

Gender Issues in Islamic Family Law: Perspectives from History, Philosophy, and Sociology of law

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Abstract: This research explores gender issues in Islamic family law from the perspective of history, philosophy and legal sociology. Islamic family law, which regulates various aspects of domestic life, often places men and women in different roles, with the view that these differences are complementary. However, in the modern context, the interpretation of Islamic law regarding gender faces challenges, especially in relation to demands for equality. This research uses a qualitative approach with literature study methods to analyze classical and contemporary sources, as well as looking at the application of Islamic family law in society. Research findings show that although Islamic family law offers basic rights for women, its implementation is often influenced by patriarchal norms that limit women's participation in family decisions. From the perspective of legal philosophy, there are differences in views between traditional interpretations that emphasize the complementarity of gender roles and modern interpretations that advocate equality. On the other hand, from a legal sociology perspective, the practice of Islamic family law in society is greatly influenced by social and cultural factors, resulting in challenges for women in demanding their rights. However, the Islamic family law reform movement continues to grow, driven by increasing awareness of the importance of gender equality in Islam. This research concludes that although challenges remain, opportunities exist to reform Islamic family law to make it more inclusive and fair for women, particularly through education, social advocacy, and the role of the state in legislation.

Keywords: Gender, Islamic Family Law, Sosiologi of Law.

Abstrak: Penelitian ini mengeksplorasi masalah gender dalam hukum keluarga Islam dari perspektif sejarah, filsafat, dan sosiologi hukum. Hukum keluarga Islam, yang mengatur berbagai aspek kehidupan rumah tangga, sering kali menempatkan laki-laki dan perempuan dalam peran yang berbeda, dengan pandangan bahwa perbedaan ini bersifat komplementer. Namun, dalam konteks modern, interpretasi hukum Islam terkait gender menghadapi tantangan, terutama dalam kaitannya dengan tuntutan kesetaraan. Penelitian ini menggunakan pendekatan kualitatif dengan metode studi literatur untuk menganalisis sumber-sumber klasik dan kontemporer, serta melihat penerapan hukum keluarga Islam di masyarakat.

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Temuan penelitian menunjukkan bahwa meskipun hukum keluarga Islam menawarkan hak-hak dasar bagi perempuan, penerapannya sering kali dipengaruhi oleh norma-norma patriarkal yang membatasi partisipasi perempuan dalam keputusan keluarga. Dari perspektif filsafat hukum, ada perbedaan pandangan antara tafsir tradisional yang menekankan komplementaritas peran gender dan tafsir modern yang mengadvokasi kesetaraan. Di sisi lain, dari perspektif sosiologi hukum, praktik hukum keluarga Islam di masyarakat sangat dipengaruhi oleh faktor sosial dan budaya, sehingga menghasilkan tantangan bagi perempuan dalam menuntut hak-hak mereka. Namun, gerakan reformasi hukum keluarga Islam terus berkembang, didorong oleh kesadaran yang semakin meningkat tentang pentingnya kesetaraan gender dalam Islam. Penelitian ini menyimpulkan bahwa meskipun tantangan tetap ada, ada peluang untuk mereformasi hukum keluarga Islam agar lebih inklusif dan adil bagi perempuan, terutama melalui pendidikan, advokasi sosial, dan peran negara dalam legislasi.

Kata Kunci: Gender, Hukum Keluarga Islam, Sosiologi Hukum.



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Introduction

Islamic family law in Indonesia is part of a dynamic legal system and often becomes a battleground between traditional values and the demands of modernization, particularly in terms of gender equality.¹ On one hand, Islamic teachings provide clear guidelines regarding family relationships, the rights and obligations of spouses, and the distribution of inheritance. On the other hand, the gender equality movement in Indonesia, which has gained momentum in recent decades, calls for a reinterpretation of rules that are considered discriminatory against women. Islamic family law is an integral part of the social and legal order that affects the lives of Muslims around the world, including in Indonesia.² As the country with the largest Muslim population, Indonesia has a long history of applying Islamic law that adapts to local social, political, and cultural contexts.³ One of the crucial issues that emerges in the discourse on

¹ Leonard C Sebastian and Syed Huzafah Bin Othman Alkaff, *Indonesia and Islam in Transition* (Springer, 2024), p. 67.

² Iva Ariani, "Nilai Filosofis Budaya Matrilineal Di Minangkabau (Relevansinya Bagi Pengembangan Hak-Hak Perempuan Di Indonesia)," *Jurnal Filsafat* 25, no. 1 (2015), p. 32–55.

³ Tanuri Tanuri, "Epistemologi Hukum Islam Dalam Hukum Positif Di Indonesia," *Al-Mashlahah Jurnal Hukum Islam Dan Pranata Sosial* 12, no. 01 (2024).

Islamic family law in Indonesia is related to gender equality, particularly regarding women's rights in marriage, divorce, and inheritance.⁴ Gender equality, generally understood as equal rights, duties, and opportunities between men and women, poses a challenge in the implementation of Islamic law, which, by some, is considered to be patriarchal and provides greater privileges to men.⁵

In Indonesia, Islamic family law is officially regulated through Law No. 1 of 1974 on Marriage, which was later strengthened by the Compilation of Islamic Law (KHI) in 1991. The KHI is a legal instrument that explicitly refers to Islamic principles in regulating various aspects of Muslim family life, such as marriage, divorce, and inheritance. Although the KHI aims to provide clearer and more organized guidelines for Muslims in Indonesia, its implementation is often criticized for not fully reflecting the principle of gender equality. One of the main criticisms of the KHI is that its provisions still contain norms considered to discriminate against women, such as in matters of spousal rights, inheritance shares, and divorce processes, which tend to grant greater authority to men⁶.

Gender issues in Islamic family law have become a topic of extensive debate and academic study, particularly in the modern context. Islamic law is one of the most developed fields of study among several branches of Islamic studies, such as tafsir (Quranic exegesis), hadith, ilm al-kalam (theology), and Sufism⁷. The history of Islamic law in the modern era has not received adequate

⁴ Nurul Ma'rifah, "Positivisasi Hukum Keluarga Islam Sebagai Langkah Pembaharuan Hukum Islam Di Indonesia: Kajian Sejarah Politik Hukum Islam," *Al-Manahij: Jurnal Kajian Hukum Islam* XIII, no. 2 (2019), p. 5–10; Ahmad Tholabi Kharlie and M H Sh, *Kodifikasi Hukum Keluarga Islam Kontemporer: Pembaruan, Pendekatan, Dan Elastisitas Penerapan Hukum* (Prenada Media, 2020).

⁵ Samsul Huda, "Posisi Perempuan Dalam Konsep Dan Realitas: Kontroversi Tentang Relasi Gender Di Dunia Islam," *Harakat An-Nisa: Jurnal Studi Gender Dan Anak* 5, no. 2 (2020), p. 73–88.

⁶ Nurhikmah, "Kearifan Lokal Dalam Kerangka Hukum Nasional: Kajian Atas Tradisi Malam Mappaccing Di Bugis- Makassar Local Wisdom in the National Legal Framework: Study of the Mappaccing Night Tradition in Bugis- Makassar," *Abdurrauf Law and Sharia* 1, no. 2 (2024), p. 122–38.

⁷ Sri Astuti A. Samad, 'Kajian Hukum Keluarga Islam Dalam Perspektif Sosiologis Di Indonesia', *El-Ushrah*, 4.1 (2021), p. 54.

attention in each Islamic country. In Indonesia, for example, the focus has largely been on the classical and medieval periods, with less attention given to its developments in the modern era. As a result, legal scholars do not have enough foundation to anticipate issues that arise when facing the realities of society.

Islamic family law regulates various aspects of domestic life, including marriage, divorce, the rights of husbands and wives, as well as the rights of children⁸. Within this legal framework, issues related to the roles and rights of women often come into the spotlight, particularly regarding gender equality and justice. The debate about the position of women in Islamic law often involves historical perspectives, legal philosophy, and sociology, all of which play a crucial role in shaping the understanding of how Islamic family law is applied and interpreted in various social and cultural contexts⁹.

Historically, Islamic family law developed under the influence of patriarchal societies that were dominant in many parts of the Muslim world. In this context, gender roles were often regulated according to social norms that positioned men as the heads of families and women as homemakers. This is reflected in various legal provisions related to marriage, inheritance, and divorce, which often assign different rights and responsibilities to men and women. However, the understanding and interpretation of this law is not static; it evolves with the passage of time and the emergence of new demands for gender equality¹⁰.

From the perspective of legal philosophy, gender differences in Islamic family law are often associated with the concept of substantive justice, which emphasizes different but complementary gender roles. Classical Islamic legal scholars, such as Al-Ghazali and Ibn Rushd, argued that these different roles were based on the biological nature and distinct social responsibilities of men

⁸ Syamsuddin Nurhikmah, Indo Santalia, 'Membangun Kefahaman: Landasan Epistemologi Kefilsafatan Dalam Islam', *Setyaki: Jurnal Studi Keagamaan Islam*, 1 (2023), p. 90.

⁹ Yusuf Setiawan and Subaidi Subaidi, 'Perempuan Dalam Keluarga: Tafsir Ulang Amina Wadud Dan Khaled M. Abou El Fadl', *PLEDOI (Jurnal Hukum Dan Keadilan)*, 2.2 (2023), p. 215,.

¹⁰ I Nursalam., Nurhikmah., & Purnamasari, N, 'Nilai Pendidikan Karakter Dalam Teks Sastra Lisan Kelong Makassar', *Jurnal Lingue : Bahasa, Budaya, Dan Sastra*, 1.1 (2019), p. 95.

and women. However, this view has faced challenges from contemporary thinkers who emphasize the importance of equal rights in all aspects of life, including marriage and family. On the other hand, legal sociology provides a different perspective in understanding gender issues in Islamic family law. Legal sociology examines how legal norms are applied in everyday practice and how social dynamics influence the way laws are implemented¹¹. In this context, gender issues in family law are not only related to legal texts, but also to how society interprets and applies those laws. In many cases, strong social norms, such as patriarchy and class systems, influence how Islamic family law is practiced in the field¹².

This article aims to examine gender issues in Islamic family law through a multidisciplinary approach, highlighting historical, philosophical, and legal sociological perspectives. This study is important for understanding how Islamic family law interacts with gender issues in various social and cultural contexts, as well as how social changes and demands for gender equality influence the interpretation and application of this law. Through a comprehensive analysis, this article will explore the debate between conservatism and reform in Islamic family law, as well as its implications for the role of women in the modern Muslim family.

This research uses a qualitative approach with a literature study method and critical analysis of secondary data from various sources, such as classical Islamic legal texts, works of contemporary Islamic legal thinkers, and empirical research related to gender issues in Islamic family law. The aim of this method is to explore and deeply understand gender issues in Islamic family law from historical, philosophical, and legal sociological perspectives. This research is descriptive-analytical and uses a multidisciplinary approach. This approach includes: 1) legal history, to understand how gender norms in Islamic family

¹¹ Lujeng Rizkiyah, 'Analisis Argumentasi Arif Sugitanata Terhadap Berkembangnya Pembaharuan Hukum Keluarga Islam Di Indonesia', *JAKSYA: The Indonesian Journal of Islamic Law and Civil Law*, 4.1 (2023), p. 80.

¹² Rosdiana and others, 'Analisis Nilai-Nilai Pendidikan Karakter Dalam Buku Teks Tematik Tema Vii "Peristiwa Dalam Kehidupan" Pada Siswa Kelas V', *AULADUNA: Jurnal Pendidikan Dasar Islam*, 9.2 (2022), p. 216.

law have developed and adapted in various historical and cultural contexts; 2) legal philosophy, to explore the philosophical foundations underlying views on gender in Islamic family law; 3) legal sociology, to analyze how legal norms on gender are applied in Muslim societies, as well as how social factors influence the interpretation of these laws¹³.

This research uses secondary data consisting of: 1) Classical Islamic legal texts such as the works of Imam Al-Ghazali, Ibn Rushd, and other classical scholars discussing Islamic family law, as well as fiqh books from different schools of thought. 2) Books, journal articles, theses, and dissertations focusing on gender studies in Islamic law, legal philosophy, and legal sociology. 3) Works of modern Islamic thinkers offering reformist views on gender equality in Islamic family law, such as Fatima Mernissi, Amina Wadud, and Khaled Abou El Fadl. Data collection techniques involve an in-depth literature review, examining various relevant classical and contemporary legal texts. The literature reviewed includes primary sources (fiqh books) and secondary sources (academic articles and books on Islamic family law and gender issues). The researcher analyzes legal documents related to Islamic family law, both classical and modern. This includes traditional Islamic legal documents as well as legislation in Muslim-majority countries that adopt Islamic family law in the modern context.

The collected data is analyzed using content analysis and thematic analysis approaches. The steps of analysis include: 1) Data obtained from the literature is categorized and coded based on main themes, such as gender roles in marriage, the rights and duties of spouses, divorce, and other gender-related issues in Islamic family law. 2) After the data is coded, thematic analysis is used to identify common patterns related to gender issues in Islamic family law from historical, philosophical, and sociological perspectives. 3) Thematically analyzed data is then critically analyzed to understand how various views on gender in

¹³ Adnan Darwis, Wido Supraha, and Abas Mansur Tamam, 'Kajian Kritis Tentang Histori Problematika Kesetaraan Gender Dalam Perspektif Pendidikan Islam', *Tazawun: Jurnal Pendidikan Islam*, 17.2 (2024), p. 18..

Islamic family law have developed, been applied, and challenged in different social, cultural, and historical contexts.

Historical Perspective: The Evolution of Gender Roles in Islamic Family Law

Islamic family law, in its development, emerged and was implemented in a patriarchal society. Historically, the social structure in the early periods of Islam was dominated by patriarchal norms, where the role of men as heads of households and decision-makers was highly prioritized. In this context, Islamic family law was shaped according to this social structure, reflecting the view that men held the primary control in family life¹⁴. In a patriarchal society, at that time, people generally viewed men as leaders in all aspects, including in the family. This was manifested in regulations that differentiated the roles of men and women, where men had greater authority in decision-making, both in the domestic and public spheres. Limitation of Women's Roles: Women, on the other hand, were often limited to domestic roles—managing the household, raising children, and fulfilling their husband's needs. In many cases, women were not involved in major decision-making, either within the household or in the broader society.¹⁵

In classical fiqh (Islamic jurisprudence) tradition, family-related rules were often based on the patriarchal view that prevailed in society at the time. Some key rules reflecting gender inequality are: 1) Men as Heads of the Household: One deep-rooted principle in classical fiqh is that men are considered the heads of the household (*ra'is al-usrah*), responsible for managing the family and providing financially. This is sometimes seen as a religious obligation for men to provide for and protect the family. 2) Women as Household Managers: Conversely, women were often expected to focus on domestic affairs, such as managing the home, cooking, taking care of children,

¹⁴ Ahmad Zaenal Fanani, 'Sengketa Hak Asuh Anak Dalam Hukum Keluarga Perspektif Keadilan Jender', *Muslim Heritage*, 2.1 (2017), p. 100.

¹⁵ Yuliana Fatmawati, Lingga Abi Rahman, and Muhammad Afriza Rifandy, "Keterlibatan Perempuan Dalam Parlemen Perspektif Mashlahah Mursalah," *Jurnal Review Pendidikan Dan Pengajaran (JRPP)* 7, no. 3 (2024), p. 8532-40.

and serving their husbands. This role was considered the primary responsibility of women, while their rights to engage in public activities or decision-making were more limited. 3) Wifely Obedience to the Husband: Classical fiqh rules also often emphasized a wife's duty to obey her husband as a form of marital harmony. This is reflected in several hadiths and verses from the Qur'an, which have been interpreted as commands for wives to be obedient to their husbands, who were viewed as the leaders of the family.

This patriarchal social structure directly impacted women's daily lives. This division of roles not only limited women's freedom within the household but also reinforced gender inequality in society. While many of these rules were considered appropriate for the social context of the time, today, many believe that these norms need to be reexamined, especially in light of social changes demanding gender equality between men and women. As times progressed and social norms changed, many Islamic legal thinkers and reformists argued that interpretations of Islamic family law need to be adapted to modern, more equitable societal conditions. They proposed that Islamic family law should not only reflect patriarchal values but also incorporate values of equality, which are more relevant to current social realities. However, this research also shows that some classical scholars, such as Ibn Rushd and Al-Ghazali, recognized the importance of maintaining a balance between the rights and duties in the relationship between husband and wife. While traditional interpretations tended to give men greater authority, there are several legal texts that provide space for women to claim their rights, including in areas such as divorce, maintenance, and inheritance.

The thoughts of Ibn Rushd and Al-Ghazali on the relationship between husband and wife in Islamic family law emphasize a balance between the rights and duties of each party in marriage. Both are great thinkers in the Islamic legal tradition who offered profound insights into the roles and responsibilities of husbands and wives within the household¹⁶.

¹⁶ Fatimatuz Zahro and Shinta Pramesti K.M, 'Kesetaraan Gender Dalam Hukum Kewarisan Islam Perspektif M. Syahrur', *Mahakim: Journal of Islamic Family Law*, 7.1 (2023), p. 46.

Ibn Rushd (1126–1198), a philosopher and Islamic jurist from Andalusia, is known for his rational thought and philosophical approach to Islamic law. In his work on marriage law, Ibn Rushd argued that the husband-wife relationship is based on the principles of justice and balance. Some key points of his thought include: 1) Relative equality in responsibilities, emphasizing that both husband and wife have complementary rights and duties. Although their roles are different husband as the breadwinner and wife as the household manager these roles should be seen as joint responsibilities aimed at the well-being of the family; 2) Right to maintenance and fair treatment: According to Ibn Rushd, the husband is obligated to provide maintenance for the wife and treat her justly. In return, the wife is expected to fulfill domestic roles according to her abilities and contributions to the family. This relationship is considered a symbiotic one that must be regulated fairly; 3) Justice in divorce: Ibn Rushd also paid special attention to women's rights in divorce.¹⁷ He acknowledged that the wife has the right to seek divorce through the mechanism of khul' (divorce initiated by the wife), with legitimate reasons, and the husband is obliged to provide maintenance during the iddah period (waiting period after divorce).

Al-Ghazali (1058–1111), a famous theologian, philosopher, and Islamic jurist, also made significant contributions to understanding the husband-wife relationship. His views on marriage focused on the complementary relationship between spouses and the importance of spiritual and moral roles in marriage. Some of Al-Ghazali's views include:¹⁸ 1) The sanctity and purpose of marriage: For Al-Ghazali, marriage was not just about fulfilling biological or social needs but also a path to achieving sanctity and inner peace. Marriage was seen as a means to support each other morally and spiritually, with the aim of building a harmonious and religious family; 2) The role of the man as a leader, but justly: Al-Ghazali, like many scholars of his time, emphasized the husband's role as the

¹⁷ Dhaoul Ngazizah and Kholid Mawardi, "Integrasi Filsafat Dan Agama Dalam Perspektif Ibnu Rusyd," *Jurnal Ilmiah Mandala Education* 8, no. 1 (2022); Mohamad Thoyyib Madani, "Ibnu Rusyd Dan Kontribusi Pemikirannya Terhadap Perkembangan Ilmu Fiqih," *Kabillah: Journal of Social Community* 2, no. 1 (2017), p. 36–59..

¹⁸ Yanuar Arifin, *Pemikiran-Pemikiran Emas Para Tokoh Pendidikan Islam* (IRCiSoD, 2018).

head of the family. However, he stressed that this leadership should be exercised with fairness, love, and without abusing authority. According to Al-Ghazali, the husband is obligated to provide for the family, while the wife is expected to uphold the honor and welfare of the family; 3) Mutual rights and duties: In Al-Ghazali's view, the relationship between husband and wife is one of mutual respect. The husband should not act arbitrarily, while the wife also has the right to be treated well. If the wife's rights are neglected, she has the right to demand fair treatment¹⁹.

Although the thoughts of Ibn Rushd and Al-Ghazali developed in the context of a patriarchal society, their ideas about justice and balance in the husband-wife relationship remain relevant in contemporary discussions on the reform of Islamic family law. Modern thinkers often reinterpret their views in a more inclusive way, emphasizing equality of rights and responsibilities between husband and wife in a more egalitarian context. Both thinkers show that, despite the differing roles in marriage, the balance of rights and duties remains the core of a harmonious relationship. Modern interpretations can draw from their thoughts to encourage reforms in the law that are fairer to women, without ignoring the principles of justice inherent in Islam. Over time, the development of Islamic family law has continued to adapt to social and cultural contexts. In some Muslim countries, Islamic family law has undergone reforms that grant greater rights to women, such as in Tunisia and Morocco, which have made significant changes to divorce laws and women's rights.

Philosophical Perspective: The Concept of Gender Justice in Islamic Law

From the perspective of legal philosophy, the main debate surrounding gender in Islamic family law revolves around the concept of justice. Some traditional thinkers argue that Islamic family law is complementary, where the roles of men and women are different but mutually complementary. This is often based on

¹⁹ Nursalam, Irvan Mustofa, and Nurhikmah, 'Wacana Politik Spanduk Milenial Road Safety Festival: Analisis Wacana Kritis Nourman Fairlough (Political Discourse of Milenial Road Safety Festival: Nourman Fairlough's Critical Discourse Analysis)', *Totobuang*, 7 (2019), p. 100.

texts from the Qur'an and Hadith, which distinguish the duties of men and women in the family.

However, contemporary thinkers, such as Amina Wadud and Fatima Mernissi, challenge this interpretation by emphasizing gender equality in Islam. They argue that the fundamental teachings of Islam contain universal principles of justice, and that the rigid gender role divisions are a result of patriarchal interpretations of the sacred texts. They also stress that Islamic family law must adapt to modern gender equality values, while still upholding the justice principles taught by Islam.

Amina Wadud, an American Muslim scholar, is known for her approach that emphasizes the reinterpretation of the Qur'anic texts from a gender equality perspective. In her book *"Qur'an and Woman"*, Wadud seeks to deconstruct traditional interpretations that have marginalized women, demonstrating that the messages of the Qur'an actually contain universal principles of justice that emphasize equality between men and women. She argues that the gendered roles and hierarchies often inferred from Islamic texts are the result of historical interpretations influenced by patriarchal social structures, rather than the true essence of Islamic teachings. By revisiting these texts with a critical and gender-sensitive lens, Wadud advocates for a more inclusive and equitable understanding of Islam that aligns with contemporary values of gender justice²⁰. Fatima Mernissi, a Moroccan sociologist and feminist, critically examined how patriarchy has influenced the interpretation of Islamic law, especially in the context of gender relations. In her works, such as *"The Veil and the Male Elite"*, Mernissi deconstructs how male religious authority has shaped legal interpretations that benefit men and suppress women. She argues that traditional interpretations of Islamic law, particularly in relation to women's roles, are deeply rooted in patriarchal structures, and that these interpretations need to be revisited to reflect a more equitable understanding of gender relations within Islam.

²⁰ Rohmad Nurhuda, 'Melampaui Tradisi : Evaluasi Dampak Kebijakan Politik Terhadap Pembaharuan Hukum Keluarga', *El-Dusturie: Jurnal Hukum Dan Perundang-Undangan*, 3.1 (2024), p. 8.

Both Amina Wadud and Fatima Mernissi advocate for the reform of Islamic family law by emphasizing gender equality as an inherent principle of Islam. They urge Muslim societies to reinterpret Islamic teachings, taking into account the changing social context, while remaining true to the core values of justice and balance taught by the religion. Their thought offers a path toward more inclusive and just reforms in Islamic law, one that recognizes women's rights equally and aligns family law with the demands of gender equality in the modern era.

In contemporary Islamic jurisprudence, gender justice is often linked to women's rights in areas such as education, social participation, and family roles. These new interpretations open up space for reforming family law in a way that is more equitable for women, although not all Muslim communities readily accept these views.

Sociological Perspective: Family Law Practice in a Social Context

From the sociological perspective, the study finds that the implementation of Islamic family law is greatly influenced by social and cultural factors. In practice, many Muslim communities continue to uphold patriarchal norms that reinforce the dominant role of men within the family.²¹ These norms often dictate how laws are applied in real-life situations, leading to disparities in the treatment of women, particularly in matters such as inheritance, divorce, and marriage.²² The traditional application of Islamic family law in these contexts can often perpetuate gender inequalities, even when the core texts of Islamic law do not necessarily mandate such outcomes.

The sociological approach emphasizes the importance of considering the role of social dynamics and cultural practices in shaping the way Islamic family law is enacted and understood within communities. It also highlights the

²¹ Muhammad Haidar Allam and Retno Hanggarani Ninin, "Pernikahan Endogami Pada Kalangan Perempuan Etnis Arab Di Indonesia," *Jurnal Kajian Ilmiah* 23, no. 3 (2023): 243–50; K H Husein Muhammad, *Islam Agama Ramah Perempuan* (IRCiSoD, 2021).

²² Yurisna Tanjung, *Kesetaraan Dan Keadilan Gender Dalam Keluarga* (umsu press, 2024).

need for broader societal changes to accompany legal reforms if gender justice is to be fully realized within the family structure²³.

This is due to various factors, including local traditions, social pressures, and the community's understanding of Islamic law. In some societies, women often feel marginalized when it comes to decision-making regarding marriage, divorce, and other family rights. While Islamic law theoretically grants women rights, such as the right to seek divorce (khul'), in practice, women are often confronted with social and cultural barriers that limit their ability to assert these rights²⁴.

However, this study also highlights the dynamics of change in several Muslim communities. Awareness of the importance of gender equality is growing, especially among the younger generation and educated women. They are starting to demand reforms in Islamic family law to align more with principles of equality and justice. In some countries, such as Egypt and Pakistan, social movements advocating for women's rights in family law have emerged.

Challenges and Opportunities in Islamic Family Law Reform

The findings of this study indicate that although there has been progress in the efforts to reform Islamic family law, many challenges remain, including: 1) Strong traditional understanding: Many Muslim communities still hold on to traditional views on gender roles based on classical interpretations. 2) Lack of gender education: In many countries, the lack of gender education means women are unaware of their rights in Islamic law, making it difficult for them to seek justice. 3) Social pressure: Women often face social pressure and stigma when trying to assert their rights, especially in matters such as divorce or child custody.

However, opportunities for reform remain, particularly through: 1) Education and legal awareness: Enhancing education on gender equality and women's rights in Islam can help accelerate reform. 2) Role of the state in

²³ Faisar Ananda Arfa et al., "Sejarah Hukum Keluarga Islam Dalam Berbagai Era Di Indonesia," *Dewaruci: Jurnal Sejarah Dan Pengajarannya* 3, no. 1 (2024).

²⁴ Muh Taufiqurrahman, 'DALAM TERORISME : Perspektif Gender Dan Hukum Keluarga Islam Pendahuluan', *Usrotuna: Journal of Islamic Family Law*, 01.01 (2014), p. 10.

legislation: In some countries, governments are beginning to play an active role in reforming Islamic family law to provide better protection for women. 3) Social movements: Social movements advocating for women's rights are increasingly growing in the Muslim world, and they play a crucial role in pushing for change²⁵.

Conclusion

The issue of gender in Islamic family law cannot be understood in a simplistic manner. This issue is influenced by various interconnected dimensions: 1) Historical Factors: Islamic family law was shaped within a specific historical context, where the social and cultural structures of the time tended to support male dominance. This is reflected in several legal rules that assign primary roles to men within the family, such as the rights of guardianship, maintenance, and divorce. 2) Philosophical Factors: The core values underlying Islamic family law are often rooted in interpretations of the Qur'an and Hadith. However, these interpretations are not always gender-neutral, as they are influenced by the worldviews of the scholars and jurists of specific periods. 3) Social Factors: The application of Islamic family law in society is often influenced by patriarchal social norms, where men are considered to have greater authority than women. This results in a bias in the implementation of rules that are meant to ensure justice for all parties.

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²⁵ Nurul Ma'rifah, 'Positivisasi Hukum Keluarga Islam Sebagai Langkah Pembaharuan Hukum Islam Di Indonesia: Kajian Sejarah Politik Hukum Islam', *Al-Manahij: Jurnal Kajian Hukum Islam*, XIII.2 (2019), p. 10.

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