



Islam And The Sakinah Family: The Urgency of Realizing an Equitable Family Law

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Abstract

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This paper examines the urgency of realizing family law that is just and equal. Many practices in the domestic sphere tend to create gender injustice and tend to cause various forms of inequality. Indeed, the law in any country hates injustice and inequality. The problems in this study are how the meaning of the concepts of justice and equality in the realization of a sakinah family; and how the implications of this meaning for realizing a just and equitable family law. This article is a normative legal study by conducting a literature search related to legal materials in the form of legal texts related to the issue of equality and justice in Islamic family law. The meaning of the concept of fairness and equality in religious texts is actually interpreted proportionally, because husbands or wives can agree on the functions, roles and responsibilities of each openly. When a husband or wife meets the qualifications, both qualifications from the ability of wealth, knowledge/potential, skills, and responsibility for the family, it does not rule out the possibility that the one who meets these qualifications is more likely to become the commander in the family. Therefore, empirical and sociological perspectives that favor justice and equality need to be accommodated in the reading of verses on justice and equality in family law.

INTRODUCTION

The tendency of patriarchal traditions in classical studies of Islamic family law has created issues of gender injustice that continue to be intertwined to this day.¹ Discussions about women and gender equality have long been debated, both through scientific forums and focused discussions through non-governmental organizations.² This debate has not been completed until now, as there are still legal products and interpretations that are gender-biased. Many practices related to the domestic sphere position women as second class, such as; protection of women's reproduction, women's position in determining policies in the household, women's limited authority over marital property, and so on. This certainly requires a reassessment of existing interpretations in order to give birth to new formulations that are fair and equal. Gender inequality tends to lead to various forms of inequality, not only in the public sphere but also in the domestic sphere. In fact, the law in any country hates injustice and inequality. Even religious texts strongly uphold the values of justice in all lines of community life.³

¹ Siti Mahmudah et al., "Job Stress, Role Expectation Conflict, Co-Worker Support, and Work-Life Balance among Muslimah Scholars: A Study in the Indonesian Historical Women Political Movement Members," *Islamic Guidance and Counseling Journal* 5, no. 2 (2022): 172–84, <https://doi.org/10.25217/igcj.v5i2.3000>.

² Habib Sulthon Asnawi, "Politik Hukum Perlindungan Hak-Hak Asasi Manusia Kaum Perempuan Di Indonesia (Studi Tentang Upaya Mewujudkan Keadilan Dan Kesetaraan Gender Kaum Perempuan Di Bidang Kesehatan Era Pemerintahan Susilo Bambang Yudhoyono/SBY)" (Program Magister Hukum Pascasarjana Fakultas Hukum Universitas Islam Indonesia (MH UII) Yogyakarta, 2011), <https://dspace.uii.ac.id/handle/123456789/8766>.

³ M. Anwar Nawawi, *Dinamika Hukum Perkawinan Di Indonesia: Tinjauan Hukum Keluarga Islam Terhadap Legalitas Perkawinan Kepercayaan Penghayat* (Yogyakarta: Bildung, 2022), <https://penerbitbildung.com/product/dinamika-hukum-perkawinan-di-indonesia-tinjauan-hukum-keluarga-islam-terhadap-legalitas-perkawinan-kepercayaan-penghayat/>.

Previous studies on Islam and the Sakinah Family have been initiated and researched, but one thing that has not been touched on is the relationship between the sakinah family and human civilization based on justice and equality has not been fully discussed. Three trends that can be found in the previous literature are from the philosophical and normative frameworks, which are classified as follows: 1) Studies are more inclined to highlight with textual interpretation⁴ norms that exist in religious messages⁵, such as: wives must obey their husbands, wives' paradise depends on their husbands' pleasure, etc.; 2) Discussing gender justice and equality⁶ which is based on patriarchal interpretation⁷; and 3) Studies that highlight feminist interpretations of gender verses⁸ with a hermeneutic approach⁹ and Human Rights¹⁰. From these three trends, it appears that empirical and sociological perspectives have not been accommodated, namely perspectives from within the culture where family law is applied have not been involved in reading the verses about justice and equality. From the description above, it can be seen that the issue of the urgency of realizing Egalitarian and Equitable Family Law is very urgent in an effort to achieve a sakinah family.¹¹

This study aims to complement the shortcomings of previous studies that did not see the perspective of subjects in different jurisdictions related to egalitarian and equitable family law. In addition, previous studies tend to look from an objective perspective and give less space to the elements of society where the law grows and develops. Related to this, there are two research questions that will be answered in this article, namely; 1) How is the meaning of the concept of justice and equality in the realization of a sakinah family; and 2) How is the implication of the meaning towards the realization of a just civilization. The answers to these questions not only provide an in-depth understanding of the urgency of realizing a sakinah family with justice and equality in the frame of a global society, but also enable the formulation of Islamic family law legislation based on the interests of society at large. This study is a normative legal research by searching the literature related to legal materials in the form of legal texts related to the issue of equality and justice in Islamic family law. This study is conducted with a philosophical and conceptual approach. Secondary data used in this study are primary legal sources sourced from the text of the Qur'an and legal regulations contained in Muslim communities in several countries, and references from various reading sources relevant to the theme of the study. The analysis is carried out using qualitative descriptive analysis techniques through deductive thinking.

This paper is based on a basic assumption that, first, the strong patriarchal tradition that surrounded the interpreters of the past also colored the legal products they produced, which resulted in

⁴Luciana Anggraeni, "Kontekstualisasi Tafsir Perempuan (Studi Pemikiran Abdullah Saeed)," *Journal of Islamic Legal Studies* 12, no. 3 (2019): 36–51.

⁵Najah Nadiyah Amran and Haziya Hussin, "Wanita Dan Pengurusan Emosi Melalui Pengkisahan Maryam Dalam Al-Quran," *International Journal of Islamic Thought* 17, no. 1 (2020): 90–100, <https://doi.org/10.24035/ijit.17.2020.172>.

⁶Mohammad Fauzan Ni'ami Moh.Irfan, "Hermeneutika Tauhid: Interpretasi Amina Wadud Terhadap Gender," *Humanistika: Jurnal Keislaman* 9, no. 2 (2023): 128–43.

⁷Sayyaf Nasrul Islami, "Hermeneutika Feminis Terhadap Wacana Kesenjangan Gender: Sebuah Studi Literatur," *Jurnal Hawa: Studi Pengarus Utamaan Gender Dan Anak* 4, no. Vol. 4, No. 2, Desember 2022 (2022): 115–26, <https://doi.org/doi:10.29300/hawapsga.v4i2>.

⁸Muh. Hanif and Laila Nadzifatus Syarifah, "Hermeneutika Adil Gender Menurut Ulama Kontemporer Dalam Studi Al-Qur'an," *Yinyang: Jurnal Studi Islam Gender Dan Anak* 17, no. 2 (2022): 181–200, <https://doi.org/doi:10.24090/yinyang.v17i2.6870>.

⁹Eka N.A.M Sihombing and Cynthia Hadita Hadita, "Konstitusionalitas Poligami Dalam Perspektif Hermeneutika Hukum Islam Di Indonesia," *Mahakim: Journal of Islamic Family Law* 5, no. 1 (2022): 11–26, <https://doi.org/doi:10.30762/mahakim.v5i1.131>.

¹⁰Budi Hermawan Bangun, "Hak Perempuan Dan Kesenjangan Gender Dalam Perspektif Filsafat Hukum," *Pandecta Research Law Journal* 15, no. 1 (2020): 74–82, <https://doi.org/doi:10.15294/pandecta.v15i1.23895>.

¹¹Habib Shulton Asnawi dan M. Anwar Nawawi, *Hegemoni Patriarkhisme Hak Keadilan Perempuan Dalam Undang-Undang Perkawinan Di Indonesia* (Yogyakarta: The Journal Publishing, 2022), <http://thejournalish.com/ojs/index.php/books/article/view/358>.

an understanding that tended to position women as second class after men. Second, the patriarchal cultural structure that is still strong in various parts of the world is quite an obstacle in changing laws that are more equitable and in favor of the equality of men and women, especially in the realm of private and family law. Thus, the argument built in this study is that all moral messages contained in the Qur'an, the basis and principles of justice and equality as the purpose of revelation should be understood and interpreted on social gender assumptions.

RESULT AND DISCUSSION

The Qur'anic Concept of a Sakinah Family with Justice and Equality

A family is essentially built by uniting two different individuals and then binding them with a solid contract¹², That is marriage. Marriage aims to create a family that is sakinah, and happy physically and mentally based on love, affection and understanding of each other. Men and women have equality in law and morals, as in the Qur'an mentioning equality in sanctions and rewards, the obligation to study, muamalah, choose a partner and do good and prevent evil¹³. In essence, gender is a social engineering that is not natural. It is built by the structure of society and culture in which the engineering is formed, so that each region, tribe, nation, religion has a different pattern of meaning. These differences have a significant impact on the formation of justice and equality laws¹⁴. On the other hand, gender can be interpreted as the differentiation of roles, behaviors, attributes that grow in society or that are considered appropriate by society for men and women¹⁵.

The following has been emphasized in the Qur'an regarding the equality between men and women in the realm of family law which can be displayed in the table below:

Table 1: Qur'anic texts on equality

No	Source of the Qur'an	Text Digest	Forms of Equality
1.	QS Al Hujurat (49) : 13	Men and women are equal in social stratification, and have equal human status. The mission of Islam as outlined in the Qur'an is to liberate humanity from all injustice and inequality.	Degrees of humanity
2.	QS Al Mubadalah (58) : 11	Allah gives virtue and a high degree to those who believe and have knowledge, and do good deeds without distinguishing between men and women.	Obligation of Knowledge
3.	QS. Al Ahzab (33) : 35	Men and women who are always in obedience to Allah, patient, doing righteous deeds, and who give charity, they will receive forgiveness and a great reward.	Sanctions and Rewards

¹²Anung Al Hamat, "Representasi Keluarga Dalam Konteks Hukum Islam," *YUDISIA : Jurnal Pemikiran Hukum Dan Hukum Islam* 8, no. 1 (2018): 139, <https://doi.org/10.21043/yudisia.v8i1.3232>.

¹³Abd. Basid and Ruqayyah Miskiyah, "TAFSIR KESETARAAN DALAM AL-QUR'AN: Telaah Zaitunah Subhan Atas Term Nafs Wahidah," *Egalita* 17, no. 1 (2022): 18–34, <https://doi.org/10.18860/egalita.v17i1.15651>.

¹⁴Asya Dwina Luthfia and Siti Chodijah, "Kesetaraan Gender Dalam Rumah Tangga Perspektif Al-Qur'an," *Jurnal of Society and Development* 1, no. 1 (2021): 23–32, http://journal.medpro.my.id/index.php/jsd%0Ahttp://www.ghbook.ir/index.php?name=فرهنگ و رسانه های http://www.ghbook.ir/index.php?name=فرهنگ و رسانه های&option=comdbook&task=readonline&book_id=13650&page=73&chkhask=ED9C9491B4&Itemid=218&lang=fa&tmpl=component%0Ahttp://www.albayan.ac%0Ahttps://scholar.g.

¹⁵Naila Salsabila, "Strategi Pembentukan Kesetaraan Gender Dalam Upaya Harmonisasi Keluarga Islam," *Mutawasith: Jurnal Hukum Islam* 5, no. 1 (2022): 1–17, <https://jurnal.iaim.ac.id/index.php/mutawasith/article/view/428>.

		who give charity, they will receive forgiveness and a great reward.	
4.	QS al Nisa' (4) : 7 and 11	Allah Swt memberikan hak untuk laki-laki dan perempuan sebagai penerima waris dari orangtua yang meninggal dunia, yang pada masa pra Islam perempuan tidak di berikan hak sebagai ahli waris.	Hak Waris mewaris
5.	QS. Al Rum (30) : 21	Men and women are given equal rights in choosing and determining their partners. And are entitled to happiness and harmony in marriage.	Right to choose a partner
6.	QS. Al Ahzab (33) : 35	Men and women who are always in obedience to Allah Swt, patient, doing good deeds then who give alms, they will receive forgiveness and a great reward.	Right to spend one's own property

The table above illustrates the undeniable equality between men and women in the Qur'an. Namely, equality in the degree of humanity, the same right to study, the right to get a reward for virtue in the form of reward and get sanctioned sin if you violate the provisions of the law. The right to be an heir, the right to choose a spouse of one's choice, the right to enter into marriage, and the right to give in charity with one's own wealth. The verses of the Qur'an guarantee that all these rights are fulfilled fairly without any discrimination.

There are also Qur'anic texts related to the position of men in certain matters positioned more than women, especially in the realm of family law, which can be displayed in the table below:

Table 2: Qur'anic Texts About the Position of Men Being Superior to Women in Certain Respects

No	Source of the Qur'an	Text Digest	The rights of men over women
1.	QS. Al Baqarah (2) : 235	A man is given the right to ask a woman he likes to be his wife.	Right to propose
2.	QS. Al Nisa' (4) : 2	It is permissible for a man to have more than one wife, provided that he can be fair, if he cannot be fair then he is advised to marry only one.	Polygamy rights
3.	QS al Nisa' (4) : 11	Bagian waris laki-laki lebih dari bagian perempuan yaitu 1 bagian untuk perempuan dan 2 bagian untuk laki-laki	Hak mendapatkan bagian waris 1:2 ¹⁶
4.	QS. Al Baqarah (2): 232, QS. Al Nisa' (4) : 32	The text of the verse is aimed at male guardians to marry off those who are fit for marriage.	Right to be a marriage guardian
5.	QS. Al Thalaq () : 2, QS. Al Maidah () 106 QS. Al Nur () : 4 dan 13). QS Al Nisa' (4): 15	The number of witnesses for women is 2.	Right to be a witness

The table above can be described that in some Quranic texts there are more responsibilities given to men. As in the issue of khitbah, polygamy, inheritance, marriage guardian, and testimony. These

¹⁶Muhammad Mahsus, "Tafsir Kontekstual Dan Eksistensi Perempuan Serta Implikasinya Terhadap Penyetaraan Bagian Waris Laki-Laki Dan Perempuan," *JIL: Journal of Islamic Law* 1, no. 1 (2020): 25–44, <https://doi.org/10.24260/jil.v1i1.19>.

advantages are formulated in several strong Qur'anic verses. equality between men and women in the Qur'an is undeniable. The verses of the Qur'an guarantee that all these rights are fulfilled fairly without any discrimination.

The Concept of Qiwwamah in the Family from the Perspective of Justice and Equality

*Qiwwamah*¹⁷, *qiwwamah* is an idea constructed in the classical Islamic tradition of interpretation that establishes the authority and priority of men in the family. The term *qiwwamah* is contained in QS An Nisa' (4): 34, which implies that to realize harmony in the family there should be good leadership¹⁸. Particularly in classical tafsir literature, there is a long legacy of errors in interpretation based on several reading and interpretation strategies. Pre-existing cultural assumptions regarding patriarchal authority over women. Previous readings tended to position women's inferiority, and no holistic reading or intra-textual connectivity was applied to gender verses. There was also no reflection on legal decisions regarding marriage and divorce. Imam Qurthubi interpreted *qawwam* as being in charge of providing for the family, so when the husband is unable to provide for his family, the *qawwam* nature will disappear from him.

Regarding women's rights in the domestic sphere has received enough attention among gender activists. Ashghar Ali¹⁹ gives attention to women's issues on the practice of divorce, polygamy, and so on. From his logical analysis and theological approach, Ashghar Ali views that religion basically liberates the downtrodden and oppressed, and women belong to the oppressed group. Whereas the Qur'an gives a very noble place and degree to women. The construction of *qiwwamah* or leadership in a family has been described in detail in the Qur'an. Ideally who is the leader in the household almost most scholars agree that men are more ideal. And the scholars agree that the verses of the Qur'an that explain about household leadership strengthen the existence and leadership of men in the family. Men as the head of the family and women as wives who are positioned under the leadership of the husband. So the wife is obliged to always obey the husband's orders as long as the order does not violate the Sharia.²⁰ In fact, the Qur'an emphasizes that if the wife disobeys the husband, the husband has the responsibility to educate his wife. The authority or leadership of men over women (in the domestic sphere) is outlined in the Qur'anic verses described above. Classical interpretations related to *qiwwamah* are mostly enacted and applied in legislation in the realm of family law in Muslim countries, including Indonesia.²¹

The mufasssirs and scholars express the meaning of *qawwam* with different concepts. Ibn Kathir states that *qawwam* is a man as the head of the family, counselor and educator when women make mistakes and mistakes. Al-Thabari interpreted *qawwam* as the executor of duties and a protector who directs, teaches, and organizes, as it is an advantage given by Allah Swt to men compared to women. Faqihuddin Abdul Kodir supports the concept of *qiwwamah* which is balanced and equitable between men and women. The discussion of the concept of *qiwwamah* is also related to the responsibility of men over their wives/women, considering that men have more capacity and ability than women.²²

In addition, because men are not closed to the possibility that women also have advantages in terms of wealth and scientific abilities. The capacity and ability of women's assets are sufficient, so in this

¹⁷Wardah Nuroniyah, "Konsep Qiwwamah Dan Fenomena Perempuan Kepala Keluarga," *Equalita* 4, no. 1 (2022): 113–35. DOI: [10.24235/equalita.v4i2.12906](https://doi.org/10.24235/equalita.v4i2.12906)

¹⁸Abdus Shomad, "Otoritas Laki-Laki Dan Perempuan: Studi Penafsiran Kontekstual Abdullah Saeed Terhadap Qs. an-Nisa 4: 34," *Jurnal AlifLam: Journal of Islamic Studies and Humanities* 3, no. 1 (2022): 1–21, <https://doi.org/10.51700/aliflam.v3i1.432>.

¹⁹Ashghar Ali Engineer, *Hak-Hak Perempuan Dalam Islam*, ed. LSSPA, 2000.

²⁰Muhammad Adres Prawira Negara, "Keadilan Gender Dan Hak-Hak Perempuan Dalam Islam," *Az-Zabru: Journal of Gender and Family Studies* 2, no. 2 (2022): 74–88, <https://doi.org/10.15575/azzahra.v2i2.15840>.

²¹Siti Khoiratul Ula, "Qiwwamah Dalam Rumah Tangga Perspektif Teori Mubadalah Dan Relevansinya Di Indonesia," *Mahakim: Journal of Islamic Family Law* 5, no. 2 (2021): 135–48, <https://doi.org/10.30762/mahakim.v5i2.138>.

²²Mansour Faqih, *Membincang Feminisme Diskursus Gender Perspektif Islam*, Cet. III (Surabaya: Risalah Gusti, 2006).

condition women can actually also have the authority to become leaders, because of their ability to support the family economy and help weak people. If there is a wife who has the ability to work for a living while the husband does not have the ability to earn a living, then sociologically the wife is considered capable of becoming a leader (qawwam)²³. Thus, it is possible for a husband or wife to become a leader if they meet the qualifications, both qualifications from the ability of wealth, knowledge/potential, skills, and responsibility for the family.

The meaning of the word obedience in the concept of husband and wife relations based on classical fiqh texts shows a structural relationship,²⁴ However, if the meaning is understood not structurally, then of course the redaction is accepting opinions, agreeing, or other redactions that are not equivalent to obeying. However, if the meaning is understood not structurally, then of course the redaction is accepting opinions, agreeing, or other redactions that are not equivalent to obeying. The model of husband and wife relations that tends to be unequal is certainly vulnerable to the problem of domestic violence. This is because men have the power to get angry, hit, cuss, and act out of control towards their wives. These actions occur because of mistakes in interpreting the relationship between men and women in the domestic sector. Ideally, the consequences of qiwamah in family relations give birth to obedience, obedience, and willingness framed by the concept of reciprocity. Each other obeys each other, is mutually willing and makes his partner a partner in the household. Not in the form of relations between employees and employers or between superiors and subordinates. Therefore, the renewal of the meaning of Qiwama in family relations requires an understanding and reinterpretation of pre-existing legal texts, so that the new meaning will be more just for the parties in family relations.

The concept of equality will differ from one social structure to another, because it depends on the social and cultural surroundings. The construction of gender understands women as emotional, weak, leading to attitudes that position women's social status below men. In some cases, women even experience injustice related to the double burden placed on women. Women are seen as suitable to work in the domestic sector, while men are in the public sector. As for women who are also family breadwinners, in addition to working to earn a living outside the home, they are still required to work to take care of household needs. In other words, women are given the burden of labor not only in the public sphere but cannot shift from the domestic sphere.

The concept above can actually be agreed upon by each husband and wife properly, because it is not a fixed price for the distribution of public and domestic concepts. Anyone can be responsible in both spheres according to the agreement in *mu'asyarah bil ma'ruf*. So in the construction of qiwamah, anyone can be the holder of responsibility and lead the family as long as the husband and wife can deliberate to realize a happy, harmonious family, and filled with love and affection. *Mu'asyarah bi al-ma'ruf* (get along well), is a form of equality relationship between husband and wife, which also applies to all family members. In this case there is a symbiotic mutualist relationship that needs and supports each other. So that in the end it is expected to be the seed of the formation of a sakinah family.

Construction of Family Law with Justice and Equality

The social and cultural structure of society has a significant influence on women's oppression in the domestic/family sphere²⁵. The traditional concept sees the relationship between husband and wife in a dichotomous structure, function and role. The husband functions as the breadwinner as well as the protector of the family, the wife as the housekeeper, therefore the role of women is to take care of their

²³Moh Sholeh Shofier, "KORELASI MAKNAQIWĀMAHDANAL-RIJĀL-AL-NISĀDALAM QS. AL-NISĀ [4]: 34 PERSPEKTIF USHUL FIQH" 3, no. 2 (2023): 64–86.

²⁴Nurjannah Ismail, *Perempuan Dalam Pasungan: Bias Lak-Laki Dalam Penafsiran* (Yogyakarta: LKiS, 2003).

²⁵Triantono, "Feminis Legal Theory Dalam Kerangka Hukum Indonesia," *Progressive Law and Society* 1, no. 1 (2023): 20.

children, and take care of all domestic needs in the household. This pattern has certainly shifted due to the openness of society's perspective which considers this pattern to create injustice.

Gender injustice creates a worse life, because women's rights are not protected. A holistic model of understanding will shape the construction of an equitable family law²⁶. One model of reading religious texts to be able to produce a more egalitarian and non-patriarchal understanding is a holistic hermeneutic that takes into account and considers women's thoughts in interpreting existing religious and legal texts, while also considering the grammar and context of the text.

The construction of a just family law requires a good and equal social position and status between men and women. Men and women have the same degree of humanity. In accordance with the mission of Islamic teachings to release humans from all forms of injustice, inequality, discrimination and anarchy with each other. Rasulullah SAW has fought for women's rights and positioned women as an integral part of religious life. The verses of the Qur'an related to the relationship between men and women and women's rights in social and domestic life are widely used by some of those who support the superiority of men over women. Amina Wadud²⁷, one of the activists of the feminist and gender movement who has a lot to say about the relationship between men and women is very opposed to the interpretation of QS al Nisa (4); 34. which is understood as legitimizing the absolute leadership of men in a household. According to him, this interpretation is very loyal to male interpreters, because most of the mufassirs are male. Male leadership in the realm of the household can be changed because the true leadership is not absolute and absolute. However, it depends on the context and social life that is always changing. Related to women's rights in the domestic sphere has received enough attention among gender activists. Ashghar Ali²⁸ gives attention to women's issues on the practice of divorce, polygamy, and so on. From his logical analysis and theological approach, Ashghar Ali views that religion basically liberates the downtrodden and oppressed, and women belong to the oppressed group. Whereas the Qur'an gives a very noble place and degree to women.

The norm of equality in the household increases the participation of each husband and wife in the fulfillment of property and household financial management decisions²⁹. The implication of the principle of equality is that it opens opportunities for women to develop their potential and abilities to take part more freely in community life. Gender relations with justice and equality can be realized when there is cooperation and distribution of roles that are fair and balanced (proportional) between husband and wife. Role distribution will be implemented when there is careful planning among all family members concerned.

Efforts to Realize an Equitable and Just Family Law

The ideal family in Islam is built on three foundations, namely *sakinah* (tranquility), *mawaddah* (love), and *Rahmah* (surrounded by love and affection) An ideal household in Islam when it is able to provide broad benefits in social life, not only beneficial to the family itself. Building relationship patterns

²⁶Elizabeth Veronica Ete et al., "Gender Dan Konstruksi Perempuan Dalam Agama 'Pentingnya Kesetaraan Gender Untuk Penghapusan Sistem Patriarki,'" *Jurnal Kajian Islam Kontemporer* (2023) 1, no. 2 (2023): 1–25, <https://doi.org/10.11111/nusantara.xxxxxxx>.

²⁷Amina Wadud, *Qur'an Menurut Perempuan: Meluruskan Bias Gender Dalam Tradisi Tafsir*. Terjemahan. Abdullah Ali. (Jakarta: PT. Serambi Ilmu Semesta, 2001).

²⁸Ashghar Ali Engineer, *Hak-Hak Perempuan Dalam Islam*.

²⁹Luigi Guiso, Luana Zaccaria "From Patriarchy to Partnership: Gender Equality and Household Finance," *Journal of Financial Economics* 147, no. 3 (n.d.): 573–95, <https://doi.org/https://doi.org/10.1016/j.jfineco.2023.01.002>.

in family life³⁰ carried out with a gender partnership pattern³¹. Such as fair distribution of tasks and roles, openness in the family, mutual trust, and mutually supportive leadership patterns. Partnership in the household can be realized in the form of, First, equal and fair cooperation, both between husband and wife, as well as between parents and children, both girls and boys without gender discrimination. Second, cooperation in carrying out their respective roles in partnership, all family components contribute, both in the form of ideas, moral and material assistance, energy and time based on the knowledge and experience gained. Third, there is openness in the division of family roles and tasks in carrying out activities in each family. Nothing is kept secret between husband and wife, mutual trust and respect are formed in the use of existing resources in the family so that a harmonious life is realized. Fourth, there is a gender partnership that is formed based on the agreement of husband and wife, not based on the construction formed by the community. The construction built by the environment and patriarchal culture will certainly dominate the husband in the family. Therefore, the construction that is built is based on the alignment and agreement of husband and wife, so that social roles can essentially be exchanged and changed depending on the situation and conditions of the household or husband and wife concerned.

The construction of equality in family law is a structure where the conditions of women and men can optimize their respective potential and functions in all lines of life³². Women and men have a balanced position, with equal potential to be qawwam in the area of family law. However, this concept has not been implemented optimally in certain groups of society, especially those that still strongly adhere to the patrilineal kinship system. Thus, efforts to realize a harmonious sakinah family can be done with a partnership pattern between men and women, both in their status as husbands, wives and children. The partnership is realized through a proportional division of roles and duties both in the domestic and public spheres. This is what is meant by balanced, which is in accordance with the mutual agreement between husband and wife. This universal value is actually what is desired in the teachings of Islam which requires husbands and wives to be clothes for each other.

CONCLUSION

The understanding and interpretation in religious texts about justice and equality in building a sakinah family is built on social gender assumptions. The position of men and women are equal in realizing a *sakinah* family. No one feels their hierarchy is higher than the other. When this understanding is built on the principles of equality and justice, then it actually corresponds to what is the principle of Islamic family law. Anyone can be responsible in the domestic sphere according to the agreement *in mu'asyarah bil a'ruf*. So in the construction of *qiwamah*, anyone can be the holder of responsibility and lead the family as long as the husband and wife can deliberate to realize a happy family, harmonious, and filled with love and affection. It needs a holistic hermeneutic understanding in reading religious texts, in order to be able to produce family law that is egalitarian and just. Given the urgency of realizing a family law that is just and equal for men and women in the family, it is necessary to formulate a pattern of relations that favors equality. No longer bring up negative stereotypes that compartmentalize between men and women (husbands and wives) in family relations. It should continue to be instilled in family life, that men and women are both social beings who have the same rights as human beings. Both are equally entitled to participate in realizing a sakinah family with justice and equality.

³⁰M. Kasim and Muhammad Dhiyaul Haq, "Pilar-Pilar Keluarga Sakinah Menurut Hadis Nabi Saw.," *BUSTANUL FUQAH: Jurnal Bidang Hukum Islam* 1, no. 3 (2020): 416–39, <https://doi.org/10.36701/bustanul.v1i3.185>.

³¹Muchammad Qosim Alfaizi, "Membangun Ksetaraan Gender Dalam Kehidupan Keluarga Perspektif Hukum Islam" 5, no. 1 tahun 2022 (2022): 64–86, <https://doi.org/DOI:https://doi.org/10.14421/jrh.v5i1.2383>.

³²Gusti Rahma Sari and Ecep Ismail, "Polemik Pengarusutamaan Ksetaraan Gender Di Indonesia," *Jurnal Penelitian Ilmu Ushuluddin* 1, no. 2 (2021): 51–58, <https://doi.org/10.15575/jpiu.12205>.

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