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# Women's justice and protection in family law: A normative examination of the principles of the qur'an answers the accusation of patriarchal bias

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## ABSTRACT

This study is motivated by the growing accusation that Islamic family law is inherently patriarchal and fails to protect women adequately. Such criticisms arise from the gap between Qur'anic principles of justice and socio-cultural practices, as well as traditional interpretations shaped by patriarchal structures. In response to this issue, this study aims to re-examine the principles of justice and women's protection in the Qur'an using a normative approach combined with Qur'anic feminist perspectives. The central question addressed is whether the Qur'anic text itself supports patriarchy or whether patriarchal tendencies originate from historical interpretations and cultural practices surrounding the text. This research employs a qualitative method using library research and thematic content analysis (maudhu'i). The primary data consisted of Qur'anic verses related to gender relations, marriage, divorce, and family responsibilities, while the secondary data included classical and contemporary tafsir literature as well as feminist Islamic scholarship. The analysis focuses on identifying patterns of meaning, moral objectives (maqāṣid), and substantive justice embedded within the Qur'anic discourse. The findings reveal that the Qur'an is inherently anti-patriarchal and strongly upholds principles of justice, reciprocity, and the protection of women's dignity. Verses such as Qur'an 4:1, 4:19, 2:231, and 9:71 emphasize women's spiritual, social, and economic rights. The study concludes that patriarchal bias does not originate from the Qur'anic text itself but from socio-historical interpretations shaped by patriarchal contexts. Therefore, reconstructing Islamic family law based on maqāṣid al-Qur'an is essential for developing a more just, humane, and gender-responsive model of family relations aligned with the Qur'an's ethical spirit.

**Keywords:** gender justice, women's protection, exegesis, Al-Qur'an.

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## 1. INTRODUCTION

The issue of gender justice and women's protection in family law is one of the most discussed topics in contemporary Islamic law discourse among academics, legal practitioners, women's activists, and the wider community. In recent decades, Islamic family law has been criticized as patriarchal, biased against men, and often detrimental to women. These accusations have developed not only in Western academic discourse but also in Muslim-majority countries, including Indonesia. In various forums, Islamic law, especially family law related to marriage, divorce rights, alimony, polygamy, inheritance, and child custody, is claimed to be more favorable to men and ignores women's rights and dignity (Alfansuri, 2024). However, on the other hand, there is a different view that states that many of the provisions that are considered discriminatory do not come from the text of the Qur'an directly, but from the products of *ijtihad* of scholars, patriarchal cultural practices, and the limitations of contextual understanding of the principle of justice in the Qur'an. Therefore, it is important to review whether the provisions of Islamic law are inherently patriarchal or whether the bias is born from interpretation and implementation in society. This debate is the background for the urgency of this research, which is to examine the principles of justice and protection of women in the Qur'an normatively to answer various accusations of patriarchal bias against Islamic family law (Mahdi, 2024).

The social context of Indonesia further emphasizes the urgency of this research. Data from the Komnas Perempuan Annual Record (CATAHU 2024) shows a significant increase in cases of gender-based violence, where the personal or domestic realm occupies the highest percentage. Hundreds of thousands of reports are received every year through partner agencies, government agencies, and direct complaint channels. Domestic violence cases often involve women as the main victims, and many of these cases are related to the weakness of family law in protecting them. For example, women experience difficulties in obtaining maintenance rights after divorce, administrative barriers to accessing legal services, and inequality in bargaining positions when resolving family disputes. This phenomenon shows that although formal law provides a protection mechanism, its implementation is still far from optimal (Chalabi, 2021). Many parties consider these weaknesses to be rooted in social structures and legal interpretations that are still full of patriarchal biases. This raises a big question: Is the problem caused by the teachings of the Qur'an or the practice of interpretation?

The social changes that occur in modern Muslim society are also an important background for this study. Women's education levels have increased significantly, their participation in the world of work has increased, and family structures have changed along with urbanization and the development of communication technology (Shepard, 1989). The transformation of women's roles in society requires a renewal of the meaning of Islamic family law so that it remains relevant and responsive to contemporary needs. Women's rights to work, obtain education, and participate in public spaces are becoming increasingly important; therefore, family law rules need to be reinterpreted by considering the principles of justice (*'adl*), benefit (*maslahah*), and protection (*hifz al-nasl*, *hifz al-nafs*, and *hifz al-'ird*) in *maqashid al-shari'ah*. In this context, normative research on the Qur'an can provide a theological and epistemological basis for family law reform that is not only more socially just but also in harmony with the spirit of Islamic Sharia.

However, the practice of family law in Indonesia shows quite complex dynamics. Although Marriage Law No. 1 of 1974, the Compilation of Islamic Law (KHI), and various religious court rulings provide the legal basis, their implementation varies from region to region. Studies have shown that some progressive judges seek to interpret the law with a benefit and equality approach, while others maintain a conservative and literal view of the law. Women in many cases still experience structural barriers, such as difficulties in proving violence, inequality in divorce applications, or unclear enforcement of post-divorce maintenance. Meanwhile, child custody is often a polemic in itself because of the difference between normative provisions and social considerations in court rulings. These phenomena indicate the need for research to assess the extent to which family law practices reflect the principles of the Qur'an or are influenced by cultural and social factors that are biased against women (Prayitna et al., 2025).

Accusations of patriarchal bias against Islamic law have long been the focus of academic research from the perspectives of feminism, legal anthropology, and Qur'anic interpretation. However, several

research gaps remain to be filled. First, most studies are partial, addressing only one issue, such as polygamy or inheritance, without comprehensively linking it to the Qur'anic principles of justice and protection of women. Second, many normative studies focus on text interpretation but do not consider empirical field data, so the conclusions produced do not reflect the reality of legal practice. In contrast, many field studies have highlighted injustices in legal practice but have not critically linked them to the Qur'anic normative foundations. The integration of normative analysis and empirical evidence is essential for producing relevant and applicable recommendations. Third, research that discusses the relationship between the principles of maqashid al-shariah and family law in the context of reform is also limited; thus, studies are still needed to show how maqashid can be used as a tool to reinterpret family law more fairly for women.

Based on the exposure of these phenomena and research gaps, this research is important. A normative examination of the principles of the Qur'an allows us to understand that gender justice is not a concept contrary to Islam but an integral part of Qur'anic values. With a qualitative approach or even a combination of qualitative and quantitative approach, this research examines the text of the Qur'an, examines the literature of classical and contemporary interpretations, and relates it to empirical data related to family law practice in Indonesia. This approach is expected to provide a more complete understanding of how the principles of women's justice and protection can be extracted from the Qur'an and how they should be implemented in the context of contemporary law.

This study aims to uncover the extent to which the principles of the Qur'an support women's justice and protection in family law, as well as answer the accusation that Islamic law is patriarchal. This study also aims to assess the extent to which family law practices in Indonesia are in accordance with or deviate from Qur'anic principles, as well as to identify the factors that cause gender inequality in the implementation of the law. The results of this study are expected to make a theoretical contribution by strengthening the framework of interpretation of the Qur'an with a gender justice perspective and practical contributions in the form of policy recommendations and family law reform strategies that better protect women. This study is expected to enrich the academic literature and provide benefits for efforts to improve justice in the family, society, and Islamic legal system in Indonesia.

## **2. RESEARCH METHOD**

This research, titled "Justice and Protection of Women in Family Law: A Normative Review of the Principles of the Qur'an Answering Allegations of Patriarchal Bias against Islamic Law through the Perspective of the Qur'an" used a qualitative research method with a literature research design combined with limited field data reinforcement to provide an empirical context. Qualitative methods were selected because the focus of this research is more interpretive, analytical, and deepening the meaning contained in the text of the Qur'an and relevant Islamic legal documents, which does not require numerical measurements as in quantitative research. However, light quantitative elements, such as the use of statistical data on violence against women, legal disparities, or divorce trends in Indonesia, are still included as a complement to the analysis. Qualitative literature research was chosen because the main source of this study is authoritative texts, namely Qur'anic verses, books of commentary, classical and contemporary jurisprudence, and Islamic family law literature in Indonesia. This approach allows researchers to examine normative texts in depth by examining the structure of meaning, context of the descent of the verse, and the relationship between concepts related to gender justice in family law. Qualitative field research on a limited scale was also used as additional data to strengthen the understanding of the reality of family law implementation, particularly through brief interviews with Religious Court judges, family law consultants, women victims of legal injustice, and female companion activists. Thus, this study combines the power of normative-theological analysis with contextual and actual social empirical realities.

The data sources of this research are divided into two categories: primary and secondary data. The primary data in this literature research is in the form of verses of the Qur'an that directly speak about the relationship between men and women, rights and obligations in the family, the principles of justice ('adl), protection (hifz al-nafs and hifz al-nasl), as well as relevant texts such as Surah An-Nisa', Al-Baqarah, Ar-Rum, Al-Ahzab, and An-Nahl. In addition, primary data also includes classical tafsir such as Tafsir al-Tabari, Ibn Kathir, al-Qurthubi, al-Razi, as well as contemporary tafsir such as Tafsir al-Mishbah, Fi Zhilal

al-Qur'an, and gender-based tafsir such as the work of Amina Wadud or Asma Barlas. Primary sources in the field in the form of in-depth interviews with selected informants, official documents of the Religious Court, such as divorce decrees, child custody decisions, and documents related to family disputes, are also used to strengthen arguments. Furthermore, secondary data include scientific works in the form of journal articles, books, research reports, and documentation of institutions such as Komnas Perempuan and the Central Statistics Agency, as well as legal documents such as the Marriage Law, the Compilation of Islamic Law (KHI), and Supreme Court Regulations that are relevant to the issue of justice and women's protection. This secondary literature provides broad analytical coverage and serves as a bridge between normative studies and empirical findings.

This study aims to examine the principles of justice and protection of women in family law from the Qur'anic perspective, particularly in relation to accusations of patriarchal bias directed at Islamic law. The research subjects include Qur'anic texts, interpretations, Islamic law products, social data related to gender injustice, and field informants who understand the reality of family law implementation in Indonesia. The interview subjects included Religious Court judges who handle divorce cases, family counselors, women who have experienced legal injustice, and academics who focus on gender studies and Islamic law. The subjects of this study were selected by purposive sampling, which is based on the consideration of the expertise, experience, and relevance of the informant to the issue being researched. This selection is common in qualitative research because it does not aim to look for statistical representations but rather the depth of information, clarity of phenomena, and accuracy of experiential narratives.

The location of the research is mainly non-local because this research is a literature research that is not limited to one specific geographical space. However, field research was carried out on a limited basis in several institutions in Indonesia, especially the Religious Court at the district/city level where the researcher is located, women's service institutions such as P2TP2A, and women's organizations such as Fatayat NU or Aisyiyah. The research is conducted over a specific period of time, for example six months, which includes the stages of data collection, analysis, and compilation of results. The stage of collecting library data is carried out throughout the research process, while the field data collection is carried out within two to three months according to the interview schedule and document observation. This timing is important to ensure that the research is not only theoretically in-depth, but also has empirical relevance.

The data collection techniques in this study consisted of literature studies, documentation, and in-depth interviews. The literature study was conducted by examining various written sources, both classical and contemporary, to find key concepts, normative arguments, and theoretical frameworks related to women's justice and protection in Islamic family law. Documentation techniques are used to collect data in the form of court decisions, statistics on cases of violence against women, official reports of state institutions, and other archives that support social interpretations of normative rules. In-depth interviews were conducted with key informants to explore real experiences, professional perceptions, and challenges of family law implementation from a field perspective. Interviews are conducted with semi-structured interview guidelines so that researchers can explore informant answers flexibly but remain within the research frame.

Data analysis techniques use descriptive analysis, content analysis, and comparative analysis. Descriptive analysis is used to describe the phenomenon in its entirety and explain the social and legal context behind the importance of this research. Content analysis is used to examine the text of the Qur'an, books of tafsir, jurisprudence, legal documents, and court decisions by identifying patterns of meaning, value principles, argumentative structures, and moral messages contained in the text. This technique is especially important in normative research that emphasizes the understanding of authoritative texts. A comparative analysis was carried out to compare the principles of the Qur'an with the practice of family law that runs in society, so that it can be clearly seen whether gender inequality stems from the sacred texts themselves or from developing social interpretations and cultures. Data triangulation was carried out to increase the validity of the findings by comparing information from various literature sources, interview results, and documentation data. By triangulation, researchers can test the consistency of information and avoid interpretation bias.

The data analysis process is carried out in several steps. First, the researcher reduces the data by selecting relevant information and discarding those that do not support the focus of the study. Second, the researcher presents data in the form of a systematic narrative that connects the normative principles of the Qur'an and the social reality of family law. Third, the researcher draws conclusions based on the findings that emerge from the results of the analysis. The conclusion not only contains an interpretation of the text of the Qur'an, but also is critical of the implementation of the law in Indonesia by identifying loopholes, challenges, and opportunities for legal reform. In the final stage, the researchers formulated theoretical and practical implications, including contributions to the development of more equitable Islamic family law towards women.

Overall, this research method is designed to provide an in-depth understanding of how the Qur'an actually contains the principles of justice and protection for women, while also criticizing accusations of patriarchal bias against Islamic law. By combining normative analysis and empirical data, this research is expected to not only contribute to the development of Islamic theories of gender interpretation and family law, but also provide recommendations that are applicable to policymakers, judicial institutions, educators, and the Muslim community in general. The qualitative approach used is able to capture the complexity of the meaning of the text, social dynamics, and the challenges of family law implementation, so that this study can provide a comprehensive and responsive picture of women's justice needs in the Islamic legal system.

### **3. RESULT AND DISCUSSION**

#### **3.1. Reorienting the Meaning of Justice in the Qur'an: From Formal Justice to Substantive Justice for Women**

##### **3.1.1. The Relevance of the Concept of Substantive Justice in the Qur'an as a Critique of the Dominant Formal Justice in Classical Interpretation**

The results of this study show that one of the most fundamental problems in women's recitation of verses in the Qur'an lies in the tendency of most classical interpretations to use a formal justice approach. Formal justice is a way of understanding a text literally, mathematically, and normatively without considering the social conditions of the parties governed by the text (Ihsanniyati et al., 2024). This approach tends to assume that fairness means giving equal portions or following the rules as they are written, without considering whether the end result causes harm to a particular party. Through an analysis of a number of key verses such as Al-Baqarah 228–231, An-Nisa' 3, An-Nisa' 34, and At-Talaq 6–7, this study found that many of the provisions of the Qur'an cannot be understood in a completely formal way because they contain principles that are contextual, protective, and oriented towards the benefit of women. For example, the provision of alimony during the iddah period, the prohibition of detaining women in marriage to trouble them, the command to treat wives with *ma'ruf*, and the obligation of men to bear the economic burden of the family are evidence that the Qur'an contains a structure of justice that is not static, but serves to protect those who are more socially and economically vulnerable (Hidayat et al., 2025).

In the perspective of this study, the concept of substantive justice is much more in line with the spirit of Qur'anic justice. Substantive justice is justice that considers real welfare, social protection, and the real conditions faced by women in daily life. Substantive justice does not stop at the text, but assesses whether a particular rule actually produces good and does not cause harm. In many cases, if the family verses are understood as they are without a thorough reading of the *maqāṣid al-syarī'ah*, then the result does not reflect the justice that the Qur'an requires. For example, the concept of *qiwamah* in QS. An-Nisa' 34 is often considered to be the legitimacy of male power over women, even though this study shows that *qiwamah* functions as an instrument of substantive justice that ensures women's economic well-being, not as a tool of domination. Principles like these prove that the Qur'an seeks to balance the relationship between men and women by considering moral qualities, social obligations, and the necessities of life, not on the basis of gender superiority. The findings of this study then confirm that many verses that have been considered "patriarchal bias" actually provide real protection for women if read through the lens of substantive justice (Latief et al., 2025).



This study also found that the dominance of literalist interpretations in the classical period was influenced by the socio-cultural conditions of medieval societies that were highly patriarchal. Therefore, the product of interpretation cannot always be used as a single reference in understanding the spirit of Qur'anic justice. By systematically reviewing these verses, this study proves that the Qur'an can be reread with a more humanistic, contextual, and defensive approach for vulnerable groups, especially women (Aini, 2024; Wadud, 2021). Therefore, this concept of substantive justice is a key finding that opens up space for the reconstruction of the understanding of Islamic family law in the modern era. Through this approach, the justice that the Qur'an desires is not only present in the text's formula, but also in social practices that truly protect women and maintain their dignity and dignity as human beings.

### **3.1.2. Reorientation of the Interpretation of Family Verses: Discovering the Mechanism of Qur'anic Protection for Women**

The second discussion in this study shows that many verses that are often considered to be the basis for patriarchal legitimacy actually contain a clear and firm mission to protect women. One of the most important examples is QS. Al-Baqarah 231 which prohibits a husband from treating his wife harmfully, especially when he is in the period of *talaq raj'i*. This verse is often overlooked in the framework of classical jurisprudence that emphasizes more on the legitimacy of the husband's rights in *ruju'*, but this study suggests that it is actually a very progressive ethical foundation in protecting women from potential manipulation, emotional violence, and exploitation. Similarly, the rules of dowry, alimony, *mut'ah*, and post-divorce housing obligations set forth in the Qur'an were a highly advanced social protection mechanism for the context of Arab society when this verse was revealed. This study explains that if these provisions are read substantively, then it is clear that the Qur'an does not want women to be disadvantaged or to be the object of male domination in the household.

Another important finding is about the reinterpretation of the concept of *qiwamah* which has often been misunderstood. This research shows that *qiwamah* is not a natural or ontological superiority of men, but rather a social and economic responsibility imposed on men to ensure that women and families are guaranteed financial and psychological security. Thus, *qiwamah* is a mechanism of justice, not a hierarchy of power (Suhaili, 2025; Van Huis, 2019). This verse actually demands a form of high moral responsibility from men, not giving them the privilege of domination. This study rejects the assumption that the Qur'an builds a patriarchal structure; On the contrary, the Qur'an presents a structure of justice that binds men to certain obligations in order to protect women. The same can also be seen in the provisions of women's maintenance, inheritance, and economic rights which are often considered "unequal", even though in the perspective of substantive justice, these rules are a way for the Qur'an to compensate for the social burden borne by women in a social context that is still unequal.

This study also revealed that the verses about *talaq*, *iddah*, and *nafkah* are not intended to make it difficult for women or limit their freedom, but instead provide a more comprehensive space for protection. For example, the obligation of men to provide shelter during *iddah* is not just a technical rule, but is a symbol that women should not be left in vulnerable conditions after divorce. In fact, this study shows that the Qur'an repeatedly emphasizes that divorce should be carried out in *ihsan* way, which is full of kindness and does not hurt the woman. The mechanism set forth in the Qur'an clearly shows that women have strong rights and cannot be suppressed by cultural rules. This study confirms that problems arise when legal interpretation and practice prioritize the structure of cultural patriarchy over the main values of the Qur'an.

Thus, this second discussion confirms the finding that the Qur'an does not only provide justice formally, but also substantively through comprehensive social protection mechanisms (Chalabi, 2021). These findings are particularly important in Islamic gender discourse because they show that the Qur'an is far more advanced than the interpretations often associated with patriarchy. The family verses in the Qur'an, when read through the perspective of substantive justice and *maqāṣid al-shari'ah*, provide a strong theological foundation for protecting, empowering, and upholding women's dignity in social and legal contexts.

### **3.1.3. Implications of Family Law Reconstruction: From Gender Hierarchy to Maqāṣid-Based Moral Partnerships**

The final discussion in this study focuses on the normative implications of the concept of substantive justice on the reconstruction of Islamic family law. This study found that understanding women's justice based on substantive justice brings about fundamental changes in the way we view the relationship between men and women in the family. If so far the relationship has been understood in the hierarchical framework of men above women, husbands as holders of full authority, women as parties who must obey, the results of the research show that this framework is not in harmony with the vision of justice of the Qur'an. On the contrary, this study found that the Qur'an requires a model of moral partnership between husband and wife (Khayati, 2023). Moral partnership means that family relationships are built on the basis of cooperation, mutual support, mutual respect, and mutual protection. This concept is very much in line with the values of *sakinah*, *mawaddah*, and *rahmah* which are the goals of marriage in the Qur'an.

Another important implication is that the interpretation of family law needs to move from a normative-formal approach to a maqāṣid approach that emphasizes the values of justice, mercy, welfare, and protection of vulnerable groups. This study confirms that textual reading alone will not be able to answer modern problems such as domestic violence, economic neglect, exploitation of women in divorce, or custody discrimination. Therefore, the reconstruction of family law must include the ethical and substantive dimensions that are at the core of the teachings of the Qur'an. With this approach, violence against women cannot be justified in any form because it is contrary to the values of mercy and anti-tyranny in the Qur'an. Similarly, women's rights to maintenance, housing, education, and care should be given priority because they are part of the principle of safeguarding human dignity (*hifz al-nafs*, *hifz al-'ird*).

The results of this study also make an important contribution to the discourse on Islamic law reform at the global level. This study shows that family law reform should not be seen as a form of westernization or a deviation from Islamic traditions, but rather as an attempt to return to the main values of the Qur'an that are more just and reject tyranny. Using the concept of substantive justice, this study offers a framework for rereading inheritance law, polygamy, divorce, and the division of roles in the household in a more humane and relevant way to the contemporary social context (Ali & Saputri, 2025; Nurlaelawati, 2013). At the practical level, this research paves the way for the birth of more women-friendly public policies, including strengthening laws against domestic violence, providing economic security for women after divorce, and empowering women in education and family economics.

This third discussion emphasizes that the contribution of the research lies not only in the criticism of the way of reading the verse, but also in the concrete offer to improve the structure of family law that has often weakened the position of women. Thus, this research not only produces theoretical findings, but also provides a new direction for the development of Islamic law that is more just, more humane, and more in line with the moral vision of the Qur'an.

### **3.2. Verses on Women's Protection as an Anti-Patriarchal Framework in Islamic Family Law**

The reconstruction of Islamic family law through the perspective of Qur'anic feminism is an important step to answer accusations of patriarchal bias in sharia, especially on issues of gender relations, women's rights, and family structure. The *maudhu'i* (thematic analysis) approach allows researchers to collect, classify, and interpret all verses related to women's protection, then build a comprehensive construction of meaning. With this method, the verse is not read fragmentatively, but is understood as a unit of ethical-theological discourse oriented towards justice, compassion, and the restoration of human dignity. The approach of feminism in this study is positioned not as a counter-ideology to Islam, but as an analytical tool to highlight the power relations formed in the social practices of the ummah, so that the difference between the normative teachings of the Qur'an and the patriarchal culture that surrounds historical interpretation can be seen (Fazlin, 2024).



### 3.2.1. Theoretical Framework: Qur'anic Feminism and Patriarchal Criticism

The feminist approach in the study of Islamic family law views that the main problem lies not in the sacred text, but in the reading shaped by patriarchal social structures. Thinkers such as Amina Wadud, Asma Barlas, and Riffat Hassan assert that the Qur'an is inherently anti-patriarchal because its teachings place men and women in positions of spiritual and ethical equality. Therefore, the task of maudhu'i research is to identify the verses that contain the principle of women's protection, then analyze how these principles can be the basis for family law reform.

In the perspective of Qur'anic feminism, protection is not interpreted as subordination or dependence, but as a guarantee of women's rights in a just social structure (Rahman et al., 2025). Therefore, terms such as *qiwamah*, *wilayah*, and the division of domestic-public roles must be read in the context of the universal values of the Qur'an that reject tyranny (*zulm*) and oppression (*istibdad*). In other words, this study places the verses of women's protection as an epistemological framework to correct interpretive biases derived from history, culture, and the authority of classical interpretations that are mostly written in patriarchal social environments.

### 3.2.2. The Basic Principles of the Qur'an: Equality of Dignity and Anti-Zulm

The first verse that is the basis for the elimination of patriarchy is the principle of equality from the origin of human occurrences in QS. An-Nisā' 4:1:

يَا أَيُّهَا النَّاسُ اتَّقُوا رَبَّكُمُ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ وَخَلَقَ مِنْهَا زَوْجَهَا وَبَثَّ مِنْهُمَا رِجًّا رَاكِبًا ۚ وَاتَّقُوا اللَّهَ الَّذِي تَسَاءَلُونَ بِهِ وَالْأَرْحَامَ ۚ إِنَّ اللَّهَ كَانَ عَلِيمًا رَحِيمًا

"O man! Fear your Lord, who created you from one, and from whom Allah created his mate, and from both of them He multiplied many males and females. And fear Allah in whose name you ask one another, and maintain family relations. Indeed, Allah is Watching over you".

This verse affirms two things: (1) human beings have equal spiritual dignity since creation; (2) there is no theological basis that justifies gender hierarchies. In the analysis of maudhu'i, this verse becomes the foundation for reinterpreting other verses that have historically been understood to support male dominance. Modern mufasir see the concept of *nafs wahidah* as a critique of patriarchal structures that claim the ontological superiority of men over women.

In addition, verses that prohibit violence and tyranny such as QS. Ash-Sūrā 42:42, Al-Baqarah 2:231, and An-Nahl 16:90 affirm that any form of subordination to women, including domestic violence, forced marriage, restriction of access to education, or silencing of women's voices, is a *forbidden* form of *zulm*.

This principle is the basis that Islamic family law, in any form, should not preserve practices that harm women, as it is contrary to the sharia maqāshid on the maintenance of dignity (*hifz al-'ird*) and the soul (*hifz al-nafs*).

### 3.2.3. Verses on Women's Protection and Maudhu'i Content Analysis

#### 3.2.3.1. QS. An-Nisā' 4:19 – The Prohibition of Treating Women Unjustly

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا يَحِلُّ لَكُمْ أَنْ تَرِثُوا النِّسَاءَ كَرِهًا ۚ وَلَا تَعْضُلُوهُنَّ لِيَنْدَهُبُوا بِبَعْضِ مَا آتَيْنَهُنَّ إِلَّا أَنْ يَأْتِيَنَّكُمْ بِفَاحِشَةٍ مُبَيِّنَةٍ ۚ وَعَاشِرُوهُنَّ بِالْمَعْرُوفِ ۚ فَإِنْ كَرِهْتُمُوهُنَّ فَرِهْتُمُوهُنَّ ۚ فَعَسَى أَنْ تَكْرَهُوا شَيْئًا وَيَجْعَلَ اللَّهُ فِيهِ خَيْرًا كَثِيرًا

"O you who have believed! It is not halal for you to force women to inherit. And do not trouble them to take back some of what you have given them, unless they commit a real abominable deed. And associate with them appropriately. If you don't like them, you may not like something, but Allah has done them a lot of good".

This verse was born in the context of an Arab culture that treated women as property. The prohibition of "inheriting women" is a progressive step to break the structure of women's body ownership.

In the perspective of feminism, this verse is a direct critique of the structural patriarchy that makes women the object of family transactions.

In content analysis, this verse contains three important messages: the recognition of women's right to self-determination, the rejection of forced marriage and women's body control, the deconstruction of a culture that places women as commodities.

In contemporary family law, this verse is the basis for the rejection of the practice of *forced marriage*, arbitrary *guardianship*, and the right of women to refuse harmful marriages.

### 3.2.3.2. QS. An-Nisā' 4:1, 4:32 – Spiritual and Economic Equality

Verse 4:32 states:

وَلَا تَتَمَنَّوْا مَا فَضَّلَ اللَّهُ بِهِ بَعْضَكُمْ عَلَى بَعْضٍ ۚ لِلرِّجَالِ نَصِيبٌ مِّمَّا اكْتَسَبُوا وَلِلنِّسَاءِ وَلِلنِّسَاءِ مِمَّا اكْتَسَبُوا وَلِلنِّسَاءِ مِمَّا اكْتَسَبُوا وَلِلنِّسَاءِ مِمَّا اكْتَسَبُوا ۚ وَإِنَّ اللَّهَ كَانَ بِكُلِّ شَيْءٍ عَلِيمًا

“And do not desire what Allah has given to some of you more than others. For men there is a part of what they are trying to do, and for women there is also a part of what they are trying to do. And ask Allah for a portion of His gifts. Indeed, Allah is All-Knowing”.

The message of this verse is an explicit recognition of women's economic authority, including the right to income, property, and personal assets. In the context of patriarchal society, this verse is radical because it negates the view that women should not work, have no right to manage property, or should be subject to the financial control of their husbands.

This verse is also the basis for reviewing the construction of *alimony* and *qiwamah*. If women have economic ability, then *qiwamah* is no longer read as dominance, but as a function of social responsibility, not gender privilege.

### 3.2.3.3. QS. Al-Baqarah 2:231 – The Prohibition of Troublesome Women in Marriage

وَإِذَا طَلَقْتُمُ النِّسَاءَ فَلَهُنَّ أَجَلُهُنَّ فَأَمْسِكُوهُنَّ بِمَعْرُوفٍ أَوْ سَرِّحُوهُنَّ بِمَعْرُوفٍ ۚ وَلَا تُمْسِكُوهُنَّ ضِرَارًا لِّتَعْتَدُوا ۚ وَمَنْ يَفْعَلْ ذَلِكَ فَقَدْ ظَلَمَ نَفْسَهُ ۚ وَلَا تَتَّخِذُوا آيَاتِ اللَّهِ هُزُوعًا ۚ وَادْكُرُوا نِعْمَتَ اللَّهِ عَلَيْكُمْ وَمَا أَنْزَلَ عَلَيْكُمْ مِنَ الْكِتَابِ وَالْحِكْمَةِ يَعِظُكُمْ بِهِ ۚ وَاتَّقُوا اللَّهَ وَاعْلَمُوا أَنَّ اللَّهَ بِكُلِّ شَيْءٍ عَلِيمٌ

“And if you divorce a woman, and they are nearing the end of their iddah, then refer to them in a good way or let them go in a good way. And do not hold them back to cause harm until you go beyond the limit. Whoever does this, he has indeed wronged himself. And do not make fun of the verses of Allah. Remember Allah's favor to you and what He has revealed to you, the Book and the Wisdom, to teach you. Fear Allah and know that Allah is All-Knowing”.

This order rejects manipulative treatment in the household such as the detention of the wife's status for the benefit of the man, acts of revenge, or the practice of "hanging" the wife without *talaq*. The Qur'an affirms that marriage should be a space of comfort, not oppression.

This verse is especially important in the renewal of family law because it is the basis for the prohibition of domestic violence, it promotes a fair divorce system, including *the right of khulu'* for women, it is requiring the principle of *maslahah* in every family decision

In the *maudhu'i* approach, all divorce verses (*talaq*, *khulu'*, refer) are read in the framework of equality of rights so that they no longer support patriarchal practices such as unilateral *talaq* that harm women.

This verse is the theological foundation for the concept of mutual partnership. Gender relations are not hierarchical, but ethical partnerships. When connected with family law, this verse shifts the narrative of husband dominance to a narrative of cooperation. In the perspective of feminism, this verse is the most important point in the anti-patriarchal reading.

The analysis of the content of *maudhu'i* shows that *the wilayah* relations in this verse are reciprocal, so it should not be understood that men are the only leaders. Women also have moral, social, and spiritual authority.

### 3.2.4. Reconstructing the Meaning of Qiwāmah: From Gender Superiority to Ethical Responsibility

QS. An-Nisā' 4:34 is often a patriarchal justification. Qur'anic feminists affirm that this verse needs to be read with comprehensive and contextual interpretation. The term *الرِّجَالُ قَوُّمُونَ عَلَى النِّسَاءِ* does not mean a higher man, but describes social responsibility based on the economic conditions of the Arab society at that time. As the social context changes, the meaning of function also changes. The concept of *qiwamah* should not be read as placing men in a permanently higher position, but rather as describing social responsibility shaped by the economic realities of Arab society at the time. As social conditions evolve, the function and interpretation of *qiwamah* can also shift. Scholars such as Ibn 'Ashur and Rashid Ridha, along with modern thinkers like Fazlur Rahman, emphasize that *qiwamah* is not an absolute privilege, does not remove women's rights, and should not be treated as evidence of blind obedience; instead, it can be assigned based on competence. From a Qur'anic feminist perspective, this means leadership is grounded in ability rather than gender.

In the perspective of Qur'anic feminism, *qiwamah* can be understood as: "Leadership functions are based on ability, not gender." This is in line with the principles:

الأُمُورُ تُنَاطُ بِمَنْ يَقْدِرُ عَلَيْهَا

"A matter is left to the most capable."

Through the *maudhu'i* method, verse 4:34 meets verses 9:71 and 4:1, so that the patriarchal meaning is diluted by the universal verses about equality.

Maudhu'i's analysis of women's protection verses shows that the Qur'an has a strong anti-patriarchal vision, although it is often hampered by traditional interpretations built into patriarchal cultures. The approach of Qur'anic feminism helps to identify layers of historical bias in classical interpretation and return the Qur'anic message to its core values: justice, reciprocity, and the protection of women's dignity.

Verses such as An-Nisā' 4:1, 4:19, 4:32, Al-Baqarah 2:231, and At-Tawbah 9:71 form a normative framework that rejects all forms of oppression of women. Using the *maudhu'i* method, these verses are examined holistically to formulate an Islamic family law framework that is grounded in equality, rejects violence, guarantees women's economic and social rights, promotes democratic relationships within marriage, and critiques patriarchal structures that conflict with Qur'anic values. Thus, the accusation that Islamic family law is patriarchal bias can be answered with a comprehensive argument: patriarchy does not come from sacred texts, but from cultures and interpretations that are not in line with the vision of justice that the Qur'an brings.

### 3.3. The Reconstruction of Family Law Based on the Qur'an: A New Interpretive Model for Answering the Accusations of Patriarchy

#### 3.3.1. Reorientation of Family Law Epistemology: From Textuality to Maqāṣid al-Qur'an

The reconstruction of family law based on *maqāṣid al-Qur'an* stems from the need to shift the paradigm of interpretation that relies too much on literal textuality towards a reading that places the moral values of the Qur'an as the main foundation. The accusation that Islamic family law is full of patriarchal bias is actually more a problem of interpretation historicity, not a problem of the text of the Qur'an itself. The approach of Islamic feminism as developed by figures such as Amina Wadud, Asma Barlas, Kecia Ali, and Fatima Mernissi affirms that the verses of the Qur'an do not inherently oppress women. Patriarchy arises when the text is read in a social structure that has been imprinted by male dominance, not by the spirit of revelation.

The *maudhu'i* (content analysis) method requires the researcher to collect all verses that have similar themes in this case family law, gender relations, rights and obligations, household leadership, marriage, and divorce and then analyze the coherence of their meaning systematically (Rahmasari, 2024). In the feminist approach, every verse that discusses women must be read through the principles of hermeneutics of *justice* and *reciprocity* as the universal value of the Qur'an.

The main moral foundation of this reconstruction is the *maqāṣid* of the Qur'an. Scholars such as al-Syātibī, Ibn 'Āsyūr, and Jasser Auda affirm that *maqāṣid* becomes the "spirit" of the Shari'ah, which directs the law to the universal goal of humanity. In the context of the family, relevant *maqāṣid* include:

The verses of the Qur'an that emphasize the principles of anti-tyranny and justice are the main parameters in this reconstruction, as Allah says:

إِنَّ اللَّهَ يَأْمُرُ بِالْعَدْلِ وَالْإِحْسَانِ وَإِيتَاءِ ذِي الْقُرْبَىٰ وَيَنْهَىٰ عَنِ الْفُرْآفَآ □ شَاءَ وَالْمُنْكَرِ وَالْبَغْيِ ۚ يَعِظُكُمْ لَعَلَّكُمْ تَذَكَّرُونَ

“Indeed, Allah commands (you) to be just, to do good, and to give to relatives; and He forbids from abominable deeds, iniquity, and enmity. He teaches you so that you can learn lessons” (QS. An-Nahl: 90)

This verse is often cited in the interpretive literature as a universal indicator that all forms of relationships, including family relationships, must pivot to substantive justice. Thus, the gender hierarchy is not a theological imperative, but the result of the construction of interpretation born from a particular social context.

A concrete example of this epistemological problem can be seen in the debate on the meaning of *al-rijāl qanwāmūna 'alā al-nisā'* (QS. al-Nisā': 34). Classical interpretations tend to interpret *qiwāmah* as the dominion of men over women. However, an analysis of the content of the entire family verse, shows that *qiwāmah* is more accurately understood as a *protective responsibility* that is conditional, rather than an ontological superiority. Al-Ṭabarī, al-Rāzī, and Ibn 'Āsyūr emphasize that the phrase *bimā faḍḍalallahu ba'dahum 'alā ba'd* does not indicate the absolute superiority of men over women, but the superiority in certain functions according to the social capacity of the time, not of a permanent nature (Munifah, 2021).

In the feminist paradigm, the reinterpretation of *qiwāmah* must pay attention to the *egalitarian principle of moral worth* that men and women are equally *responsible* before Allah. This is in line with the following verse:

وَالْمُطَلَّاتُ يَتَرَبَّصْنَ بِأَنْفُسِهِنَّ ثَلَاثَةَ قُرُوءٍ ۚ وَلَا يَحِلُّ لَهُنَّ أَنْ يَكْتُمْنَ مَا خَلَقَ اللَّهُ فِي أَرْحَامِهِنَّ إِنْ كُنَّ يُؤْمِنُ بِاللَّهِ وَالْيَوْمِ  
الْآخِرِ ۚ وَبُعُولَتُهُنَّ أَحَقُّ بِرَدِّهِنَّ فِي ذَلِكَ إِنْ أَرَادُوا إِصْلَاحًا ۚ وَلَهُنَّ مِثْلُ الَّذِي عَلَيْهِنَ بِالْمَعْرُوفِ ۚ وَلِلرِّجَالِ عَلَيْهِنَّ دَرَجَةٌ ۚ وَاللَّهُ  
عَزِيزٌ حَكِيمٌ

“Divorced women should abstain (wait) for three holy periods. It is not permissible for them to hide what Allah has created in their womb if they believe in Allah and the Last Day. And the husbands have more right to refer to them during that time when they want improvements. And women have rights that are balanced with their obligations in a proper manner. But husbands have a degree of advantage over them. God is All-Powerful and All-Wise” (QS. al-Baqarah: 228)

This verse, when read with the *maudhu'i* method, becomes the basic principle of gender relations in the Islamic family: reciprocity, not hierarchy. He canceled all forms of interpretation that placed women as second-class citizens in the family.

Thus, the reconstruction of family law based on *maqāṣid* does not simply change the details of the law, but reconstructs the epistemological basis of interpretation to better conform to the values of the transhistorical Qur'an (Ihsanniati et al., 2024). Feminist criticism is not directed at the text, but at the interpretive approach shaped by patriarchal culture. Therefore, the new model of interpretation must place the *maqāṣid* as an objective parameter to test whether an interpretation is in harmony with the divine purpose: justice, mercy, and reciprocity.

### 3.3.2. Deconstructing the Patriarchal Narrative: Rereading Family Verses through the Maqāṣid al-Qur'an

The *maudhu'i* (content analysis) approach allows researchers to see the structure of the family verses theme as a whole so that they can identify consistent value patterns. When all the verses on marriage, divorce, alimony, family deliberation, conflict resolution, and couples' rights are gathered it is clear that the Qur'an has a strong tendency to eliminate gender inequality and uphold family harmony.

One notable example is the marriage verse:

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً ۚ إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يُفَكَّرُونَ

"And among the signs of His power is that He created for you couples of your own kind so that you may be inclined and at peace with Him. between you love and affection. Indeed, in such a thing there are signs for those who think." (QS. ar-Rūm: 21)

This verse explicitly places *sakinah, mawaddah, rahmah* as the purpose of marriage which is the core maqāṣid of the family. There is not a single element of gender dominance in the verse; On the contrary, he affirms the emotional and spiritual symmetry between men and women.

In the approach of feminism, maqāṣid is the key to dismantling patriarchal biases that have been attached to several family verses. For example, the accusation that the verse of inheritance (QS. al-Nisā': 11) or the verse of talaq (QS. al-Baqarah: 229–232) discriminates against women. Content analysis shows that the verses are closely related to the economic context and social structure of pre-Islamic Arabia, where men assumed almost all of the family's financial responsibilities. The seemingly different legal provisions are not intended to establish gender superiority, but rather to create an economic balance. When the context changes, as in modern society where women are also economic actors, legal reconstruction based on maqāṣid

Thus, family verses should be read universally, not just in the particular context of 7th-century Arabia. The principles of feminist hermeneutics also require a *double movement*: returning to the text in its original context, and then translating its universal value into the modern context.

An analysis of the content of the verses on the resolution of family conflicts shows that the Qur'an initiates an inclusive and non-dominant model of settlement. QS. al-Nisā': 35 emphasizes *tabkīm* (family mediation) involving both parties in a balanced manner:

وَإِنْ خِفْتُمْ شِقَاقَ بَيْنِهِمَا فَابْعَثُوا حَكَمًا مِنْ أَهْلِهِ وَحَكَمًا مِنْ أَهْلِهَا ۚ إِنَّ يُرِيدَا إِصْلَاحًا يُوَفِّقُ اللَّهُ بَيْنَهُمَا ۚ إِنَّ اللَّهَ كَانَ عَلِيمًا خَبِيرًا

"And if you are worried that there will be a dispute between the two (husband and wife), then send a peacemaker from the male family and a peacemaker from the female family. If both of them intend to make improvements, surely Allah will give taufik to both. Indeed, Allah is All-Knowing, All-Knowing".

This verse is very important in feminist readings because it shows the principle of equality in representation: both men and women have the right to present a mediator on their side. This refutes the notion that the Qur'an requires men to be the sole authority in regulating family conflicts.

According to Ibn Katsīr and al-Qurṭubī, *bil-ma'rūf* means '*adālah, ihsān, and burmah*—justice, kindness, and respect. Thus, a domestic relationship that is not built on the principle of reciprocity and justice is automatically contrary to the basic maqāṣid of the Qur'an.

In feminist analysis, *ma'rūf* is an open ethical category that must be translated according to modern social developments and knowledge. Therefore, new interpretations can affirm that *ma'rūf* in the current era includes respect for women's right to education, reproductive rights, economic rights, the right to social participation, and protection from domestic violence. This is not an external addition, but an actualization of the value of the Qur'an in a contemporary context.

Maqāṣid-based reconstruction also dismantles the assumption that divorce is a unilateral right of men. The analysis of maudhu'i shows that the Qur'an opens up a large space for women's rights, such as *khulu'* (QS. al-Baqarah: 229), *fasakh*, and protection during *the period of 'iddah*.

This verse is an explicit prohibition against the manipulation of male power in divorce. Feminist analysis considers this verse to be a direct critique of a form of patriarchy that uses divorce as a tool of pressure. This reconstruction makes it clear that the Qur'an does not support male privilege in divorce; On the contrary, it provides moral and legal guarantees to women.

#### 4. CONCLUSION

The results of this study confirm that patriarchal accusations against Islamic family law do not originate from the text of the Qur'an, but from the construction of historical interpretations and cultural practices that develop in patriarchal societies. Maudhu'i's analysis of key verses such as QS. An-Nisā' 4:1, 4:19, 4:32; QS. Al-Baqarah 2:231; and QS. At-Tawbah 9:71 shows that the Qur'an consistently prioritizes

the principles of substantive justice, reciprocity, protection of dignity, and the elimination of all forms of oppression against women. The main findings of this study show that concepts such as *qiwamah*, *nafkah*, *talaq*, and women's rights are not instruments of male domination, but protective mechanisms that are oriented towards benefit in certain social contexts. Thus, this study succeeded in answering its main goal, which is to prove that the Qur'an is anti-patriarchal and supports egalitarian family relations.

Theoretically, this research contributes to the strengthening of the paradigm of Qur'anic feminism and *maqāṣid al-shari'ah* as a new framework in understanding Islamic family law. This approach opens up space for a more humane and responsive reinterpretation of the verse to social change. Practically, the findings of this study can serve as a reference for family law reform in Indonesia, including the establishment of women's protection policies, the improvement of justice in the religious justice process, and the development of a more contextual interpretation of gender.

However, this study has some limitations. Field analysis was carried out on a limited scale so that the empirical findings were not fully representative of national conditions. In addition, the research focuses more on normative analysis so that it has not reviewed in depth the psychological, economic, and cultural dynamics that reinforce gender injustice at the family level.

Further research is suggested to expand the scope of field data, involve comparative studies between Muslim countries, and explore the relationship between the Qur'anic *maqāṣid* and modern regulation in a more applicable way. An interdisciplinary approach also needs to be developed so that the understanding of women's justice and protection in family law is more complete and makes a real contribution to social transformation.

### **Ethical Approval**

Not applicable.

### **Informed Consent Statement**

Not applicable.

### **Confidentiality Statement**

Not applicable.

### **Authors' Contributions**

RH conceptualized the study, conducted thematic and normative analysis, and drafted the manuscript. H contributed to literature review, interpretation of findings, and manuscript revision. Both authors have read and approved the final manuscript.

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The authors declare no conflict of interest related to this research.

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All data supporting the findings of this study are derived from publicly available sources, including academic books, peer-reviewed journal articles, and institutional and international reports. No new datasets were generated or analyzed.



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## Notes on Contributors

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