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Gender Equality In Women's Jurisprudence According To Husein Muhammad And Its Relevance To The Goals Of Islamic Religious Education

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Abstrak

Penelitian ini diawali dengan adanya kurang pemahannya masyarakat tentang pengertian gender serta kesetaraan gender pendapat tersebut terdapat pada beberapa buku karya Husein Muhammad sehingga menimbulkan ketidakadilan gender (marginalisasi, subordinasi, stereotype, double burden dan kekerasan) yang sering menimpa perempuan yang menjadi korbannya. Penelitian ini membahas tentang bagaimana konsep kesetaraan gender dalam fikih perempuan menurut Husein Muhammad? Dan membahas tentang bagaimana relevansi konsep kesetaraan gender dalam fikih perempuan terhadap tujuan pendidikan agama Islam?. Penelitian ini bertujuan untuk mengetahui konsep kesetaraan gender dalam fikih perempuan menurut Husein Muhammad serta untuk mengetahui relevansi konsep kesetaraan gender dalam fikih perempuan terhadap tujuan pendidikan agama Islam. Penelitian ini menggunakan jenis penelitian studi pemikiran tokoh dengan menggunakan jenis penelitian studi pustaka (library reseach) Teknik pengumpulan data pada penelitian ini yaitu dokumentasi dan wawancara dengan tokoh. Analisis data yang digunakan adalah Analisis isi (*content analysis*). Hasil dari penelitian ini pertama: bahwa konsep kesetaraan gender dalam fikih perempuan menurut Husein Muhammad adalah ide atau gagasan yang terdiri dari beberapa pengetahuan yaitu tentang pengertian gender, bias gender dan peran gender yang selalu menekankan bahwa perlunya suatu keputusan fikih perempuan pada realitas yang berkembang baik sosial, ekonomi, maupun politik. fikih perempuan terdiri dari fikih perempuan dalam rumah tangga, fikih perempuan dalam ibadah, fikih perempuan dalam pernikahan, fikih perempuan dalam kesehatan berkeluarga dan fikih perempuan dalam politik. Konsep paradigma feminisme menurut Husein Muhammad yaitu menggunakan gagasan tauhid dalam relasi gender, prinsip maqasid syari'ah dan metodologi tafsir perspektif gender. Kedua : relevansi konsep kesetaraan gender dalam fikih perempuan menurut Husein Muhammad dengan tujuan pendidikan agama Islam ialah terdapat (a) dimensi keimanan yang relevan dengan gagasan tauhid relasi gender anatar laki-laki dan perempuan, (b) dimensi penalaran yaitu reelvan dengan bahwa perempuan berperan aktif dalam fikiran secara intelektual, (c) dimensi penghayatan yang relevan dengan bahwa perempuan mampu memahami makna gender dan mengaktualisasikannya,(d) dimensi pengamalan yang relevan dengan perempuan mampu berperan

aktif dalam ranah domestik dan publik, dan (e) dimensi nilai-nilai yang sesuai dengan prinsip maqasid syariah. Kesimpulan dari penelitian ini adalah terdapat relevansi konsep kesetaraan gender antara laki-laki dan perempuan yang disandarkan pada nilai-nilai maqasid syariah.

Kata Kunci: Kesetaraan Gender, Fikih Perempuan, Pendidikan Agama Islam

Abstract

This research begins with the lack of public understanding of gender and gender equality. These opinions are found in several books by Husein Muhammad, causing gender injustice (marginalization, subordination, stereotypes, double burdens, and violence) which often afflicts women who become victims. This research discusses the concept of gender equality in women's fiqh according to Husein Muhammad and discussing the relevance of the concept of gender equality in women's fiqh to the objectives of Islamic religious education. This study aims to determine the concept of gender equality in women's fiqh according to Husein Muhammad and to determine the relevance of the concept of gender equality in women's fiqh to the goals of Islamic religious education. This research uses a type of research, character thought to study using library research. Data collection techniques in this study are documentation and interviews with figures. The data analysis used is content analysis. The results of this study are first: the concept of gender equality in women's fiqh according to Husein Muhammad is an idea or idea consisting of some knowledge, namely about gender understanding, gender bias and gender roles which always emphasizes that the need for a women's fiqh decision in a well-social reality, economics, and politics. Women's fiqh consists of women's fiqh in the household, women's fiqh in worship, women's fiqh in marriage, women's fiqh in family health and women's fiqh in politics. The concept of the paradigm of feminism according to Husein Muhammad is to use the idea of tauhid in gender relations, the principles of maqasid syari'ah and the methodology of interpreting a gender perspective. Second: the relevance of the concept of gender equality in women's fiqh according to Husein Muhammad with the aim of Islamic religious education are: (a) a dimension of faith that is relevant to the idea of tauhid of gender between men and women, (b) a dimension of that is relevant to that women play an active role in the mind intellectually, (c) the dimension of understanding that is relevant to that women be able to understand the meaning of gender and actualize it, (d) the dimensions of practice that are relevant to women be able to play an active role in the domestic and public sphere, and (e) the dimensions of appropriate values with the principles of maqasid syari'ah.

Keywords: Gender Equality, Women's Fiqh, Religious Education

Introduction

Gender equality in women's fiqh refers to an equal condition and equal treatment between men and women in the fulfillment of rights and obligations referring to the Qur'an and hadith. That the life of human society is

moving toward demands for democratization, justice and upholding human rights. All of these themes necessitate human equality, and all of these are values that are still desired by human culture in all places and times. God also certainly wants all of this to manifest in human culture. Therefore, these values should

be the basis for all interests in cultural, economic, legal and political discourse.

Al-Qur'an letter Al-Hujurat verse 13 explains that the most important among humans is the most pious to Allah SWT.

ان اكرمكم عند الله اتقكم

Meaning: Indeed, the most noble of you in the sight of Allah is the most pious among you.¹

Thus it is relevant to the objectives of Islamic religious education from KMA number 183 of 2019 namely in general Islamic religious education aims to increase faith, understanding and appreciation and practice of Islam, so that they become Muslim humans who believe and fear Allah SWT and have noble character in personal life, society, nation, state and world civilization². However, in achieving the concept of gender equality in women's fiqh, we hope that we will experience things that sometimes do not match what we aspire to. For example, there is gender inequality that often befalls women, which already shows that there is no use of women's fiqh in this matter.

One example of cases of gender injustice experienced by women is violence. Data violence is defined as sexual violence, as is the case in the pantura area of Central Java. The

Legal Resource Center for Gender Justice and Human Rights (LRC-KJHAM) noted that during the Covid-19 pandemic, from March to early May 2020 there were 20 complaints of violence against women in Central Java. The Head of the LRC-KJHAM Information and Documentation Division, Citra Ayu Kurniawati said that the violence consisted of various types.

"During this pandemic from March to early May there were 20 cases of violence against women," Citra said to Liputan6.com, Monday (18/5/2020). Citra detailed that there were five types of violence against women, namely sexual harassment which reached three cases, seven cases of domestic violence, four cases of cyber crime. "Six cases of sexual slavery, and one case of dating violence," said Citra.³

The author can mean that violence against women in Central Java and even in Indonesia is increasing day by day. If the writer analyzes the causes of violence against women, there are several factors, including family factors, unsupportive economy, lack of education, and previous cases that were not handled seriously by the government. Seeing the cases that occur, of course there is a need for a strong legal umbrella. Indonesian women need special legal protection regarding

women. Indeed, there is already an institution BP3A (Women's Empowerment and Child Protection) under the auspices of the Indonesian Ministry of Social Affairs, but what is the meaning of this institution if it does not have an umbrella? strong laws to deal with cases of violence against women.

Still in hot discussion about the PKS Bill which has been withdrawn from the National Legislation Program (Prolegnas) Commission VIII DPR RI, in which women activists have high hopes that the PKS Bill can become the PKS Law as a form of legal umbrella for handling women's violence. I am very disappointed with the government's decision to withdraw the PKS Bill from the National Legislation Program, with the potential for increased violence experienced by women in Indonesia because the government itself is not serious.

The restlessness of the authors of the analysis requires education that focuses specifically on discussing the concept of gender so that if gender injustice occurs it can be resolved not only from elements of state law but also the need for Islamic religious law related to women. Because we live in the State of Indonesia with various cultures, ethnicities, customs, cultures and religions prone to conflicts. The use of State law in every case

manifests that we comply with the law and is the embodiment of *hubbul wathon minal Iman* which is a manifestation of Indonesian jurisprudence. And also the use of law a religion in which the majority of Indonesian people adhere to Islam as a manifestation that we obey orders and stay away from His prohibitions by using the arguments in the Al-Quran and Al-Hadith.

Explanations about gender, gender injustice in Indonesian society can be negotiated with the presence of Islamic Religious Education, more specifically, it can be answered with Indonesian women's jurisprudence in terms of understanding the laws and arguments regarding women in Indonesia in carrying out activities with the majority adhering to the Imam Syafi school of thought. 'i. Then came a male Islamic feminist figure in Indonesia who had tried to re-read the concept of gender equality and women's *fiqh*, namely KH. Husein Muhammad is a *Nahdliyin* or a member of the *Nahdlatul Ulama* wing. Husein Muhammad as a male feminist figure from the Islamic boarding school clerics. As Husein Muhammad said in his book entitled *Islam Religion Friendly to Women*,

"The aim of feminism is as a movement to increase gender awareness to produce a social

transformation, of course assuming that men will be infected with the ideas of feminism and if they reject male feminists, instead feminism maintains an essential view by determining that only women can be feminists".⁴

The hallmark of her thinking is the defense of justice for women. His thinking is based on the oppression of women. As Husein Muhammad said in his book entitled *Islam Religion Friendly to Women*, namely:

"Husein Muhammad as a man who carries the idea of Islamic feminism, that feminism as a movement based on awareness of women's oppression which is then followed up by action to overcome oppression such"⁵

In the 1945 Constitution concerning the national education system Law Number 20 of 2003 states that every opportunity in education in an education unit does not look at gender, race, ethnicity, religion, social strata and economic level but still pays attention to the education unit concerned.⁶ In the Islamic religion, it has been explained that guiding knowledge of the law is obligatory for Muslim men and Muslim women or a woman who is Muslim

طلب العلم فريضة على كل مسلم و لمسلمة (رواه ابن عبد البر)

Meaning: Seeking knowledge is obligatory for Muslim men and Muslim women. (Ibn Abdul Al-Bar)⁷.

According to Husein Muhammad, in an ideal-normative way, the Islamic religion does not differentiate between men and women, as carriers of the safety and mercy of the whole world (*rahmatan lil 'alamin*).

This research is different from existing research, namely the thesis by Yasirli Amria Wilda entitled "The Concept of Husein Muhammad's Gender Equality and Its Relevance to the Goals of Islamic Education" if the research only discusses aspects of the concept of gender equality whose relevance to the goals of Islamic education does not discuss *fiqh*. -female *fiqh*. Meanwhile, in addition to discussing the concept of gender equality in Husein Muhammad, this research also discusses the jurisprudence of women, such as the role of women in domestic and non-domestic aspects in terms of profession and gender. Desi Asmaret, *Studies on Gender from an Islamic Perspective (Analytic Study of the Position of Women and Men in Islam)* Journal, *Scientific Syari'ah*, Volume 17, Number 2, July-December 2018. This journal uses a type of literature study research and finds that From discussion of gender from an Islamic perspective, it can be concluded that

women and men were indeed created by Allah SWT. different, but this difference is sunnatullah and makes the two harmonious in realizing togetherness in life in the world. These differences are physical (biological), character, duties and responsibilities, but Allah SWT also creates equality in status and evaluation of deeds.⁸ The difference in this journal with the researcher's thesis is that this journal only discusses or explains the position or role of women while the research thesis will not only explain roles but functions, women's behavior with the concept of gender equality in women's fiqh in the context of Indonesian women whose relevance to Islamic religious education goals.

Research Methods

The method in this research is a thought study research using a type of literature research (library research) which means uncovering a problem or situation, an event as it is that is deemed relevant and supportive. The literature review includes systematic identification and analysis of documents that make up the information. relating to research and gathering information with interviews to be conducted with informants, namely KH Husein Muhammad. Interviews were conducted to obtain data sourced from statements.⁹

Results and Discussion

The results of this study are that the concept of gender equality in women's fiqh according to Husein Muhammad is an idea or notion that consists of some knowledge, namely about the notion of gender, gender bias and gender roles which always emphasizes that the need for a fiqh decision in a reality that develops socially well , economics, and politics. And according to Husein Muhammad reality must be one of the main bases in understanding religious texts, so that in many ways, religious teachings are always contextual and not ahistorical, often referred to as *shalihun lil kulli Zaman wa makan*¹⁰. and in the concept of gender equality in women's fiqh there are gender perspective texts and also the words of scholars in terms of giving laws or arguments about women. the relevance of the concept of gender equality to the goals of Islamic education There are 5 dimensions of women's fiqh, namely: the dimension of faith, the dimension of ijtihadi/intellectual, the dimension of appreciation, the dimension of practice and the dimension of values. Then a discussion on the role of women, a discussion on various kinds of women's jurisprudence which aim to achieve equality and benefit. According to Husein Muhammad, it leads to *maqasid sharia*, namely the goals of sharia which

contain 5 maintenance or protection for humans in carrying out their lives. The concept of maqasid syari'ah Imam Ghazali concluded that Allah SWT sent down this religion for the purpose of protecting and maintaining the five basics of life, namely hifzu al-Din (preservation and protection of religion and human beliefs), hifzu an-nafs (maintenance and protection of the soul), hifzu al-aqli (maintenance and protection of reason or mind), hifzu al-mali (maintenance and protection of property), hifzu an-nasli (maintenance and protection of offspring).¹¹. Thus, the concept of gender equality in women's fiqh is very relevant to the objectives of Islamic religious education.

Husayn Muhammad's biography

Husein Muhammad was born on May 9, 1953 in Arjawinangun, Cirebon, West Java. The Husein Muhammad family is a large family from Dar at Tauhid Arjawinangun Islamic Boarding School, Cirebon. His father was named Muhammad Asyrofuddin from an ordinary family with an educational background in Islamic boarding schools. Meanwhile, his mother, Umm Salma Syathori, was the daughter of the founder of the Dar at Tauhid Arjawinangun Islamic boarding school, namely KH. Syathori¹². Husein Muhammad married Lilik Nihayah Fuad

Amin, then they were blessed with five sons and daughters. Namely Hilya Auliya, Layali Hilwa, Muhammad Fayyaz Mumtaz, Najlah Hammada, and Fazla Muhammad. Husein Muhammad's brothers numbered eight people. Husein Muhammad is a male feminist figure from the santri community. Husein Muhammad is a feminist from among the Ulama in Indonesia, he is very concerned about and socializes about Islamic and gender issues with his friends, namely the Kyai and Ulama. After all Husein Muhammad's experience of socializing about Islam and gender. Husein Muhammad was born from an Islamic boarding school environment and family, at first Husein Muhammad had conservative thoughts towards women, but after attending a seminar on women in the view of religions in 1993 held by P3M with Masdar F. Mas'udi, Husein Muhammad's awareness began to grow about the oppression that occurred and was experienced by women. starting from the thought of patriarchal ideology which is very inherent in the life of the environment in Islamic boarding schools. Patriarchal ideology becomes a religious teaching which is automatically carried out in the pesantren environment because the learning system or life in the pesantren refers to the yellow book or classic books in which it is not uncommon to find the contents of the book contrary to

the local conditions of the time and place in which the pesantren exists.¹³. The ideas promoted by Husein Muhammad are different from other Islamic feminisms. It has a particularity, namely in carrying out Islamic and gender discourses which is the depth of classical Islamic literature in conducting counter analysis or arguments against gender inequality in society which is very rarely possessed by other Muslim feminists. Husein Muhammad's important role in Islamic thought is to rebuild Islamic ideas and offer new ideas that are fairer, more humane and more promising for equality for men and women. So Husein Muhammad's concentration on feminism is about the influence of religion on women.¹⁴..

The Concept of Gender Equality in Women's Jurisprudence According to Husein Muhammad

The concept of gender equality in women's fiqh according to Husein Muhammad is an idea that consists of some knowledge, namely the notion of gender, gender bias and gender roles which always emphasizes the need for a fiqh decision on a developing reality both socially, economically and politically. And according to Husein Muhammad reality must be one of the main bases in understanding religious texts, so that

in many ways, religious teachings are always contextual and not ahistorical, often referred to as *shalihun lil kulli Zaman wa makan*¹⁵. and in the concept of gender equality in women's fiqh, there are texts from a gender perspective and also the words of the clergy in terms of giving laws or arguments about women.

Definition of Gender

Gender among scholars is considered a term that is still very foreign. The first impression that scholars get is that gender is English or the language of Westerners. This can be understood a priori negative. Some scholars even suspect that gender and feminism are movements that attempt to incorporate western, orientalist and other ideologies that can destroy religion and Islamic law. Aware of this situation, a number of women activists are trying to find equivalents for the term gender in Arabic or Indonesian in the hope that it will be accepted more sympathetically by the ulama. However, they still have not succeeded.

According to Husein Muhammad in his book entitled, *Fiqh for Women*, the Kiai's Reflection on Interpretation of Religious and Gender Discourses says:

"That the notion of gender is the difference between men and women based on social

construction. Differences that are not natural and not created by God but are created, both men and women through a long social and cultural process and gender always changes from time to time, from place to place, even from class to class, while gender will not change. change because it is the nature of God.”¹⁶

Gender is also the role, position and duties between men and women determined by society or social construction based on the nature of women and men which are considered in accordance with the norms, customs, beliefs or habits of society. With an explanation of the meaning of gender according to Husein Muhammad above, the writer can say that gender can change from time to time due to developments that affect values or norms in people's lives, for example, many women have become doctors, politicians, regents, and some have even become presidents because of the increase in women educated.

a. Gender Bias

According to Husein Muhammad in several of his books, it is said that the concept of gender differences and gender roles is the concept that most often creates gender injustice. According to him, there

are five indicators of gender inequality, namely:

1.) Marginalization

is a form of marginalization of certain genders, generally women, such as the notion that women are unfit to be leaders. Marginalization also often leads to the impoverishment of women because they do not have space to get job opportunities. Patriarchal culture which on the one hand has placed women in marginal areas.¹⁷. An example of marginalization according to Husein Muhammad is that women only work in the domestic aspect (taking care of the household) while men can work in the public aspect. According to Husein Muhammad, if culture is the reality of human society's life which includes traditions, patterns of daily human behavior, laws, thoughts, and our surroundings in general, it still clearly shows a preference for men. As Husein Muhammad said in his book entitled Husein Muhammad, Female Fiqh Reflections of the Kiai on Interpretation of Religious and Gender Discourses, namely

"An example of marginalization in Javanese culture is that women are seen as sidekicks wingking of the man who becomes her husband. He is a life

partner with hindsight status. Then after that, suargo nunut nerok katut means going to heaven or going to hell with their husbands. In this way, women are a people who are totally dependent on men¹⁸.

In Surah Al Baqarah verse 223 disebutkan :

نِسَاؤُكُمْ حَرْثٌ لَّكُمْ ۖ فَأْتُوا حَرْثَكُمْ أَنَّى شِئْتُمْ ۗ وَقَدِّمُوا
لِأَنفُسِكُمْ ۗ وَاتَّقُوا اللَّهَ وَاعْلَمُوا أَنَّكُمْ مُلْقَوَةٌ ۗ وَبَشِّرِ الْمُؤْمِنِينَ)
(البقرة/2:223)

“Meaning: Your wife is your field, so come to your field whenever you want and in the way you like”.¹⁹

2.) Stereotypes

that is, negative labeling of a certain gender, generally women, results in limiting, making it difficult, and impoverishing. Women are a source of slander which according to its original meaning is a trial or test. In our language it can be interpreted as a source of social chaos and damage, as well as a source of heart turmoil or male lust. According to Husein Muhammad this is also a form of stereotype against women who receive justification from religious texts. When we

explore fiqh themes related to women, most of these issues are based on slander arguments. The Prophet Muhammad once conveyed his words:

"I did not leave, after me. One slander that harms men more than women."

By religious interpreters, this hadith is then used as an excuse or basis for legitimacy to limit women's movements and activities outside the home in a normative view. Wherever they go they have to be with their mahram. men are not her mahram²⁰.

3.) Subordination

namely demeaning or despising certain genders, generally women, for example the view that women do not have the right to go to high school. An example of subordination in Islam is that in Islamic teachings parents are encouraged for newborn children to slaughter the Aqiqah animal for boys 2 goats and 1 goat for a girl, and a man has the right to marry while the woman he marries is then a man. men who have the power to divorce their wives while women can only submit a motion of no confidence to the court may not divorce immediately²¹.

4.) Double/multi burden

namely the role that must be played by certain genders, generally women, which are stacked between their public roles and their domestic roles. As a result of the patriarchal cultural system, women can only play a role or work privately, namely only in taking care of the household, social reality develops and is realized and it is impossible to deny that women are now increasingly coming to the surface, taking the position of men in the public aspect.²² women have a double role or double burden apart from being a housewife who has to take care of household needs but she also becomes a substitute worker for the role of men

5.) Violence

Violence against certain genders is generally women so that they experience sexual abuse, rape and also physical, psychological and economic abuse.²³ Patriarchal culture can lead us to a view that demeans women, assuming that women are weak creatures so they easily become victims of violence. Ulama also mention a hadith of the Prophet Muhammad SAW which stated about the low level

of women's reason and religion. The lack of sense here is that in the testimony of women, half of the testimonies are men, 2 women, while 1 man. Even the Qur'an explicitly mentions this. While the lack of religion is that when a woman menstruates it has to do with the biological function of the monthly cycle every healthy and normal woman will experience it. With menstruation, it is forbidden for women to pray, read the Qur'an, fast is a law of God that cannot be violated and that is why women, in the view of conservative Muslims, are half and below men²⁴.

b. Gender Roles

1.) Domestic Room

The domestic realm is familiar with everything related to activities within the household such as educating children, caring for, managing household cleanliness and beauty, which is a social construction in certain societies²⁵. Figures close to this realm are women. The presence of women in the domestic sphere seems to have become their natural nature. This is triggered because the process of becoming a woman in the domestic environment is related to the

natural nature of women related to the theory of nature, namely human nature that is formed due to biological factors.

Women who are married and have children become very attached to this realm. Activities that take place in the domestic sphere can be anything, as long as they occur in the home environment, for example; various household chores, from cleaning the house to taking care of family needs.²⁶ Feminist thinkers argue that such women's positions are due to ideological and cultural factors that favor men, perhaps also justified by religious thinking. This can be seen, for example, in the interpretation of the verses of the Qur'an in Surah An-Nisa verse 34:

الرجال قوامون لعلنا نساء بما فضل الله
بعضهم على بعض وبما انفقوا من
امولهم

Meaning: Men are "qawam" over women because Allah SWT has exaggerated some of them over others and because they (men) provide a living from their wealth (QS. An-Nisa ': 34)²⁷.

Tafsir experts state that "qawwam" is a leader, person in charge, regulator, educator, and so on. Categories like this will not become a serious problem, as

long as they are placed fairly and are not based on discriminatory views. However, in general, commentators are of the opinion that male superiority is absolute, because male superiority was created by God so that it will never change. As Husein Muhammad said in his book entitled, Female Jurisprudence, the Kiai's Reflection on Interpretation of Religious and Gender Discourses:

Ar-Razi in his commentary says that men over women include two things: Knowledge and ability, meaning men's reason and knowledge exceeds reason. and women's knowledge and for hard works she is more perfect. The same view was also expressed by other interpreters, such as Ibn Katsir, Az-Zamakhshari, Al-Qurtubi, Muhammad Abduh, Sheikh Muhammad Thahir Bin Asyur, Ath-Thabathaba'I, Al-Hijazi and so on²⁸.

maintained as something general and absolute. That is, not every man is definitely more qualified than a woman. This is not only because it is seen as a form of discrimination that is not in line with the principles of universal humanity, but also

because the social facts themselves have disproved it. This is a necessity that no one can deny, as times have changed, now there are more and more women who have the potential and can perform roles that so far were seen as only and should belong to men.

1.) Public Space

Al-Qur'an as the main source of jurisprudence, declares itself as a book of guidance and mercy. It also states that the Prophet Muhammad was sent to the world to water mercy for the universe. The ideal of the Qur'an is the creation of a human life that is moral and respects universal human values.²⁹. And the views on basic principles and human rights have actually become the commitment of all Muslims. Not a single Muslim denied it. However, the problem becomes not simple when they enter into more specific issues, particular issues³⁰, We have seen a number of women who have become presidents, governors, chairpersons of the DPR, chairmen of political parties and so on, as well as jobs and professions. .Social reality once again according to Husein Muhammad is able to show that men's greatness and women's weaknesses from an intellectual and professional standpoint are being sued and undermined, even though male hegemonic

hands are still trying through awareness or not to maintain their superiority.³¹ On the other hand, the reality shows that there is an increasingly advanced cultural process. As stated by Husein Muhammad in his book entitled *Fiqh for Women Kiai's Reflection on Interpretation of Religious and Gender Discourses*:

“Life is no longer moving in stability and stagnation. There is a social dialectics that moves continuously, from nomadic life to civilization, from traditional to rational thinking, from textual to substantialist, from closedness to openness.”³².

c. Gender Equality

Gender equality refers to an equal condition and equal treatment between men and women in the fulfillment of rights and obligations. According to Husein Muhammad, the life of human society is moving toward demands for democratization, justice and upholding human rights. All of these themes necessitate human equality, and all of these are values that are still desired by human culture in all places and times. God also of course want all of this to be realized in human culture. Therefore, these values should be the basis for all interests in

cultural, economic, legal and political discourses. It is hoped that later in these discourses there will be no more questions giving opportunities for the creation of a system of life that is discriminatory, subordinating, marginalizes humans, whoever they are and regardless of their gender, whether male or female. in this case the Prophet Muhammad said:

ان الله لا ينظر إلى أجسادكم ولا إلى صوركم ولكن
ينظر إلى قلوبكم وأعمالكم (رواه مسلم في صحيحه)

Meaning :Indeed, Allah does not see your physique and appearance, but sees your heart and your deeds³³.

Al-Qur'an letter Al-Hujurat verse 13 explains that the most important among humans is the most pious to Allah SWT.

ان اكرمكم عند الله اتقكم

Meaning: verily the most noble among you in the sight of Allah is the most pious among you.³⁴

And humans in the sight of Allah are the same regardless of gender, whether they are women or men, it's just that what makes the difference here is the piety of each individual. This is a universal text which is the pillar or basis of justice or gender equality, thus Islamic teachings can be transformative regarding the

position of women which can continue to be applied and then not hindered by partial texts. As Husein Muhammad said in a scientific oration at the awarding of doctor honoris causa to Husein Muhammad from UIN Walisongo Semarang.

“That human equality is a necessity of monotheism. Believing only in Allah, the Greatest and Most High Allah, automatically also necessitates a belief that besides Allah, they are equal or the same. Then the idea of monotheism can be the basis for solving issues concerning humanity, as well as issues of inequality in gender relations between men and women.”³⁵

Ideally-normative Islam does not differentiate between men and women. moreover to discriminate against women, Islam as the carrier of the safety of the people and the mercy of all nature, then Islam places the elevation and position of women as proof of its primacy. Women during the Jahiliyah era were not valued, with the arrival of Islam they got a place of respect, received education and openness to wider opportunities for actualization and self-potential development.

d. Women's Jurisprudence

The author's point of view gives the meaning that women's fiqh has two concepts of meaning. The first is that women's fiqh is about amaliyah laws in terms of implementing or fulfilling the Shari'a, for example the problem of guardianship in marriage. The second is about the arguments regarding the law on the implementation or management. Based on the explanation of this understanding, it can be formulated about the understanding of women's fiqh, namely the understanding of the law and the arguments relating to women in carrying out their activities. Because the understanding of women's fiqh is closely related to syara' law or with the arguments of aqli and naqli, then in terms of the meaning of the understanding of women's fiqh is an understanding of the existence of women as a result of ijthadi which is also called ijthadi fiqh.

1.) Fiqh Women in the Household

Husein Muhammad stated in his book entitled, *Female Fiqh in the Kiai's Reflection on Religious and Gender Discourse Interpretation*:

is a cooperative relationship between the two parties. Aiming to create a life that is *sakinah* (tranquility)

mawadah warahmah (full of love and compassion)³⁶.

This cooperative relationship is based on the word *Mu'asyarah* derived from the root word *usyrah*, which linguistically means family, relatives, close friends and the word *muasyarah* in Arabic is formed based on *sighah musyarakah baina al-itsnain*, namely togetherness between the two parties. Related to the thinking of women in household life, there are several important points that the author will explain:

a.) The Right of *Mu'asyarah bi al-ma'ruf*

On this issue, according to Husein Muhammad in the Qur'an, giving instructions for husbands in the Qur'an Surah An-nisa verse: 4

وعاشروهن بالمعروف

Meaning :...And hang out with them (your wives) in a good way.

Meanwhile, the guidance for the wives is the surta al-Baqarah verse: 228

ولهن مثل الذي عايهن بالمعروف

Meaning: ...And women have equal rights with their obligations, according to good ways.

Mu'asyarah in the sentence above means a kinship, friendship and kinship which is full of togetherness and familiarity. Then Al-Ma'ruf comes from the word 'Urf which literally means habit, custom or culture. Habits or customs are something that is well known by members of a particular community. So, ma'ruf means something that is recognized in a good way. According to Husein Muhammad formulated that ma'ruf is a custom or tradition as well as norms that are being developed or carried out in a society. Then Husein Muhammad argues that Mu'asyarah Bi al-Ma'ruf is an association or friendship, kinship, friendship and kinship that is built together in a good way then in accordance with tradition and custom. then the author's opinion about Mu'asyarah Bi al-Ma'ruf in which there is an equal role where men and women in household life complement each other.

b.) Living

The word maintenance literally means expenses or something that is issued by someone for several people who are the responsibility of that person. Then this expenditure must be given to meet good needs.³⁷ The obligation to support

according to the Qur'an which is obligatory for husbands is found in Al-Qur'an Surah Al-Baqarah verse 233 namely:

و على المولود له، رزقهن وكسوتهن بالمعرف

Meaning:..."And, it is the duty of the father to provide food and clothing to the mothers in a good way."

However, in the letter ath-Thalaq verse 7 that the living that must be given to a wife from the husband is according to the ability of the husband.

لينفق ذو سعة من سعته

Meaning: "A person should be able to provide a living according to his ability".

The fiqh scholars then concluded in accordance with the verses of the Qur'an, namely that maintenance for a wife includes household furniture, food, side dishes, as well as tools for cleaning limbs, housing and helpers (if needed). Then according to the Shafi'i school of thought, that is, a measure for food and clothing or clothing is based on the ability of the husband, but for housing or housing, that must be adjusted to the habits of the wife.³⁸

c.) Muasyarah in sexual relations

Sexual relations and human relations carried out by the husband and wife are that husbands and wives must accept and give each other, love and care for each other, of course not hurting each other and not neglecting each other's rights or obligations. the opinion of the Syafi'I school that the husband's obligation to have intercourse with his wife is basically only once for as long as the two of them become husband and wife. This opinion is based on that having sex is the right of the husband. This obligation is also only to maintain the morale of a wife. Another reason is that a person can only carry out a husband and wife relationship if there is an urge for lust. Then the sexual relationship between husband and wife must be practiced in a good and reasonable way. In a sense, the husband has intercourse with his wife through the front road and not through the back road.³⁹.

d.) Duties of the Wife

According to Husein Muhammad in his book entitled *Fikih Wanita Kiai's Reflection on Interpretation of Religious and Gender Discourses*:

"The classic rule of jurisprudence that is still running that the wife's job is to serve her husband's sexual needs, manage and accompany her husband's household."

Prophet Muhammad SAW. Said:

والمرأة في بيت زوجها راعية وهي مسؤولة عن رعيته. (اخرجه البخارى ومسلم)

Meaning: And, a wife is responsible (leader) in her husband's house and she will be held accountable for her duties and obligations⁴⁰.

Then according to Husein Muhammad in the same book he says:

"The duties of the wife above are the main duties or obligations. Is a personal/individual obligation in other words fardhu 'ain. The scholars agree in the opinion that the wife's duty is the main obligation"⁴¹.

One of the contemporary scholars from Egypt, namely Sheikh Al-Ghazali, who often progressively defends the rights of women. he says in his book entitled *Sunnah an-Nabawiyah baina Ahlul Fiqh wa Ahlu Hadith* "A mother is a cool breeze that blows love and comfort throughout the rooms in her house"⁴².

Even so, according to Husein Muhammad, outside of these tasks the wife is able to do jobs inside and outside the house. The history of the life stories of women at the time of the Prophet Muhammad, including the wives of the Prophet, proves this fact. Among them work as mothers who breastfeed and care for other people's children, farming, trading, teachers and household servants. What is an important concern of Islam is that there is a guarantee of security for them, especially a guarantee against violence or harassment both in the name of religious norms and social norms.⁴³.

According to Husein Muhammad, he has read or analyzed the relationship between men and women in women's fiqh in domestic life, namely that women need to be given the right to actualize themselves in activities or activities outside the home, women are also expected to be able to sincerely give whatever to be her husband's needs. In his book Husein says that:

"The most important thing in this relationship is to make serious efforts so that these two humans are able to build a household life in a harmonious and beneficial atmosphere, not only

for the couple but also for the family, community and country"⁴⁴.

2.) Fiqh of Womwn in Marriage

a.) Young Marriage

The discussion on the analysis of young marriage is that according to the Syafi'I school of thought, marriage is considered makruh when the person concerned is unable to meet his needs and obligations, the obligation in question is the obligation to fulfill the needs between husband and wife. It seems so clear that the most important and crucial problem in young marriage is the age of marriage, according to Husein Muhammad is the factor of whether or not there is an element or principle of benefit. If the young marriage does not fulfill the principle of benefit, then the marriage is not justified. And in the end the purpose of marriage between men and women is intended as an effort to protect self-respect (hifzh al-irdh). So that they will not fall into actions that are forbidden, then aim to protect or maintain the continuity of human life/offspring.⁴⁵.

b.) The Right to Choose a Spouse

There is a general view that according to fiqh experts, women cannot determine the choice of a partner for their life. What

determines here is only the rights of his father and grandfather. This is according to Husein Muhammad that Islam raises assumptions that justify forced marriages. And the discussion about the right to choose a partner cannot be separated from the discussion above, namely about *ijbar* and *wali mujbir*. According to Husein Muhammad, the issue of *ijbar* and *wali mujbir* in the general view means that the definition of *wali mujbir* is a woman's parents who in the Shafi'I school are male parents or fathers, if there is no father can be replaced by grandfather. Then the right of *ijbar* is thus the father's right or grandfathers to marry their daughters, both adults and young people unless they are widowed, their fathers or grandfathers with *ijbar* rights can marry their daughters without asking permission from their daughters first. According to Husein Muhammad, by looking at the meaning of the right of *ijbar*, in fact the power of a father over his daughter to marry a man is not an act of coercion without regard to the willingness of her child. So actually a woman also has the right to choose her own partner without coercion from the father. In order to maintain harmony in the family where there is mutual concern and affection between father and children.

3.) Fiqh of Woman in Household Health

a.) Reproductive Health

Reproductive health is health that is very crucial, women's health is a physical and spiritual condition that does not have disease, is clean, intact and protected from disturbing things in the reproductive system in women concerning its functions and processes. Issues that are considered related to women's reproductive health are about their sexual life, which is not forced when having sexual relations between husband and wife, their rights to regulate the birth process of their children, determine the number of children, the right to receive good treatment from all aspects. And in the end, in his book, Husein Muhammad says: Reproductive health is down to everyone's attitude towards women who are created equal and equal to men, so that health can also mean social health⁴⁶.

According to Husein Muhammad, the Islamic view of reproductive health is that Islam pays very serious attention to the ongoing life of humans, both men and women, both individually and socially, who are physically and spiritually healthy, because physical and spiritual health is a condition for achieve a prosperous life in

the world and a happy life in the hereafter, as is often conveyed in the prayers of Muslims:

Meaning: O our Lord, give us all the good in this world and the good in the hereafter and protect us from the torments of hell.

b.) Marriage as a way of healthy reproduction

Marriage that has been recommended by Islam is first of all as a responsible and healthy way of achieving and realizing love and affection between men and women, based on love and affection, the system of life lived by husband and wife will harmonious and must also go through healthy processes as well. This has been explained in the Al-Qur'an letter Ar-Rum verse 21.

ومن آياته، أن خلق لكم من أنفسكم أزواجا لتسكنوا إليها وجعل بينكم مودة ورحمة، ان في ذلك لآيات لقوم يتفكرون

Meaning: "And, among the signs of the power of Allah SWT is that He created wives for you from your own kind, so that you feel comfortable at peace with him, and made Him between you compassion and affection, in fact in that

there is really a sign -signs for people who have minds".⁴⁷.

With the foundation of love and healthy ways in the relationship that is forged by husband and wife in marriage life, it must be carried out in an attitude that accepts each other sincerely and gives to each other. Understand each other, respect each other, without coercion and violence.⁴⁸. Thus, in family health, there is no discrimination or violence against women because this marriage is based on love and affection.

4.) Fiqh of Women in Politics

Discussing the fiqh of women in politics means also discussing the role of women in politics. Then the views on principles and human rights have actually become the commitment of the Muslim community. In the view of the majority of conservative fiqh experts so far, that the political role in terms of amar ma'ruf nahi munkar between men and women has the same rights and obligations. According to Husein Muhammad, fiqh is always produced through mental and intellectual activities that are not in a vacuum of space and time, with their respective problems and logic.

- a.) Women's leadership from an Islamic religious perspective

Husein Muhammad said that from Imam Al-Mawardi and Abu Ya'la they stipulated several conditions for membership in this institution, which is also known as *ahlul halli wa aqdi* and *ahlul ikhtiyar*. The purpose of these requirements is someone who is able to act fairly, has the ability to choose a candidate for head of state and expertise in choosing a head of state. Then, according to Husein Muhammad in his book, quoting the words of Al-Mawardi and Abu Ya'la, both of them are Sunni political thinkers who do not explicitly state:

“His view is about the legality of women's membership in this legislature. Opinions about the whole issue of the role of women, initially referring to the verse of the Qur'an Surah An-nisa verse 34 which contains the meaning that men are interpreted by *qawwam* over women. Because Allah SWT has bestowed the advantages of some of them over some of the others and because they (men) provide maintenance from their

wealth.”⁴⁹.

Commentators such as Ar-Razi, Az-Zamakhsyari and Ath-Thabathabai state that *qawwam* means leader, person in charge, protector, educator, regulator. Then they further say that the advantage of men over women is superiority in reason and physique. Other interpreters expressed the same opinion as Imam Al-Qurtubi, Ibn Katsir, Muhammad Abduh, Muhammad Thahir Bin Asyur and Al-Hijazi argued that the advantages possessed by men over women were given by Allah SWT, something that is *fitrah*, natural and natural. Based on this principle, they all share the same opinion that women are inappropriate and worthy of occupying positions or positions of power in public and politics, especially the power to become heads of state. However, nowadays the opinion about the superiority of men over women has begun to be eroded by reality.

Social reality and modern history have proven the rise of women, it has been that women who carry out tasks that have been the duties of only men can do them. This social reality certainly shows that the opinions and views that have believed in nature and the naturalness of these characteristics are not

true. The truth is that it is a product of social construction that was deliberately created. It also explains that there is an increasingly advanced cultural process.

Then referring to the opinion about the role of women in politics against the Qur'an Surah An-Nisa verse 34 is a discourse of fiqh thought, according to Husein Muhammad this verse has a contextual and sociological nature. Strictly speaking the verses of Al-Qur'an letter An-nisa 34 are a form and as a guide regarding the application of benefit to real situations and conditions that occurred in a verse when it was revealed.⁵⁰ Then according to Husein Muhammad regarding today's social reality which shows a lawsuit for the superiority or greatness of men over women both in the intellectual and professional aspects, then in this way many very broad opportunities have opened for women to occupy strategic positions of public leadership, even become president.

b.) Female President

Indonesia is one of the countries that has succeeded in writing history in the world about women's presidents, where the 5th president of Indonesia, namely Megawati Soekarno Putri, was a woman. The next argument is about the power of

women in a kingdom, as said by the Prophet Muhammad.

حدثنا عثمان بن الهيثم, حدثنا عوف, عن الحسن, عن ابي بكر, قال : لقد نفعني الله بكلمة سمعتها من رسول الله صلى الله عليه وسلم ايام الجمل , بعد مكثت ان الحق بأصحاب الجمل فأقاتل معهم .قال: لما بلغ رسول الله صلى الله عليه وسلم ان اهل فارس قد ملكوا عليهم بنت كسرى, قال: لن يفلح قوم ولوا امرهم امرأة.

Meaning: "Usama Bin Haitsam told us: Auf then told us from al-Hasan from Au Barkah, he said: Allah has made me aware, through the sentences that I heard from the Prophet, when I was almost involved in the incident of the jamal war namely the camel war, occurred when it was conveyed to the Prophet, that the people of the Persian country had appointed a daughter named Kisra as their queen or ruler. Then at that time the Prophet said: will not be lucky nation led by women"⁵¹

Ibn Hajar Al-Asqalani, a scholar with a Shafi school of thought, said about the hadith above, that the hadith above tells the story of Kisra who tore up a letter from the Prophet Muhammad. At one point, he was killed by his son, then this child also killed his siblings. Not long after, his power was destroyed, as the Prophet's prayer⁵².

The explanation of the hadith is a disclosure in the form of a notification framework, information conveyed by the Prophet Muhammad. Semata, it is not a framework for ratification in law, according to Husein Muhammad, he emphasized that the hadith has no relevance to the law. In the opinion of Husein Muhammad who quoted the words of Dr. Abdul Qadir Abu Faris that the hadith does not only apply to the Persian nation, but to all nations led by women, then what must be the point of consideration is the sound of the hadith which gives instructions on the general meaning, not a consideration of context.

then according to Husein Muhammad said that the meaning of the hadith cannot be defended when faced with some existing historical facts, a number of women have proven and proven to be able to lead the nation and the State successfully. As an example of the story of queen Bilqis who was able and had a resounding success leading the country of Saba'.

According to Husein Muhammad, if this is the case, then the hadith must be understood in terms of meaning and cannot be generalized to all cases, but is specifically intended only for cases in the Persian nation at that time, whose leadership could have

been tyrannical, autocratic and centralized. Then Husein Muhammad argued that the most important thing in leadership is a person's ability and intellect possessed by someone⁵³.

Husein Muhammad said that for issues related to politics and society, the factor of benefit is a factor. Ibn Qayyim al-Gauziyah, quoting the words of Ibn Aqil said emphatically:

السياسة ما كان فعلا يكون معه الناس اقرب الى الصلاح,
وابعد عن الفساد, وان لم يضعه الرسول صلى الله عليه
وسلم, ولا نزل به وحي.

Meaning: "In political issues, what is needed is to use methods that can lead people to a life that guarantees full benefits and keeps them from being corrupted/damaged, even though these methods were never carried out by the Prophet Muhammad and there were no rules on God's revelation."

According to Husein Muhammad, in the issue of leadership the most important thing is benefit. Benefit in public or political power includes the enforcement system through democratic means, based on the constitution and protection of human rights. Thus, it becomes clearer and stronger that a public leadership has nothing to do with matters of gender, but rather on a person's

individual qualifications, moral and intellectual integrity are driven by a supportive political system⁵⁴.

1. The Relevance of the Concept of Gender Equality in Women's Jurisprudence to the Goals of Islamic Religious Education

the concept of gender equality in women's fiqh, in which there are 5 dimensions in the definition of women's fiqh, namely: the faith dimension, the ijthadi/intellectual dimension, the appreciation dimension, the practice dimension and the values dimension. Then a discussion on the role of women, a discussion on various kinds of women's jurisprudence which aims to achieve equality and benefits. According to Husein Muhammad, it leads to maqasid sharia, namely the goals of sharia which contain 5 maintenance or protection for humans in carrying out their lives. The concept of maqasid syari'ah Imam Ghazali concluded that Allah SWT sent down this religion for the purpose of protecting and maintaining the five basics of life, namely hifzu al-Din (preservation and protection of religion and human beliefs), hifzu an-nafs (maintenance and protection of the soul), hifzu al-aqli (maintenance and protection of reason or mind), hifzu al-mali (maintenance

and protection of property), hifzu an-nasli (maintenance and protection of offspring).⁵⁵

Thus, the concept of gender equality in women's fiqh is very relevant to the objectives of Islamic religious education. the relevance of the concept of gender equality in women's fiqh according to Husein Muhammad with the aim of Islamic religious education is that there are (a) the dimension of faith that is relevant to the idea of monotheism in gender relations between men and women, (b) the dimension of reasoning which is relevant to that women play an active role in the minds intellectually, (c) the dimension of appreciation that is relevant to the fact that women are able to understand the meaning of gender and actualize it, (d) the dimension of practice that is relevant to women being able to play an active role in the domestic and public sphere, and (e) the dimension of values that are in accordance with the principles maqasid sharia.

Conclusion

The concept of gender equality in women's fiqh according to Husein Muhammad contains gender perspective texts and also the words of the clergy in terms of providing laws or arguments about womanhood. Relevance of the Concept of Gender Equality to the Goals of Islamic

Education. the concept of gender equality in women's fiqh, in which there are 5 dimensions in the definition of women's fiqh, namely: the faith dimension, the ijthadi/intellectual dimension, the appreciation dimension, the practice dimension and the values dimension. Then a discussion on the role of women, a discussion on various kinds of women's jurisprudence which aims to achieve equality and benefits. According to Husein Muhammad, it leads to maqasid sharia, namely the goals of sharia which contain 5 maintenance or protection for humans in carrying out their lives. The concept of maqasid syari'ah Imam Ghazali concluded that Allah SWT sent down this religion for the purpose of protecting and maintaining the five basics of life, namely hifzu al-Din (preservation and protection of religion and human beliefs), hifzu an-nafs (maintenance and protection of the soul), hifzu al-aqli (maintenance and protection of reason or mind), hifzu al-mali (maintenance and protection of property), hifzu an-nasli (maintenance and protection of offspring)⁵⁶. Thus, the concept of gender equality in women's fiqh is very relevant to the objectives of Islamic religious education.

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