



## Gender Approach in the Study of Islamic Law

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### Abstrak

Gender merupakan isu dunia yang senantiasa menjadi pembahasan dan seakan tiada habisnya, kesetaraan yang diinginkan adalah pada bidang ekonomi, politik, sosial, domestik dan lain sebagainya. Gender merupakan perbedaan antara laki-laki dan perempuan yang dibentuk dalam kehidupan sosial melalui peran, perilaku, dan sifat yang dianggap layak bagi laki-laki dan perempuan yang bisa dipertukarkan. Isu tentang gender semakin hangat dibahas sepanjang zaman dikarenakan banyak ketimpangan yang sampai saat ini masih diperdebatkan diantaranya, ketidakadilan, stereotip, subordinasi, pemiskinan perempuan, marginalisasi, kekerasan, pelabelan negatif, eksploitasi dan perdagangan bebas, hal ini sering dialami oleh kaum perempuan. Gender dalam pendekatan hukum Islam juga menjadi pembahasan yang menarik antara para ulama melalui sumber utama hukum Islam, yakni Al-Qur'an dan Al-Hadits banyak terjadi perbedaan pandangan di dalamnya. Artikel ini bertujuan untuk mengkaji pendekatan Gender dalam pengkajian hukum Islam. Metode yang digunakan di dalam artikel adalah metode penelitian kualitatif dengan pendekatan studi kepustakaan (*library research*) di mana referensi yang digunakan adalah dari buku, jurnal dan karya tulis ilmiah lainnya. Hasil Penelitian, Dalam pendekatan pengkajian gender dalam hukum Islam, syari'at Islam sangat menentang akan adanya ketimpangan gender yang sering dialami oleh perempuan karena posisi laki-laki dan perempuan dalam Al-Qur'an dianggap sama, diantaranya, sama-sama sebagai hamba dan juga mempunyai potensi untuk menjadi hamba yang ideal, memiliki tugas sebagai pemimpin (*khalifah*), Adam dan Hawa sama-sama terlibat dalam drama kosmis, dan sama-sama menerima perjanjian primordial. Jika dilihat dari unsur kesamaan antara laki-laki dan perempuan maka sepatutnya perempuan harus diberikan hak dan kebebasan dalam rana pendidikan, politik, dan juga rana domestik lainnya selama ia mempunyai kemampuan di bidang itu, akan tetapi jangan sampai berlebihan agar tidak melanggar kodratnya sebagai perempuan.

Kata kunci: Gender dan Pendekatan Pengkajian Hukum Islam

### Abstract

Gender is a global issue that is constantly discussed and, it would seem, endlessly, equality is desired in the economy, politics, social, household, etc. spheres. Gender is the difference between men and women that is formed in social life through roles, behaviors and characters that are considered worthy of exchange between men and women. Gender issues have been increasingly discussed over the centuries, as many issues of inequality are still discussed, including Injustice, stereotypes, subordination, impoverishment of women, marginalization, violence, negative labeling, exploitation and free trade., which women often face. In Islam, gender is also an interesting topic for discussion by scholars based on the main source of Islamic law, the Qur'an, and contains many different opinions. The purpose of this article is to consider the gender approach in the study of Islamic law. The method used in the article is a qualitative research method with a library approach, which uses links to books, journals and other scientific works. According to the results of the study, Islam strongly

opposes the existence of gender inequality that women often face, since the position of men and women in the Qur'an is considered equal, among other things, both as servants and in the fact that they are potentially ideal servants., fulfilling the obligations of the leaders (caliphs), Adam and Eve were equally involved in the cosmic drama, and equally accepted the original covenant. if viewed from the point of view of equality between men and women, then women should be given rights and freedoms in the field of education, politics and other everyday issues as long as they have the ability in this area, but do not overdo it.in order not to violate their feminine nature.

**Keywords:** *Gender and approaches to the study of Islamic law*

## A. Background

Gender is an issue that is always the subject of analysis for every scientist, because of its dynamic nature, it has become a necessity for this concept to always be debated, many debates are carried out by scientists such as, in terms of politics, economics, domestic and others. In the English-Indonesian dictionary, it is explained that the word gender comes from the word gender which means "type".(M.Echols & Shadily, 2019)

Gender in a general sense is a fundamental difference from men and women in terms of behavior.(Cholil, 2010) Gender can also be interpreted as the differences between men and women that are socially and culturally created in relation to roles, behaviors, traits that are considered appropriate for men and women that are interchangeable.(Azisah & Kara, 2016) This discussion about gender is very necessary to assess the role and place something according to their respective portions so that there is no inequality or discrimination against each other's rights.

Gender inequality is a system formed from the social culture of the community. According to Mansour Fakhri, various injustices, marginalization, (impoverishment of women), subordination, stereotype, double burden, violence, exploitation, illegal trade arise due to gender inequities, especially for women. According to Mansour Fakhri, this is manifested in various sectors including: Marginalization or the process of economic impoverishment, Subordination or unimportant assumptions to political decisions, Formation of stereotypes and

negative labeling, Violence (violence), Long and more workload (burden), Socialization of the ideology of gender role values.(Suhaeni, 2020)

Basically, God's creatures are created with different types, there are women and men, there are days and nights, there is the moon and there is also the sun and so on.(Pledge, 2018) Sex is defined as the biological differences between men and women related to their reproductive organs.(Azisah & Kara, 2016) Human beings as *Caliph* on earth there are gender differences, there are men and women, and have their own roles and functions, but both have a personal duty to serve God based on their piety. However, often women get discrimination, because they are considered irrational, weak, and others.

This is inversely proportional when the Prophet Muhammad PBUH was sent to the earth to be a blessing for the universe, and one of his breakthroughs was to raise the dignity and dignity of women to the highest level, such as prohibiting the killing of girls and giving inheritance rights to women, because the Arab society of Jahilia considers women to be worthless.

The Qur'an as a source of Islamic law has a universality of values that are a guide for humans from the past, present, and future. These universalities include human values, justice, independence, and equality. Islam has never tolerated discrimination and differences among mankind.(Suhaeni, 2020) Therefore, in discussions and debates about gender, the relationship between men and women/men and women always arises so that it can be said that gender is a distinction of functions, roles and responsibilities

between women and men that results from socio-cultural constructions and can change according to the times. Based on the explanation above, this article aims to discuss the gender approach in the study of Islamic law.

### Research Methods

In writing this article, the author uses a qualitative research method with a literature study approach. According to Kirk and Miller, Qualitative research is a certain tradition in the social sciences that fundamentally relies on observations of people in their own area and relates to those people in their language and in their terms. Meanwhile, the literature approach is a study that uses data analysis based on written materials, literature materials in the form of published notes, books, magazines, newspapers, manuscripts, journals or articles. (Lexy J. Moleong, 2017)

### Results and Discussion

#### A. Definition of Gender

Gender according to Etymology means gender, while in Terminology it is a concept that discusses differentiation (*Distinction*) in terms of behaviors, roles, mentalities and emotional characteristics between men and women that develop in society. Hillary M Lips in her famous book *Sex and gender an introduction*, interpreting gender as cultural expectations for men and women. (Subhan, 2015) As for gender, according to Nasaruddin Umar, it is interpreted as the difference that appears between men and women in terms of values and behavior.

From some of the descriptions above, it is concluded that gender is a trait inherent in men and (Hanik & Fauzi, 2023) which is socially and culturally constructed (Culture). This means that gender can experience growth because it is not a natural trait of human beings but a science that emerged culturally to provide equality between men and women in terms of domestic and public. Examples of female nature are: pregnancy, menstruation and menstruation, from the nature that has been

mentioned is something that has become sunatullah while gender can change according to the development of the times.

The Qur'an as the holy book of Muslims was revealed to the Prophet Muhammad PBUH through the intermediary of the angel Gabriel, which became the first source of Islamic law, as well as a differentiator between the right and the wrong as well as explained in surah At-Tariq verse 13 which reads.

إِنَّهُ لَقَوْلٌ فَصْلٌ

It means: indeed (the Qur'an) is really a dividing word (between the right and the haq and the bathil). (Q.S At-Tariq : 13). (Ahmad Baha' Mokhtar, 2021)

Based on the verse above, it can be seen that it is implied in the Qur'an about regulating human life, existence as a book is to prevent iniquity and give rights to His equal creatures. The rights in question are the rights as servants, social, biological, cultural beings, as well as knowledgeable beings and others. This means that the Qur'an strongly discourages the restriction of rights between men and women.

#### B. Definition of Feminism and Women's Emancipation

Feminism is a term that emerged from the west as a result of the subordination/numbering of women from men. Feminism has only emerged in the history of human thought, the word feminism comes from Latin, namely *feminism*, namely women, which is interpreted as emphasis on women, this movement initially emerged when there was gender equality, at first this movement also fought for women's rights to equal rights as human beings without distinguishing gender.

David Jary and Julia Jary, as quoted by Ahmad Baidowi, define feminism with socio-political theories and practices that aim to liberate women from the supremacy and exploitation of men. (Baidowi, 2011) So from some of the above understandings, it

can be concluded that, anyone who makes a movement to free women from male hegemony is called feminism regardless of their gender in the sense of men and women.

Emancipation comes from the English *emancipation* which means independence, independence here is interpreted as a release from power. henceforth having freedom in acting, determining attitudes, or not depending on others. Emancipation is more likely to be interpreted as gender equality which has implications for the form of freedom of choice. For example, choosing to be a career woman and others.

There are a lot of women who force emancipation against men by wanting to equalize between the rights and obligations of the two, when in fact this will be a problem for women and will actually degrade the dignity and dignity of a woman. Basically, the Qur'an allows but cannot violate the Shari'ah.

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

Meaning: The divorced wives (obliged) refrain from doing three times of the qurū' (holy or menstruation). It is not permissible for them to hide what Allah has created in their wombs, if they believe in Allah and the Last Day. Their husbands have a better right to return to them in that (time), if they want improvement. They (women) have rights balanced with their obligations in the proper way. However, husbands have an advantage over them. Allah is Mighty and Wise. (Q.S Al-Baqarah:228)

According to Sheikh Yusuf Qardhawy, Islam provides opportunities for women to be actively involved in various lives, as Allah says.

وَالْمُؤْمِنُونَ وَالْمُؤْمِنَاتُ بَعْضُهُمْ أَوْلِيَاءُ بَعْضٍ يَأْمُرُونَ بِالْمَعْرُوفِ وَيَنْهَوْنَ عَنِ الْمُنْكَرِ وَيُقِيمُونَ الصَّلَاةَ وَيُؤْتُونَ الزَّكَاةَ وَيَطِيعُونَ اللَّهَ وَرَسُولَهُ أُولَئِكَ سَيَرْحَمُهُمُ اللَّهُ إِنَّ اللَّهَ عَزِيزٌ حَكِيمٌ

Meaning: The believers, men and women, some of them are helpers for others.328) They tell (do) makruf and prevent (acting) disobedience, uphold prayers, pay zakat, and obey Allah and His Messenger. They will be blessed by Allah. Indeed, Allah is the mightiest and the wise. (Q.S At-Taubah; 71)

The meaning of the word "Auliya" in the verse by definition includes cooperation, assistance, and mutual understanding. In the context of telling each other to do what is ma'ruf and prevent evil. Therefore, we must be more critical and careful in responding to the rise of movements in the name of women's emancipation, gender equality, women's equality, feminism, and various other movements. Many understandings seem to fight for women, but in practice they actually demean women.

### C. Gender factors and inequality

In Latin, gender inequality is commonly called *Gender inequalities* This is a term used to show different treatment of gender (*gender differences*). This is often understood as male hegemony over women, the hegemony carried out is also considered very detrimental to women in their social environment.(Nur & et al., 2009) The factors that cause gender inequality are as follows;

#### 1. Patriarchal Culture

Patriarchy is a system of social structures and practices in which men dominate, oppress and exploit women. The dominance of men over women begins with their biological differences. Men are considered strong because they have a stronger physique while women are considered weak. As a social structure and implementation, patriarchal culture has shifted following the social changes that exist in society. Biological differences can no longer be used as an excuse to make women helpless creatures because the development of science and technology can empower women to do their jobs. The patriarchal culture that appears in the community makes women seem to be numbered in society. Authoritative works are not only in the

interpretation of the Qur'an, but also in the hadith and cultural law were born in the first century of Islam and continue to flourish until now.

## **B. Political Factors That Are Not Yet Completely Aligned With Women**

Since ancient times, many classical scholars have placed women under men, especially in the public sphere, while women are only placed in domestic/private spheres. In the case of Maryam Behruzi, a deputy veteran who had served a prison sentence before the revolution and whose 16-year-old son was martyred during the Iraq-Iran war, still feels that she is being treated discriminatory in the assembly. She stated that women have never been elected to members of parliamentary commissions that have high authority. Nor are they the heads or officials of other parliamentary commissions. (May, 2000)

### **1. Economic Factors**

The capitalist system that has swept the world often exploits women. There are many examples of cases such as prostitution, even though this job earns a lot of money, but consciously or not, women are the same as an item that is traded and it is the same as women no longer have self-esteem, among the surrounding community. As for the current era of modernization, the media in Indonesia often makes women's bodies as sex objects. Women are very rarely shown as career women, in fact, advertisements in Indonesia often use women's bodies as a tool to create an image of a certain product, or at least women's bodies are made as a decorative background for a product. (Sofiana, 2021) The mass media always considers women as operational machines, objects of news, sexy objects, and can even be objects of harassment and violence, the media does not seem to give women a fair space because of the power of patriarchy and capitalism in it.

### **2. Factors of inperterence of gender-biased religious texts**

So far, the interpretations of the Qur'anic verses have been dominated by patriarchal culture, where most of the scholars come from men so that they do not

accommodate women's interests, so a kind of deconstruction is needed, as well as a paradigmatic reconstruction of the interpretation model that often ignores women's rights. From some of the factors above so that it gives birth to Gender Inequality that always subordinates women, some of the gender inequality experienced by women is as follows; *First*, Marginalization of women, which is to keep women away from public activities so that women do not have jobs and become poor. *Second*, the subordination of women, which is placing women in a lower position than men, this assumption is based on the fact that women are Irrational, emotional, weak and others, so they are placed in unimportant roles.

*third*, negative stereotypes against women, such as women are considered as seducers, appellants, or sources of immorality, so that when sexual harassment and violence occurs by men, women who are victims are even considered as the cause of the problem. *Fourth*, violence against women, namely the rough treatment of women in the form of physical, psychological, and sexual. *Fifth* The workload is that it burdens women to take on two dual roles as domestic workers and outside workers. (Nur & et al., 2009)

## **D. Gender Controversy in Islamic Studies Approach**

### **1. The Origin of the Creation of Women**

The origin of the creation of women in gender is always debated, Muslims believe that women come from the "ribs", starting this conversation Asmuki emphasized, according to the Qur'an adam and eve are created from one type based on verse fragments; *min nafs wahidah and minha zaujaha*, because the phrase *min nafs wahidah* is interpreted as "Adam". The first source of women's legitimacy was created from the element of ribs also based on the hadith of the prophet

Muhammad PBUH narrated by Imam Al-Bukhari, namely:

عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ، قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ تَوَصَّوْا بِالنِّسَاءِ، فَإِنَّ الْمَرْأَةَ خُلِقَتْ مِنْ ضِلْعٍ، وَإِنَّ أَعْوَجَ شَيْءٍ فِي الضِّلْعِ أَعْلَاهُ، فَإِنْ ذَهَبَتْ تَقِيمُهُ كَسَرْتَهُ، وَإِنْ تَرَكَتَهُ لَمْ يَزَلْ أَعْوَجَ، فَاسْتَوْصُوا بِالنِّسَاءِ

It is narrated from Abu Hurairah (may Allah be pleased with him) that the Messenger of Allah said: "Bequeath (in goodness) to women, because women are created from ribs, and the most crooked of the ribs is the base. If you try to straighten out that crooked rib, then he can break. But if you let it go, it will still be crooked. For this reason, advise women" (H.R Bukhari and Muslim)

The same legitimacy that the first female creation of the ribs was narrated from Muslim Imams

عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ، قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ تَوَصَّوْا بِالنِّسَاءِ، الْمَرْأَةَ خُلِقَتْ مِنْ ضِلْعٍ، وَإِنَّ أَعْوَجَ شَيْءٍ فِي الضِّلْعِ أَعْلَاهُ، فَإِنْ ذَهَبَتْ تَقِيمُهُ كَسَرْتَهُ، وَإِنْ تَرَكَتَهُ لَمْ يَزَلْ أَعْوَجَ، فَاسْتَوْصُوا بِالنِّسَاءِ

Meaning: The Prophet PBUH said, "It was narrated from Abu Hurairah (may Allah be pleased with him) that the Prophet said: "Bequeath (in goodness) to a woman, because a woman is created from ribs, and the most crooked of the ribs is the base. If you try to straighten out that crooked rib, then he can break. But if you let it go, it will still be crooked. For this reason, advise the women". (H.R Bukhari and Muslims). The understanding of the scholars of the above hadith is then divided into three (3), namely. (Mufidah, 2010)

First, this hadith is understood textually (*literally*) that the first woman was created from Adam's ribs. Scholars of tafsir who hold this opinion include: Ibn Khatir, Al-Zamakshari, Abu Sa'ud, Al-Ausi, Al-Biqā'i, and Jalaluddin Al-Suyuti. Based on the above argument which is clarified by the hadith of the

Prophet, the *min nafs wahidah* is understood as "Adam".

Second, this hadith is understood as metaphorical or *majazi*, that what is meant by a crooked rib is an image of a gentle female character that must be addressed meekly as well. This second opinion was added by Quraish Shibab, namely "there is no definite verse in the Qur'an that leads us to say that women were created from ribs"

Third Counter Hadith that understands *min nafs wahidah* As one soul, men and women are created from the same element. This opinion is in line with the interpretation of a modern feminist Amina Wadud, who argues that *Min* (of the same type) *NAFS* (can *Munanas* or *Muzakkar* meaning the soul as something separate from the body, interpreted as a male and female self), and *zawj* (a couple is a unit consisting of two different things, but cannot be separated from each other). (Andrian, 2019)

From this there is no specific context for the creation of Adam and Eve, so the above verse cannot be used to conclude that men and women are different. But on the contrary, that human beings are created from the same element, are one living being, then they have the same equality and justice to carry out all their human activities.

#### 1. The Role of Politics

Politics is basically a decision-making power whose scope is very broad, starting from the family institution to the highest formal political institution. Therefore, the definition of politics in principle also includes the main problems in daily life which in fact always involve women. The role of politics mentioned in this article is about women leaders in Islamic interpretation which until now is still considered a problem in society.

There are at least a few verses that are often put forward by schools that

claim that Islam does not support women's leadership, including the Qur'an surah Al-Ahzab

وَقَرْنَ فِي بُيُوتِكُنَّ وَلَا تَبَرَّجْنَ تَبَرُّجَ الْجَاهِلِيَّةِ الْأُولَى  
وَأَقِمْنَ الصَّلَاةَ وَآتِينَ الزَّكَاةَ وَأَطِعْنَ اللَّهَ  
وَرَسُولَهُ إِنَّمَا يُرِيدُ اللَّهُ لِيُذْهِبَ عَنْكُمُ الرِّجْسَ أَهْلَ  
الْبَيْتِ وَيُطَهِّرَكُمْ تَطْهِيرًا

Meaning: Stay in your houses and do not decorate (and behave) like the ignorant people of old. Observe prayers, pay zakat, and obey Allah and His Messenger. Indeed, Allah only wants to remove sin from you, O ahlulbait and cleanse you as cleanly as possible (Q.S Al-Ahzab:33).

And the next one is QS. An-Nisa' verse

33:

وَلِكُلِّ جَعَلْنَا مَوَالِي مِمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ  
وَالَّذِينَ عَقَدْتَ أَيْمَانَكُمْ فَأَتَوْهُم نَصِيْبُهُمْ إِنَّ اللَّهَ كَانَ  
عَلَى كُلِّ شَيْءٍ شَهِيدًا

It means: "The men are the leaders of the women, because Allah has exceeded some of them (men) over others (women), and because they (men) have spent some of their possessions." (Q.S An-Nisa:33)

Some of the above hadiths are then strengthened by the hadith of the Prophet narrated by Abu Bakrah which reads;

حَدَّثَنَا عُثْمَانُ بْنُ الْهَيْثَمِ حَدَّثَنَا عَوْفٌ عَنِ الْحَسَنِ عَنْ  
أَبِي بَكْرَةَ قَالَ لَقَدْ نَفَعَنِي اللَّهُ بِكَلِمَةٍ سَمِعْتُهَا مِنْ رَسُولِ  
اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَيَّامَ الْجَمَلِ ، بَعْدَ مَا كُذِّتْ  
أَنْ أَلْحَقَ بِأَصْحَابِ الْجَمَلِ فَأَقَاتِلَ مَعَهُمْ قَالَ لَمَّا بَلَغَ  
رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَنَّ أَهْلَ فَارِسَ قَدْ  
مَلَكَوا عَلَيْهِمْ بِنْتُ كِسْرَى قَالَ « لَنْ يُفْلِحَ قَوْمٌ وَلَوْ  
أَمَرَهُمْ امْرَأَةٌ

"From Abu Bakrah, he said: Indeed, Allah has benefited me with the words that I have heard from the Messenger of Allah (saw) during the Jamal war, after I had almost joined the Jamal group to fight with them. He said: When it came to the Messenger of Allah (saw) that the people of Persia had appointed Princess Kisra as their king, he said: It will never be lucky for a people to have a woman in charge of their affairs (HR Al-Bukhari)

This hadith was narrated by Al-Bukhari in his book Sahihny (no. 4073); Al-Tirmidhi (no. 2188) in his Book of Sunan; and Al-Nasa'i (no. 5293) in his Sunan. The same meaningful hadith, also narrated by Ahmad in his Musnad book, with a different redaction, but the substance of the content is the same. (Rahman, 2020)

Classical scholars generally do not allow women to lead based on some of the verses and hadiths above. The opinion of Ibn Abbas who said that men have power over women. This was then denied by one of the gender activists, Asghar Ali Engineer, that what the verse meant was not about leadership but about domestic problems that occurred in Arab society before Islam. (Rahman, 2020)

The leadership of women is included in the *fiqh of mumalah* on the basis of *Al-aslu fi al-mua'malah al-ibahah*. This means that when there is a case, it must be asked, is there a postulate that prohibits women from leading? If there is no prohibition, then it is okay for women to lead. The hadith mentioned by Abu Bakrah is a casuistic one where the asbabul wurud of the hadith is;

*The story of the Persian chaos who died then his "daughter who had no ability to lead" was appointed in place of her father. Then the Prophet said:*

Furthermore, according to Husein Muhammad, there are several reasons why women are allowed to become leaders of public leaders, including; *First*, modern social and historical realities are able to prove that women can carry out their leadership duties. *Second*, Abu Bakrah's hadith is casuistic with the approach of the rule "*al-ibratu bikhusus al-sabab la bi umumi lafz*". *Third*, changes in Islamic law through stages and strategies, therefore changes in cultural settings can occur, based on the fiqh rules "*taggayurul fatwa wal ikhtilafu ha bi hasb tagayyuril al-ahwal wa al-zaman wa al-makan wa ahwal*".

*Fourth*, the Qur'an enshrines Queen Balqis as a leader with a good and glorious image. *Fifth*, women's leadership can bring benefits to the people.

From the explanation above, the author can conclude that in general, classical scholars do not approve of a woman being a leader based on the verse above which states that men are leaders for women, in contrast to the opinion of Islamic feminists such as Asgahar Ali Engineer, who states that the verse cannot be used as a basis for male leadership and furthermore it is discrimination against women.

## 2. Inheritance

The history of inheritance before Islam states that the right to inheritance is only given to those who have worked and fought wars, not to children and girls. After the arrival of Islam, this was considered discriminatory against women, so with the advent of Islam this changed, Islam through the Qur'an surah an-Nisaa' verse 11:

يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثِيَيْنِ ۖ فَإِن كُنَّ نِسَاءً فَوْقَ اثْنَتَيْنِ فَلَهُنَّ ثُلُثَا مَا تَرَكَ ۖ وَإِن كَانَتْ وَاحِدَةً فَلَهَا النِّصْفُ ۚ وَلِأَبَوَيْهِ لِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ مِمَّا تَرَكَ إِن كَانَ لَهُ وَلَدٌ ۚ فَإِن لَّمْ يَكُنْ لَهُ وَلَدٌ وَوَرِثَهُ أَبُوهُ فَلِأُمِّهِ الثُّلُثُ ۚ فَإِن كَانَ لَهُ إِخْوَةٌ فَلِأُمِّهِ السُّدُسُ ۚ مِن بَعْدِ وَصِيَّةٍ يُوصِي بِهَا أَوْ دِينٍ ۗ آبَاؤُكُمْ وَأَبْنَاؤُكُمْ لَا تَدْرُونَ أَيُّهُمْ أَقْرَبُ لَكُمْ نَفَعًا ۗ فَرِيضَةٌ مِّنَ اللَّهِ ۗ إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا

Meaning: Allah has decreed to you about the division of your children, (i.e., the share of a boy is equal to the share of two daughters).<sup>146</sup> If the children are all girls who are more than two, their share is two-thirds of the property left behind. If she (the daughter) is alone, she gets half (the treasure left behind). For both parents, each share of one-sixth of the property left behind, if he (the deceased) has children. If he (the deceased) has no children and he is inherited by his parents (only), his mother gets a third. If he (the deceased) had several siblings, his mother got a sixth. (The inheritance is divided) after

(fulfilled) the will he makes or (and repays) his debt. (About) your parents and your children, you do not know which of them is of the greatest benefit to you. This is God's decree. Indeed, Allah is the All-Knowing, the All-Wise. (Q.S. An-Nisa; 11)

This verse emphasizes that men and women both get an inheritance with a two-to-one provision. What is a problem for Muslim feminists is the provision between men getting two parts of girls. Why do boys get two parts of girls? The above is often the ultimate weapon, namely that men and women are actually not equal.

Some state that the inequality is evidenced by the different distribution of inheritances. When talking about the distribution of inheritance with the concept of two to one, Amina Wadud as in Ahmad Baidowi's book, According to him, the second formula is not the only formula about the division of inheritance between men and women. In fact, there is also a formula that the Qur'an stipulates, if there is only one daughter then her share is half of the entire inheritance, then the division of 2:1 is not something absolute. (Baidowi, 2011)

In addition to the above opinion, Muhammad Syarif Chaudhory stated, it should be noted that Islam positions the responsibility of earning a family's livelihood on the shoulders of male family members while women are freed from this burden. In addition to alimony or living expenses, women are also entitled to receive mascot from their husbands and she can ask for a number of dowry, which is the main feature of a Muslim marriage. Thus, it is clear that a woman has almost very little material need to meet her dependents when compared with a man who is burdened with a number of very heavy economic obligations and responsibilities. In this context there is enough justification to give a greater share of inheritance to men.

## 2. Gender in the Approach in Islamic Studies



1. Men and women have the same status as servants

As stated in the Qur'an, one of the purposes of human creation is to serve Allah SWT in Q.S Az-zariat verse 56:

وَمَا خَلَقْتُ الْجِنَّ وَالْإِنْسَ إِلَّا لِيَعْبُدُونِ

Meaning: I did not create jinn and man except to worship Me.

From the use of the word "Human" it can be interpreted that there is no difference in sex between men and women, so this slavery is intended for both. Both have the potential to become ideal servants in Islam, this is as stated in the Qur'an surah Al-Hujurat:13;

يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنْثَىٰ وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ لِتَعَارَفُوا ۗ إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَتْقَىٰكُمْ ۗ إِنَّ اللَّهَ عَلِيمٌ خَبِيرٌ

Meaning: O man, indeed We have created you from a man and a woman. Then We made you nations and tribes so that you might know one another. Indeed, the noblest among you in the sight of Allah is the most righteous. Indeed, Allah is All-Knowing, All-Knowing, All-Knowing.

From the two verses above, it can be concluded that women and men have the same role as servants and both have the potential to become the noblest servants (*muttaqien*).

2. Men and women as *caliphs* on earth

One of the purposes of creation besides being a servant of Allah is to be a *caliph* (leader) on earth, be it for his fellow human beings or with others. This is clearly illustrated in the Qur'an Surah Al-baqarah:30;

وَإِذْ قَالَ رَبُّكَ لِلْمَلٰئِكَةِ إِنِّي جَاعِلٌ فِي الْأَرْضِ خَلِيفَةً ۗ قَالُوا أَتَجْعَلُ فِيهَا مَنْ يُفْسِدُ فِيهَا وَيَسْفِكُ الدِّمَآءَ وَنَحْنُ نُسَبِّحُ بِحَمْدِكَ وَنُقَدِّسُ لَكَ ۗ قَالَ إِنِّي أَعْلَمُ مَا لَا تَعْلَمُونَ

Meaning: (Remember) when your Lord said to the angels, "I want to make a caliph) on earth." They said, "Do you want to make a man who destroys and sheds blood there, while we praise You

and sanctify Your name?" He said, "Verily I know what you do not know."

In the Qur'an, the word *caliph* means 'replacement', 'leader', 'ruler', or 'manager of the universe'. If you look at the word *caliph* above does not refer to gender, then it can be said that the label of leadership can be attached to men and women as servants of God.

3. Men and women both accept the primordial covenant

Men and women both hold the mandate and receive a primordial covenant with God. As we know that before man enters the world, his soul has first promised God, as stated in surah Al-a'raf verse 172, namely:

وَإِذْ أَخَذَ رَبُّكَ مِنْ بَنِي آدَمَ مِنْ ظُهُورِهِمْ ذُرِّيَّتَهُمْ وَأَشْهَدَهُمْ عَلَىٰ أَنفُسِهِمْ أَلَسْتُ بِرَبِّكُمْ قَالُوا بَلَىٰ شَهِدْنَا أَن نَقُولُوا يَوْمَ الْقِيٰمَةِ إِنَّا كُنَّا عَنْ هٰذَا غٰفِلِينَ

It means :(remember) when your Lord takes out from the backbone of Adam's descendants, their descendants and God take his testimony of themselves (saying), "Am I not your God?" They replied, "Yes (You our Lord), we testify." (We did it) so that on the Day of Resurrection you (did not) say, "Indeed, we are careless about this,"

According to the fakhr Ar-Razi, there is no child of the children of Adam who was born on this earth without testifying to the existence of his god, and his testimony was witnessed by the angels, and no one said "no". It can be said that in Islam men and women both accept the primordial agreement.

4. Adam and Eve are both involved in cosmic dramas

Cosmic drama is a drama experienced by Adam and Eve, namely when they both enjoy the facilities of heaven, both are tempted, and both are tempted by the temptation of Satan, and are both expelled from heaven due to their intransigence. This is also told in the Qur'an which is contained in several verses, the following verses that explain

the kosmisi drama; Both are in heaven and both get the facilities of heaven  
وَقُلْنَا يَا آدَمُ اسْكُنْ أَنْتَ وَزَوْجُكَ الْجَنَّةَ وَكُلَا مِنْهَا رَغَدًا حَيْثُ شِئْتُمَا وَلَا تَقْرَبَا هَذِهِ الشَّجَرَةَ فَتَكُونَا مِنَ الظَّالِمِينَ

We said, "O Adam, dwell you and your wife in Paradise, eat as you please, and do not come near this tree, so that you are among the wrongdoers. (Q.S Al-Baqarah:35) Both of them were tempted by the devil

فَوَسْوَسَ لَهُمَا الشَّيْطَانُ لِيُبْدِيَ لَهُمَا مَا وُورِيَ عَنْهُمَا مِنْ سَوْءَاتِهِمَا وَقَالَ مَا نَهَاكُمَا رَبُّكُمَا عَنْ هَذِهِ الشَّجَرَةِ إِلَّا أَنْ تَكُونَا مَلَكَتَيْنِ أَوْ تَكُونَا مِنَ الْخَالِدِينَ

Meaning: So, Satan whispers (evil thoughts) to both of them which results in them appearing to be something that is covered from the awrah of the two. He (Satan) said, "Your Lord does not forbid you both to approach this tree, unless (because He is not pleased) you both become angels or you are both among the eternal ones (in Paradise)" (Q.S Al-A'raf:20). Both of them eat the fruit of khuldi and receive the consequences

فَدَلَّسَهُمَا بِغُرُورٍ فَلَمَّا ذَاقَا الشَّجَرَةَ بَدَتْ لَهُمَا سَوْءَاتُهُمَا وَطَفِقَا يَخْصِفْنَ عَلَيْهِمَا مِنْ وَّرَقِ الْجَنَّةِ وَنَادَاهُمَا رَبُّهُمَا أَلَمْ أَنْهَكُمَا عَنْ تِلْكَ الشَّجَرَةِ وَأَقُلْ لَكُمَا إِنَّ الشَّيْطَانَ لَكُمَا عَدُوٌّ مُبِينٌ

Meaning: He (Satan) plunged them both into deception. So, when they had tasted the tree, they saw their awrah and began to cover it with the leaves of paradise. Their Lord called upon them, "Have I not forbidden you both from the tree and I have said that the devil is indeed a real enemy to you both?" (Q.S Al-A'raf:22)

Both of them apologized and were forgiven by God

قَالَا رَبَّنَا ظَلَمْنَا أَنْفُسَنَا وَإِنْ لَمْ تَغْفِرْ لَنَا وَتَرْحَمْنَا لَنَكُونَنَّ مِنَ الْخَاسِرِينَ

Means:

Both of them said, "O our Lord, we have wronged ourselves. If You do not forgive us

and do not spare us, we will surely be among the losers." (Q.S Al-A'raf:23) Both of them were sent down to Earth and complemented each other, and developed each other's offspring (Q.S Al-Baqarah: 187)

أَحَلَّ لَكُمْ لَيْلَةَ الصِّيَامِ الرَّفَثُ إِلَى نِسَائِكُمْ هُنَّ لِبَاسٌ لَكُمْ وَأَنْتُمْ لِبَاسٌ لَهُنَّ عَلَّمَ اللَّهُ أَنْتُمْ كُنْتُمْ تَخْتَانُونَ أَنْفُسَكُمْ فَتَابَ عَلَيْكُمْ وَعَفَا عَنْكُمْ فَالْآنَ بَاشِرُوهُنَّ وَابْتَغُوا مَا كَتَبَ اللَّهُ لَكُمْ وَكُلُوا وَاشْرَبُوا حَتَّى يَتَبَيَّنَ لَكُمُ الْخَيْطُ الْأَبْيَضُ مِنَ الْخَيْطِ الْأَسْوَدِ مِنَ الْفَجْرِ ثُمَّ أَتَمُوا الصِّيَامَ إِلَى اللَّيْلِ وَلَا تُبَاشِرُوهُنَّ وَأَنْتُمْ عَاكِفُونَ فِي الْمَسَاجِدِ تِلْكَ حُدُودُ اللَّهِ فَلَا تَقْرَبُوهَا كَذَلِكَ يُبَيِّنُ اللَّهُ لِنَاسٍ لَعَلَّهُمْ يَتَّقُونَ

Meaning: It is permissible for you on the night of fasting mixed with your wife. They are clothes for you and you are clothes for them. God knows that you cannot restrain yourself, but He accepts your repentance and forgives you. So, now intervene with them and seek what Allah has ordained for you. Eat and drink until it is clear to you (the difference) between the white thread and the black thread, which is the dawn. Then, complete the fast until (comes) night. However, do not interfere with them when you are doing iktikaf in the mosque. Those are the limits (provisions) of Allah. Therefore, do not approach him. Thus Allah explains His verses to people so that they may be righteous. (Q.S Al-Baqarah: 187)

Judging from some of the similarities above, it can be concluded that they are both involved in cosmic drama and there is no higher one who is both true, good, and despicable.

5. Men and women have the potential to achieve achievements as human beings.

The opportunity to achieve maximum achievement is no difference between men and women, it is specifically emphasized in three verses, namely: (Q.S ali-Imran: 195)

فَاسْتَجَابَ لَهُمْ رَبُّهُمْ أَنِّي لَا أُضِيعُ عَمَلَ عَامِلٍ مِنْكُمْ مِمَّنْ ذَكَرَ أَوْ أَنْتِي بَعْضُكُمْ مِنْ بَعْضٍ فَالَّذِينَ هَاجَرُوا وَأُخْرِجُوا مِنْ دِيَارِهِمْ وَأُودُوا فِي سَبِيلِي

وَقْتُلُوا وَقْتُلُوا لَأَكْفِرَنَّ عَنْهُمْ سَيِّئَاتِهِمْ وَلَا دُخْلَنَّهُمْ  
جَنَّتِ تَجْرِي مِنْ تَحْتِهَا الْأَنْهَارُ ثَوَابًا مِمَّنْ عِنْدَ اللَّهِ  
وَاللَّهُ عِنْدَهُ حُسْنُ الثَّوَابِ

Meaning: So, their Lord granted his request (saying), "Indeed, I do not waste the deeds of those who do good among you, both male and female, (because) some of you are (descendants) of others. Therefore, those who emigrate, are driven out of their hometowns, are hurt in My ways, fight, and are killed, I will definitely erase their mistakes and I will certainly put them into the heavens under which the rivers flow as a reward from Allah. It is in the sight of Allah that there is a good reward." (Q.S al-Imran: 195)

وَمَنْ يَعْمَلْ مِنَ الصَّالِحَاتِ مِنْ ذَكَرٍ أَوْ أُنْثَىٰ وَهُوَ مُؤْمِنٌ  
فَأُولَٰئِكَ يَدْخُلُونَ الْجَنَّةَ وَلَا يُظْلَمُونَ نَقِيرًا

Meaning: Whoever does righteous deeds, both male and female, while he is a believer, will enter Paradise and will not be wronged in the slightest. (Al-Nisa': 124)

مَنْ عَمِلَ صَالِحًا مِمَّنْ ذَكَرٍ أَوْ أُنْثَىٰ وَهُوَ مُؤْمِنٌ  
فَأُولَٰئِكَ يَدْخُلُونَ الْجَنَّةَ وَلَا يُظْلَمُونَ نَقِيرًا  
مَا كَانُوا يَعْمَلُونَ

Meaning: Whoever does virtue, whether male or female, while he is a believer, indeed, We will surely give him a good life) and We will reward him with a better reward than what they always do. (Al-Nahl: 97)

مَنْ عَمِلَ سَيِّئَةً فَلَا يُجْزَىٰ إِلَّا مِثْلَهَا وَمَنْ عَمِلَ  
صَالِحًا مِمَّنْ ذَكَرٍ أَوْ أُنْثَىٰ وَهُوَ مُؤْمِنٌ فَأُولَٰئِكَ  
يَدْخُلُونَ الْجَنَّةَ يُرْزَقُونَ فِيهَا بِغَيْرِ حِسَابٍ

Meaning: Whoever does evil is not repaid, unless it is proportional to the evil. Whoever does good deeds, whether male or female, while he is in a state of faith, will enter heaven. They are blessed with sustenance in it without calculation. Gafir:40.

These verses hint at the ideal concept of gender equality and provide firmness, men and women get the same opportunity to

achieve optimal success. The goals of gender equality apart from the things mentioned above, gender equality also has several goals, namely:

- 1) Eliminate all forms of violence, harassment, and exploitation that women often experience
- 2) Ending all forms of discrimination that often occur in households and work environments
- 3) Gain ownership of an item
- 4) Have the right to equal education
- 5) Having the freedom to participate in political, social, and economic life respects unpaid care and promotes shared domestic responsibility.

## Conclusion

Gender is a concept that distinguishes men and women from the culture of society, meaning that gender will always change according to the conditions of the times. In this case, gender is not something natural (*Sunnatullah*). Islam as a religion that upholds the dignity and dignity of women also strictly prohibits the subordination of women because it has been mentioned in several verses that place women in the same position as men, however, in reality what happens is not in harmony with religious recommendations and commands.

There needs to be an improvement that must continue to be made by scholars in understanding the text of the Qur'an in equality so that there will be no more gender bias that will later subordinate women, if it is associated with the current social reality that many women in their leadership can be said to be successful, even women are also considered weak in thinking because they always prioritize feelings over reason, But reality also proves that there are not a few intelligent women scattered in this modern era. In the approach of gender reform in Islamic law, Islamic Shari'a strongly opposes the gender inequality that is often experienced by women because the positions of men and women in the Qur'an

are considered the same, among others, both as servants and also have the potential to become ideal servants, have duties as leaders (*caliphs*), Adam and Eve are both involved in cosmic drama, and both accept the primordial agreement. If we look at the elements of similarity between men and women, women should be given rights and freedoms in the fields of education, politics, and other domestic scenes as long as they have the ability in that field, but not to be excessive so as not to violate their nature as women.

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