



## **Islamic Renewal in the Field of Family Law: A Historical Analysis of Gender Equality**

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### **Abstract**

This paper aims to discuss Islamic renewal in the field of family law by focusing on gender equality. The unfair treatment of women within pre-Islamic Arabian society was the starting point for Islamic renewal in the field of law, especially of family law. Such treatment was not in line with the principles contained in Islam, i.e., to bring mercy to all worlds. This study used a normative descriptive-analytical method and a sociological-historical approach. The data analyzed came from articles, books, and various references related to the topic. The study concludes that as a religion that brings mercy to all people, Islam reforms the behaviors detrimental to women; yet, the reform is not the end result, in which it is highly likely that it will be updated in the future for the benefit of the community universally. Therefore, a comprehensive understanding is needed in understanding Islamic law related to gender relations between men and women. This study also reveals that socio-historically men and women have a balanced and equal relationship with each other.

**Keywords:** Gender equality, Islamic renewal, *rahmatan lil ‘alamin*, Islamic law

**Abstrak**

*Tulisan ini bertujuan untuk menjelaskan pembaruan Islam di bidang hukum keluarga dengan memfokuskan kajian terkait kesetaraan laki-laki dan perempuan. Perlakuan yang tidak wajar oleh masyarakat Arab pra-Islam terhadap kaum perempuan menjadi titik tolak terjadinya pembaharuan Islam di bidang hukum terutama keluarga. Hal ini tidak sejalan dengan prinsip yang terkandung dalam Islam, yakni membawa rahmat bagi seluruh alam. Kajian ini menggunakan metode normatif yang bersifat deskriptif-analisis, dan menggunakan pendekatan sosiologis-historis. Data yang dinalisis berupa artikel, buku dan berbagai macam rujukan yang terkait dengan pembahasan. Artikel ini menyimpulkan bahwa sebagai agama yang membawa rahmat bagi semua umat, Islam melakukan pembaruan atas perilaku yang banyak merugikan kaum perempuan, kemudian pembaruan tersebut bukanlah hasil akhir dan masih memungkinkan untuk kedepannya juga masih bias untuk diperbaharui untuk kemasalahatan umat secara universal. Oleh karena itu, perlu pemahaman yang konperhensif dalam memahami hukum Islam yang terkait dengan relasi gender laki-laki dan perempuan. Artikel ini juga beragumen bahwa secara sosiogis-historis laki-laki dan perempuan miliki relasi yang seimbang dan setara antara satu sama lain.*

**Kata Kunci:** *Kesetaraan gender, pembaruan Islam, Rahmatan lil'alam, Hukum Islam*

**Introduction**

Islam brought by the Prophet Muhammad PBUH is a religion that brings mercy to all worlds. Islam emerged in the midst of a *jahiliyyah* (ignorant) society that upheld the patriarchal system, which resulted in the humiliation of women.<sup>1</sup> The position of women at the time was vastly different from that of men, thus subjecting women to unfair treatment. Welfare only belonged to a handful of people and the society had a strong fanaticism toward one's ethnicity. Nevertheless, when Islam arrived, it did not immediately change the entire order of people's lives, but rather it revised some while continued another.

Renewal is a movement of *ijtihad* (independent reasoning) in Islamic law in order to determine the law that can respond to the ever-changing problems. This indicates progress in legal provisions that are more relevant to the circumstances and also the welfare of humans. The results of *ijtihad* by Islamic legal experts can

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<sup>1</sup> St. Rahmawati, "Mainstreaming of Gender Equality in Islamic Family Law: Opportunities and Challenges," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 4, No. 2 (2020). Tri Wahyu Hidayati, et. al., "Dynamics of Family Fiqh: The Multiple Roles of Women in Realizing Family Resilience," *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan* 22, no. 2 (2022).

be found in the field of family law.<sup>2</sup> Family law issues are classified as comprehensive changes that are carried out gradually.<sup>3</sup>

Family law as one of the laws that always has renewal is an offer to solve several problems considered to be the core of sharia.<sup>4</sup> Islamic law helps provide a solution in all practices, especially in the field of family law. However, some solutions in the family law have already been ruled on, but still cannot be understood, and thus, it is assumed that Islamic law is no longer representative in resolving family matters.

The position of men and women in the perspective of Islamic law and social construction has an equal, just, and balanced relationship. Islamic law has a concept of fair equality in viewing the position of men and women. Social constructs that arise in society are caused by misunderstandings of the interpretation of verses of the Qur'an textually, so there needs to be a comprehensive and contextual understanding of the verses of the Qur'an to educate the public.<sup>5</sup>

Furthermore, it can be emphasized that the relationship between husband and wife is a horizontal relationship, not a vertical one, so there is no state of dominating and being dominated. All parties are equal, and equal to work together in a bond of love and affection. Marriage problems are often the trigger for the emergence of issues of inequality in the family even though in reality Islamic law carries values that support the creation of a peaceful, prosperous, just, and equal atmosphere in the family. This answers the various concepts and theories about equality of men and women in Islamic marriage law.<sup>6</sup> Islamic family law asserts that gender injustice is caused by the culture constructed in society. Factors for the occurrence of injustice include marginalization, subordination, stereotypes, violence and double burden. Gender equality in the family must be realized through strengthening the fair division of roles between men and women in the family in accordance with the rule of law in Indonesia.<sup>7</sup>

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<sup>2</sup> Susi Nur Kholidah Fathul Mu'in, et. al., "Pembaruan Hukum Keluarga Islam Di Indonesia Dalam Peningkatan Status Perempuan," *Legal Studies Journal* 1, No. 1 (2022), p. 14.

<sup>3</sup> Khoiruddin Nasution, "Islam Membangun Masyarakat Bilateral Dan Implikasinya Terhadap Hukum Keluarga Islam Indonesia," *Al-Marwarid* 17, no. 1 (2007), p. 85–100.

<sup>4</sup> Al Fitri, "Pembaruan Hukum Keluarga Di Indonesia Melalui Kompilasi Hukum Islam," PTA Bandung, accessed November 10, 2023, pta-bandung.go.id.

<sup>5</sup> Luciana Anggreani, "Konstruksi Sosial Terhadap Perempuan Dalam Hukum Keluarga Islam (Analisis Gender)," *At-Turost: Journal of Islamic Studies* 6, No. 2 (2020), p. 206-221. Dewi Ratnawati, "Kesetaraan Gender Tentang Pendidikan Laki-Laki Dan Perempuan," *Jurnal Harkat Media Komunikasi Gender* 15, No. 1 (2019), p. 10-23.

<sup>6</sup> Rustam Dahar Karnadi Apollo Harahap, "Kesetaraan Laki-Laki Dan Perempuan Dalam Hukum Perkawinan Islam," *Sawwa Jurnal Studi Gender* 8, No. 2 (2013), p. 361.

<sup>7</sup> Yogi Hasbi Sidiq and M. Erihadiana, "Gender dalam Pandangan Islam," *JIIP: Jurnal Ilmiah Ilmu Pendidikan* 5, No. 3 (2022), p. 875-882. Mohamad Ikrom, "Syariat Islam Dalam Perspektif Gender Dan HAM," *Humanika* 18, No. 1 (2019), p. 16-30.

In addition, the concept of equality is incompatible with the idea of justice. First, the pressure point, the focus in gender equality is equality of quantity thus ignoring the differences between men and women. While justified, the needs of each individual are met according to their attributes and abilities. Second, orientation, gender equality seeks to break down patriarchal culture and demand equality and freedom. The judiciary on the other hand sought to harmonize patriarchal and matriarchate cultures so that men and women could act as caliphs. Third, the view of women, feminism views men and women as two different beings. Whereas Islam on the other hand regards man and woman as a pair of two entities, they have the same rights and obligations but have different functions depending on their individual nature.<sup>8</sup>

Gender equality relations are important to ensure, and therefore, in Islamic law there is no marginalization and difference for all identities, including gender. In the perspective of Islamic law, gender equality is the right of all gender identities, both male and female, and this perspective has been deeply rooted in local culture in Indonesia when carrying out everyday family life.<sup>9</sup> The family and social legal system that the Prophet Muhammad PBUH hoped to build with the religion he brought was a bilateral or parental system.<sup>10</sup>

This paper intends to discuss the regulations currently in effect that mostly adhere to the patriarchal system, offering the concept of Islamic family law that is bilateral. This paper also discusses Islamic renewal in the field of family law in terms of gender equality on four main topics: marriage, inheritance, witnesses, and guardians. The study used a normative descriptive-analytical method and a sociological-historical approach.<sup>11</sup> The data analyzed were from articles, books, and various references related to the discussion. A sociological-historical approach is important to be carried out so that the understanding of Islamic law becomes comprehensive and not partial.

### **Socio-Cultural Conditions of Pre-Islamic Arab Society**

Pre-Islamic society is known as the *jahiliyyah* society, which literally means ignorance. However, according to some scholars, it was called a *jahiliyyah* society not because of the intellectual aspect, but rather because the behavior of the people

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<sup>8</sup>Panji Nurrahman, "Membangun Kesetaraan Gender Dalam Keluarga Pasangan Pekerja," *Jurnal Harkat Media Komunikasi Gender* 18, No. 2 (2022), p. 43-56. Jamal Abd Naser, "Equalitas Gender (Konsep dan Aktualisasinya dalam Islâm serta Implikasinya atas Rumusan Hukum Islâm)," *Al-Ihkam: Jurnal Hukum dan Pranata Sosial* 2, No. 2 (2019), p. 223-238.

<sup>9</sup>Nurdin Nurdin, "Gender Equality" Revisited: Deconstruction of Islamic Thought Towards Gender Equality," *FiTUA: Jurnal Studi Islam* 3, No. 1 (2022), p. 12-24. Wahidah Wahidah, "Relasi Setara antara Laki-Laki Dan Perempuan Dalam Kasus Kewarisan Islam (Faraidh)," *Syariah: Jurnal Hukum dan Pemikiran* 18, No. 1 (2018).

<sup>10</sup>Nasution, "Islam Membangun Masyarakat Bilateral Dan Implikasinya Terhadap Hukum Keluarga Islam Indonesia."

<sup>11</sup>Munir Fuady, *Metode Riset Hukum: Pendekatan Teori dan Praktek*, Jakarta: Raja Grafindo Persada, 2018.

resembled the behavior of stupid people. This can be seen from their culture of worshipping something that could not provide any benefit to them, measuring nobility from a worldly perspective, being easily upset, being prone to fight triggered by trivial matters, and enjoying drinking and playing with women.<sup>12</sup>

In the midst of the life of Arab society at that time, men had a very special place. This was because the system they adopted was patriarchal (i.e., men are more prioritized). A family without male offspring would be seen as a lowly family, as it did not have a successor, and did not have a generation that could defend the family and its tribe. This condition is known to Arab society as *abtar*, which means broken. The Prophet Muhammad PBUH was once called *abtar*, when his son named Ibrahim died. Hence, from this incident, the verse of the Qur'an Al-Kautsar (108) verses 1-3 was revealed.<sup>13</sup>

In comparison, women were treated very lowly, and their existence was no different from goods that could be inherited, becoming a disgrace to the family. This condition is explained by Allah in the Qur'an QS. An-Nahl (16) verses 58-59, "And when one of them is given the good tidings of a female child, his face becomes dark, and he is filled with grief. He hides himself from the people because of the bad news he has received. Should he keep it with disgrace or bury it in the dust? How evil is their judgment!"

Some of the unfair treatments against Arab women before Islam also existed in the field of family law, such as marriage. Several types of marriage known and practiced by Arab society before Islam were mostly harmful to women. One instance is *istibda*, in which a man, in this case the husband, ordered his wife to have sex with another man considered to have special privileges, e.g., intelligence, authority, and good looks, among others. Before his wife became pregnant and then gave birth to a baby from the man, the husband had to refrain from having sex with his wife. The intention was for the baby to have the same attitudes or genes as the man. Another instance is *rahtun* or polyandry, namely the practice of marriage carried out by a woman with more than one man. After having sex with all of them, getting pregnant, and the giving birth, the woman would gather all the men and appoint one person to be the father of the child, and the man appointed by the woman had to accept it with an open heart.

The next marriage practice is *maqtu'*, in which a son married his stepmother after his father died. In practice, the son would throw a cloth over his stepmother as a sign that he wanted to marry her. If the son were still young when his father died, his stepmother would have to wait for the son to grow up. After that, the son was given the choice of whether or not to marry his stepmother. Next is *badal*, which is a marriage practice carried out by exchanging wives. A husband could exchange

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<sup>12</sup> Luthviah Romziana, "Pandangan Al-Qur'an Tentang Makna Jahiliyah Perspektif Semantik," *Jurnal Mutawatir* 4, no. 1 (2014), p. 124.

<sup>13</sup> Yayan Sopyan, *Tarikh Tasyri': Sejarah Pembentukan Hukum Islam*, (Depok: PT. Rajawali Pers, 2018).

his wife for his neighbor's wife in order to find a new atmosphere and avoid boredom. This exchange did not have to be after a divorce so long as there was an agreement from both parties and they both wanted it. Another is *shigar*, a marriage practice carried out by a guardian who married off his daughter or sister to a man without a dowry.<sup>14</sup>

Polygamy is a marriage practice in which a man marries more than one wife. This practice has already existed before Islam. However, there were no rules or restrictions governing it. A man (husband) could have up to 10 wives, and no obligation for the husband to be fair to his wives, as he could do as he pleased. *Khadan* is a marriage practice between a man and woman in secret without a valid marriage contract. In pre-Islamic Arab society, this practice was not a crime as long as it was done in secret.<sup>15</sup>

The many practices of marriage prevailed in pre-Islamic Arab societies, Islam abolished most and continued some, with certain rules and restrictions that provide benefit for all people. One example is inheritance. With regard to inheritance, pre-Islamic Arab women did not receive inheritance. This is because women were considered not to have any contribution, and they were treated as the second class that functioned solely as a means of satisfying lust. In addition, pre-Islamic Arab women could be inherited, as was the fate of a stepmother who could be inherited by her stepson, and the stepmother could not refuse when the son wanted to marry her.<sup>16</sup> In addition, pre-Islamic Arab women had no authority to testify in court. This was because women were considered lowly and stupid, and so their testimony could not be held accountable. When examined deeply, the reason why these women had lower intellect than men was that there was no space given for women to study, as their space was limited only to the household.

Women in pre-Islamic Arab society were essentially treated like slaves with little to no control over their lives. They were completely subject to the decisions and whims of their male guardians, particularly regarding marriage. Families could force women into unions against their will.<sup>17</sup> During menstruation, women were considered impure and unclean by pre-Islamic Arab society. This resulted in their ostracization and isolation. They were often forbidden from entering homes, and forced to live in separate dwellings during their periods.<sup>18</sup>

### **Islamic Reform in the Field of Family Law**

Islam firmly upholds the principle of equality and justice for both men and women. The practices prevalent in pre-Islamic Arabia concerning marriage and women's rights starkly contradicted these fundamental Islamic principles. In order

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<sup>14</sup> Hasyim Nawawie, *Tarikh Tasyri'* (Surabaya: Jenggala Pustaka Utama, 2014).

<sup>15</sup> Sopyan, *Tarikh Tasyri': Sejarah Pembentukan Hukum Islam*.

<sup>16</sup> Nawawie, Hasyim, *Tarikh Tasyri'*. Surabaya: Jenggala Pustaka Utama, 2014.

<sup>17</sup> Sopyan, *Tarikh Tasyri': Sejarah Pembentukan Hukum Islam*.

<sup>18</sup> Sopyan, *Tarikh Tasyri': Sejarah Pembentukan Hukum Islam*.

to ensure the well-being of all its followers, Islam, as a religion of mercy, has introduced transformative changes in the realm of family law. Marriage holds a significant place in Islamic teachings, viewed as a sacred and strong bond and referred to in the Qur'an as "*mithaqan ghalizhan*" (a solemn covenant). This term emphasizes the sanctity of marriage in Islam, discouraging both men and women from entering and dissolving it lightly. This serves as a concrete manifestation of the protection of women's rights. Marriage is considered "*al-mitsaq al-ghalizh*" (a strong bond) that unites two individuals (man and woman) in a commitment to building a family.<sup>19</sup> It establishes a connection between two extended families and creates a cohesive unit with a lasting impact, necessitating the implementation of appropriate regulations.

In essence, Islam adheres to the principle of monogamy (marrying one spouse) in matters of marriage. This principle is seen as capable of creating a peaceful, loving, and merciful family (*sakinah, mawaddah, wa rahmah*), which is the ideal for every person who enters marriage. In monogamy, the potential for conflict in the household is much less than within polygamy. A husband or wife can lavish all their love and affection on their one and only partner without having to share their love.<sup>20</sup> Nevertheless, Islam still allows for polygamy.

As mentioned in the Qur'an, Surah An-Nisa (4) verse 3 remarks that, "And if you fear that you will not be just toward the orphans, then marry the women that you like, two or three or four. But if you fear that you will not be just, then [marry only] one or those your right hands possess. That is more suitable that you may not incline to injustice." It is important to emphasize that this verse does not introduce a new law, as the practice of polygamy already existed before the advent of Islam. Rather, this verse serves as a reform of the polygamous practices prevalent in pre-Islamic society. While previously polygamy was practiced without any rules or restrictions, this verse establishes clear limitations on its permissibility, including a maximum of four wives. Additionally, it sets forth a condition that must be met by a husband seeking to practice polygamy: he must be able to ensure justice and equality among his wives.

The Prophet Muhammad's sunnah also contains provisions regarding the limitations of polygamy. It is narrated by Abu Dawud that Umairah al-Asady said, "I embraced Islam and I had 8 wives." So, I conveyed this to the Prophet Muhammad. The Prophet said, "Choose four of them." Bukhari then narrated that Ghailan bin al-Tsaqafi embraced Islam, while he had ten wives. So, the Prophet Muhammad said to him, "Choose four of them."<sup>21</sup>

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<sup>19</sup> Yulia Fatma, "Batasan Usia Perkawinan Dalam Hukum Keluarga Islam (Perbandingan Antar Negara Muslim: Turki, Pakistan, Maroko Dan Indonesia)," *JURIS: Jurnal Ilmiah Syari'ah*, 18, no. 2 (2019), p. 118.

<sup>20</sup> Rahmi, "Poligami: Penafsiran Surat An Nisa' Ayat 3," *Kafa'ah: Jurnal Ilmiah Kajian Gender* 5, No.1 (2015).

<sup>21</sup> Wahbah Al-Zuhaili, *Fiqh Islam, Terjemahan, Jilid 9* (Jakarta: Gema Insani, 2011).

Thus, the arrival of Islam has elevated the status of women. They are no longer treated arbitrarily in matters of marriage, and justice and harmony will be upheld in family life. With regard to inheritance law, if in the pre-Islamic era women could not receive inheritance, Islam came with a reform. In Islamic teachings, women have the right to receive inheritance, as explained in Surah An-Nisa (4) verses 11, 12, and 176.<sup>22</sup> Further, regarding women who were previously considered like objects that could be inherited, this provision was abolished after Islam came. This provision is found in Surah An-Nisa (4) verse 22 that a stepson is not allowed to marry his stepmother who has been left behind by his father.

In pre-Islamic times, women were not allowed to testify in court, regardless of whether the case was criminal or civil. However, Islam brought about a reform by granting women the opportunity to testify in court, albeit with limitations. They can only testify in civil matters, and the value of their testimony is considered half that of a man. Regarding guardianship, women in pre-Islamic times had no control over their lives and were under the guardianship of a male relative. After the arrival of Islam, women have gained the freedom to choose their own paths in life. Although the concept of a “compulsory guardian” (*wali mujbir*) --a guardian who can force a woman under his guardianship to marry a man of his choice-- exists, this concept is only held by one of the four major schools of Islamic jurisprudence (the Shafi’i school). Even then, the scope of *wali mujbir* is limited to only the father and grandfather of the woman. This means that the scope has been reduced.<sup>23</sup>

Islam has also reformed the perception of menstruating women. In pre-Islamic times, menstruating women were often seen as unclean and disgusting, and were isolated in separate buildings. Islam teaches that menstruating women are not unclean or disgusting, and they are allowed to enter houses and interact with all family members. The only restriction is sexual intercourse, which is prohibited during menstruation as explained in Surah Al-Baqarah (2) verse 222. However, other forms of intimacy, such as kissing and cuddling, are still allowed between a husband and wife during menstruation.<sup>24</sup>

### **The Concept of Equality of Men and Women in Islamic Family Law**

One of the basic principles found in the religion of Islam is the principle of equality between men and women. A person’s nobility is not determined by their gender, ethnicity, or skin color, but rather, it lies in their piety. This principle is explained in the Qur’an Surah An-Nisa (49) verse 13, “O humanity! Indeed, we created you from a single male and female and made you into nations and tribes so that you may know each other. Surely, the most noble of you in the sight of Allah is the most pious of you. Surely Allah is All-Knowing, All-Aware.”

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<sup>22</sup> Hulaimi Azhari, “Pembaruan Islam Bidang Hukum Keluarga Dan Relevansinya Dengan Tuntutan Egaliter Pria dan Wanita,” *Jurnal Penelitian Agama*, 21, no. 2 (2020), p. 173–87.

<sup>23</sup> Sopyan, *Tarikh Tasyri’: Sejarah Pembentukan Hukum Islam*.

<sup>24</sup> Sopyan, *Tarikh Tasyri’*.



The verse explains that humans are from a man and a woman. This came as a response to the pre-Islamic Arab society, which placed women in a very low position. The verse also informs that both men and women have the same ancestors, namely Adam and Eve. Therefore, it is not appropriate for one to feel more noble and belittle the other. It is important to note that the reforms explained previously were the initial steps taken by the Prophet Muhammad as the bearer of Islamic teachings. There is still room for improvement, which requires serious attention from scholars in order to realize the concept of *rahmatan lil 'alamiin* (mercy for all worlds).

Islamic reform in the field of family law is one of the areas that needs to be comprehensively and gradually reformed. The following is a reform in the field of family law: Limiting the number of wives to four at a time. This was an initial step in changing the social order of pre-Islamic Arab society. Had Islam directly prohibited polygamy, it would not have been accepted by Arab society at the time, as polygamy was a common practice. Over time and with the development of society, this issue needs to be re-examined. After all, as a human being, a husband cannot be fair in dividing his love (feelings), as suggested in Surah An-Nisa (4) verse 129. The issue can lead to problems in married life, as there will be jealousy between the wives. This jealousy can often lead to envy, resentment, and even hostility between the wives.

Therefore, there should be a common understanding that polygamy, as regulated in Surah An-Nisa (4) verse 3, is not considered *sunnah* (recommended) nor obligatory. Rather, the verse simply states that polygamy is permissible, and yet, it must be done with strict limitations and conditions. Polygamy has been likened to the emergency door of an airplane: the door is only used in the event of an emergency. Under normal circumstances, the emergency door should not be used. The same is true for polygamy. It can only be practiced if there is a very urgent and compelling reason. The right to determine whether or not a situation is an emergency should be vested in experts in the field, who are organized into an institution.

In relation to inheritance in the Islamic concept, the rules and regulations regarding who is entitled to receive, the amount of property received, and all the terms and legal consequences related to this matter are clearly and explicitly regulated in the texts of the Qur'an and hadith. These rules are known as inheritance law. In its development, inheritance law has experienced dynamics related to the socio-cultural situations and conditions of the society that underlies the establishment of Islamic law.<sup>25</sup>

Islam has indeed stipulated that women are entitled to inherit property. However, Islam regulates that women only receive half of the share of men. Over

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<sup>25</sup> Lalu Supriadi Bin Mujib, "Revitalisasi Hukum Waris Islam Dalam Penyelesaian Kasus Sengketa Tanah Waris Pada Masyarakat Sasak," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 19, no. 1 (2019), p. 71.

time, this has been considered discriminatory against women. Therefore, the authors propose that inheritance should now be divided on a 1:1 ratio due to changes in the social order of society.

Further, the reform of accepting women's testimony only in civil cases, and worth half of that of men, was a major breakthrough in Islam. However, this should also be reviewed. The reform needs to be updated because, in reality, women today have the same intellectual capacity as men. Therefore, they have the right to testify in court, in all cases that exist. In terms of the value of women's testimony, it can be considered equal to that of men's testimony.

On the issue of guardianship, at the beginning of Islam, there was *wali mujbir*, but today, this needs to be updated. The definition of *wali mujbir* itself is a guardian who has the authority to force the marriage upon his children. The guardian may be the father or grandfather. If there is no father or grandfather, then it can be delegated to the biological brother of the bride. If there is no brother, then the father's brother (uncle) of the woman will marry her off. Those who become the guardians must have reached puberty (adult and sane), Muslim male, and just.<sup>26</sup> More often than not, forced marriages lead to less harmonious relationships in the household while one of the goals of marriage is to create a *sakinah mawaddah wa rahmah* household. Therefore, people should carry out marriage out of love, without any intervention from others. This is in order to provide equality for women and men to choose their partners.

## Conclusion

As a religion of *rahmatan lil 'alamiin*, Islam reforms the practices of pre-Islamic Arab society seen as detrimental to women, most of which were related to family law. Some of the provisions in the Qur'an related to family law are not fixed, but rather dynamic, and still need to be updated in order to realize a law that has the purpose of *rahmatan lil 'alamiin*. This is in line with the principle of Islamic law, which states that law can change according to changes in time and place. To create a family law that provides equality for men and women and is able to provide benefits for all people, it takes seriousness with the knowledge possessed and then armed with piety to Allah. It is hoped that a set of family law regulations can be created. This study suggests that the rulers and law enforcers with the power and authority they have be able to uphold the law fairly and with integrity. Additionally, the community should obey the agreed-upon regulations wholeheartedly. Otherwise, there is no use of great regulations when they are not applicable in society. In line with that, a comprehensive understanding is needed in

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<sup>26</sup> Agutin Hanapi and Hafizah Hani Binti Azizan, "Hak Wali Mujbīr Membatalkan Pernikahan (Analisis Putusan Mahkamah Syari'ah Perak)," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 1, no. No. 1 (2017), p. 25. Moh. Ismail and Faiqoh Zuhdiana, "Relevansi Hak Wali Mujbir Dalam Pernikahan Anak Gadis Ditinjau Dari Prespektif Gender Hukum Islam," *Jurnal Kajian Hukum Islam* 7, No. 2 (2020), p. 73-89.

understanding Islamic law related to gender relations between men and women. Sociologically and historically, men and women have a balanced and equal relationship with each other. Thus, it also needs to be emphasized that patriarchal and marginalized understandings of women come from the interpretations of Islamic legal sources, and not the substance of Islamic law itself.

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