thoroughly. This action is further elaborated upon in a hadith narrated by Turmudzi, complemented by another Hadith of Hasan quality, stating, "The urine of a girl is to be washed, while the urine of a boy is to be sprinkled with water."

In the context of Shafi'i Fiqh within the Book of Minhaj at-Talibin, Al-Mahalli, clarifies that the distinction made in the treatment of urinary purification between boys and girls is attributed to practical reasons rather than any implication of intrinsic purity or value. He explains that boys are often held more than girls, leading to their urine being dispersed over a broader area, whereas girls' urine tends to accumulate in a single spot. This explanation aims to dispel any misconceptions that the difference in treatment suggests a disparity in the sanctity or worth between girls and boys.

## 2. Women's Rights in Islam

### a. Women's Rights in Education

Within the same classroom environment, where male and female students have access to identical resources, such as textbooks and teachers, they nonetheless emerge with divergent educational experiences. Despite female students often outperforming their male counterparts across various academic metrics early in their education, a noticeable disparity emerges as they transition from college into broader society, with women frequently lagging. This phenomenon can largely be attributed to gender socialization processes and a gender-biased hidden curriculum within educational institutions. These frameworks subtly condition female students to be less responsive to educational opportunities, steering them away from realizing their full potential. Traditional socialization emphasizes qualities like gentleness and amiability for women while promoting independence and assertiveness among men, contributing to the educational and societal gap between genders.



Islamic teachings advocate for an egalitarian approach to education, as highlighted by the Prophet Muhammad (PBUH) in his declaration that "Seeking knowledge is an obligation for every Muslim," making no distinction between men and women. This perspective is further reinforced by the wide array of women expected to learn within Islamic jurisprudence, including topics specific to their roles and biological functions, such as menstruation, childbirth, and modesty. This not only challenges the underlying gender biases present in contemporary educational systems but also underscores the importance Islam places on women's education, potentially even suggesting a broader scope of learning for women than men in certain respects.

#### b. Women's Rights in the Household

The relationship between husband and wife in Islam is beautifully likened to that of clothing, as mentioned in the Qur'an. Clothing has a deep meaning as a cover from the heat of the sun and the cold air. This means that husband and wife cover each other's nakedness (*aurat*), functioning as jewelry that provides beauty and comfort to both. There is no gap between husband and wife as they cover each other when facing shortcomings.

Surah An-Nisa' verse 34 mentions the term *qawwam*, which means leader, protector, the person in charge, educator, regulator, etc. The advantages of men over women lie in their intellectual and physical superiority. Muslim feminists reinterpret the term *qawwam* to denote men responsible for providing for their families and supporting their wives' reproductive roles. They advocate for the rights of women as bearers of the reproductive function, ensuring that husbands support both the economic needs and the health and safety of their wives.<sup>25</sup>

The term *qawwam* is mentioned three times in the Qur'an: An-Nisa': 34, 135 and Al-Maidah: 8. In Surah An-Nisa': 135 and Al-Maidah: 8, it is not interpreted as a leader, but as "standing for Allah", "straight for Allah", "those who always uphold (the truth) for Allah." Why does the interpretation of "*qawwam*" in verses concerning women or wives often translate to "leader," reflecting a different nuance? In the Lisanul Arab dictionary, *qawwam* means "men are the guarantors and guardians of your women's affairs." Hence, the meaning of protector, supporter, and person in charge/guarantor (associated with the obligation to provide a living) is more appropriate because leadership is not only imposed on men since it is the nature of all believers regardless of gender.<sup>26</sup>

#### c. Women's reproductive rights

Women's role in reproduction is very important in a household because the household is an institution for the existence of future generations. Lies Marcoes Natsir emphasizes that the discourse on women's reproductive rights cannot be separated from religious discourse.<sup>27</sup> Misconceptions still occur in understanding the rights and obligations of husband and wife. According to Islam, justice is the fulfillment of a balance between rights and obligations. From a logical perspective, parties with greater responsibility are entitled to equal rights.<sup>28</sup> The responsibility between men and women is equally heavy.

Surah Al-An'am Verse 132 reads, "And each person gets degrees (balanced) with what he does..." Islam does pay attention to the biological nature of women in carrying out their obligations. Such as the fall of the obligation to pray during menstruation and childbirth, but these biological differences do not necessarily distinguish social status, resulting in the loss of equality between women and men. In Islam, family life has a special philosophy regarding the rights and responsibilities of men and women, where both are assigned equal rights and responsibilities.

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<sup>25</sup> Mufidah, *Supra* note 22, p. 64.

<sup>26</sup> Subhan, *supra* note 6. P.105.

<sup>27</sup> Mufidah, *Supra* note 22, p. 65.

<sup>28</sup> Subhan, *supra* note 6. P. 198.

d. The rights in public spaces

The populations of South Asia and the countries of the Middle East are significantly shaped by certain interpretations of Islamic teachings. Seclusion remains prevalent, considerably restricting women's mobility in public spheres. It is customary for women to wear a veil when venturing outside their homes. Moreover, within domestic settings, women's access is often limited to specific areas, predominantly the kitchen. In Indonesia, particularly on the island of Java, the concept of seclusion is also acknowledged, though it is typically observed exclusively during the pre-wedding period. The association of women with traditional notions of femininity is a deeply entrenched cultural norm throughout Southeast Asia.<sup>29</sup>

Women's rights in public spaces in the Qur'an Surah Al-Ahzab Verse 33 are indeed limited. Lafadz *qarna* in the verse means 'to stay at home' (house building, not household). Wives are only to go out of the house in emergencies. Abul A'la Al-Maududi's book *Al-Hijab* reads *qirna*, meaning "stay in your family environment calmly and respectfully." Hence, wives can go out to meet their needs and necessities. Women have the right to work (activities outside the home) as long as they need it or the job requires it and as long as religious and ethical norms are maintained.<sup>30</sup>

e. Rights in politics

In politics, the Qur'an depicts women who are autonomous from their husbands, pledging allegiance (*bai'at*) to the Prophet (QS. Al-Mumtahanah: 12). Several women embraced Islam before their husbands, indicating the historical presence of women's political engagement in Islam since the time of the Prophet. Aisha, the Prophet's wife, notably played a significant role in politics until her involvement in the Battle of Jamal.

### 3. The Role of Women in Islamic History

Islam has made fundamental changes to the era where women were discriminated against. As the last Prophet, Muhammad elevated human dignity as the blessing for the whole universe or *rahmatan lil-'aalamiin*. This role includes defending women's rights. Muhammad has been named as the first feminist in Islam. The concept of gender equality in Islam applies beyond the domestic domain.

First, He carried out a major overhaul of the worldview of Arab society, which at that time was still dominated by the perspective of the people of the pharaoh era (QS. Al-Nahl: 58-59), which was rather misogynistic.<sup>31</sup> When Prophet Muhammad was granted a son, the child passed away in childhood. This event underscores a critical lesson that there was no glorification of male offspring during the Prophet's time, contrasting with certain cultural norms. Remarkably, he frequently and openly showed affection towards his daughter, Fatimah, in public. This act defied the Arab customs of the period, which frowned upon such displays. Through these actions, Prophet Muhammad actively shaped a discourse advocating for equality, emphasizing that there should be no discrimination between men and women.

Second, Prophet Muhammad showed good behavior (*mu'asyarah bil-ma'ruf*) towards women throughout his life. He never committed violence against his wives, even when each had a chance to be jealous of each other. In one narration, He said, "You all should treat your wives the best, and I am the best of you for my wives." The status of women in the era of the Prophet can be seen in their involvement in several important roles that have historical-monumental meaning, such as in the process of narrating Hadith and forming early Islamic

<sup>29</sup> Ratna Saptari & Brigitte Holzner, *Perempuan Kerja dan Perubahan Sosial* (Jakarta: Pustaka Utama Grafiti, 1997).

<sup>30</sup> Shihab, M Quraish, *Wawasan Al-Qur'an* (Bandung: Mizan, 1996).

<sup>31</sup> Mufidah, *Supra* note 22, p. 37.

discourse. Several views among scholars who study the biographies of the Prophet's companions firmly assert the significant contribution of women in this area. Ibn Ishaq, an early biographer, identified no fewer than 50 women who served as narrators of Hadith. Additionally, the *Al-Muwatta'*, a foundational text in Islamic jurisprudence, includes many Hadiths that women transmitted.

Historical data show that women have contributed significantly to the writing/bookkeeping of the Qur'an. Hafshah bint Umar was a female memorizer of the Qur'an who was good at reading and writing. Women are also believed to hold vital roles in the Muslim community. Women were the first ones to learn about revelation. They safeguarded a crucial secret regarding the Prophet's concealment before his Medina migration. Additionally, before the Prophet's passing, a select group of women from the Muslim community were consulted for their perspectives on who should succeed the Prophet.

In the field of education, the Prophet Muhammad gave women the opportunity to study Islam with him on certain days. Aisyah narrated many Hadiths and performed *ijtihad*, with as many as 200 fatwas independently and 600 fatwas together with other companions. As a leading Hadith scholar, Aisyah has narrated Hadith in the early period, reaching 2,210 Hadith. Imam Bukhari and Imam Muslims, known to be very strict, have set standards of hadith authenticity, including 300 Hadiths in their collection of Hadiths.<sup>32</sup>

### C. Conclusion

Gender is not an unfamiliar concept in Islam. Prophet Muhammad was a pioneer who fought for women's rights during the downturn of women in his time. The Islamic teachings that he introduced are respectful towards women. In the Prophet's life, many important women made significant contributions. Khadijah supported the spread of Islam (*da'wah*). Aisyah was intelligent in observing and practicing daily life with the Prophet, and her courage was incredible in leading the Jamal War. Hafshah bint Umar - a memorizer of the Qur'an who was keen on reading and writing, has made a notable contribution to the compilation of the Qur'an. Furthermore, Fatimah was the only descendant of the Prophet who was allowed by Allah to have descendants.

In line with Presidential Instruction No. 9 of 2000 concerning Gender Mainstreaming in Indonesia, the Indonesian community's perspectives toward women have changed. A female president, Mrs. Megawati Soekarno Putri, once led Indonesia. Women have started to occupy strategic positions in this country. The regulations that protect women as victims are also enforced to prevent discrimination against women.

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<sup>32</sup> Lela Ahmad, *Women and Gender in Islam*, Alih Bahasa: Wanita dan Gender dalam Islam (Jakarta: Lentera, 1992).

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