



## **An Analysis of the Justice of *Faraid* Law in Relation to the Concept of *Qiwamah* in the Sustainability of the Muslim Family Institution**

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### **Abstract**

The contemporary movements of Liberalism and Feminism are increasingly challenging the Islamic law of *faraid*. They claim that there is gender discrimination in the distribution of inheritance, particularly in Surah al-Nisa, verse 11, which allocates a portion for men that is twice that of women. These movements are further strengthened by Sustainable Development Goal 5, which advocates for gender equality. Therefore, this study aims to critically analyze whether gender discrimination exists in the *faraid* law by examining the concept of household leadership (*qiwamah*) in sustaining the Muslim family institution. Through a qualitative approach, this study employs content analysis of classical and contemporary fiqh books, academic journal articles, contemporary fatwas, and authoritative online sources. The findings of this study show that when the concept of *qiwamah* is understood in a holistic context, the *faraid* law is just and capable of fostering the sustainability of the Muslim family institution. Hence, this study proposes a multi-dimensional approach in understanding and implementing the concept of *qiwamah* in the contemporary context, such as comprehensive education on rights and responsibilities in Islam, and dialogue between Islamic scholars and women's rights activists to achieve better mutual understanding.

**Keywords:** *Qiwamah*, Family Institution, *Faraid*, Sustainable Development Goals, Gender Equality

### **Abstrak**

*Gerakan kontemporer Liberalisme dan Feminisme semakin menantang hukum faraid dalam Islam. Mereka mengklaim bahwa terdapat diskriminasi gender dalam pembagian warisan, khususnya dalam Surah al-Nisa ayat 11 yang memberikan bagian untuk laki-laki dua kali lipat dari perempuan. Gerakan-gerakan ini semakin diperkuat oleh Tujuan Pembangunan Berkelanjutan 5 (SDG) yang mendorong kesetaraan gender. Oleh karena itu, studi ini bertujuan untuk menganalisis secara kritis apakah terdapat diskriminasi gender dalam hukum faraid dengan meneliti konsep kepemimpinan rumah tangga (qiwamah) dalam menjaga kelestarian institusi keluarga Muslim. Melalui pendekatan kualitatif, studi ini menggunakan analisis konten dari buku-buku fikih klasik dan kontemporer, artikel jurnal akademik, fatwa kontemporer, dan sumber online yang berwibawa. Temuan dari studi ini menunjukkan bahwa ketika konsep qiwamah dipahami dalam konteks yang holistik, hukum faraid adalah adil dan mampu mendukung kelestarian institusi keluarga Muslim. Oleh karena itu, studi ini mengusulkan pendekatan multi-dimensi dalam memahami dan menerapkan konsep qiwamah dalam konteks kontemporer, seperti pendidikan komprehensif tentang hak dan tanggung jawab dalam Islam, serta dialog antara ulama Islam dan aktivis hak-hak perempuan untuk mencapai pemahaman bersama yang lebih baik.*

**Kata Kunci:** *Qiwamah, Institusi Keluarga, Faraid, Tujuan Pembangunan Berkelanjutan, Kesetaraan Gender*

### **Introduction**

The concept of *qiwamah* in Islam refers to the responsibility of leadership and protection given to men within the family institution. This concept is rooted in Surah an-Nisa, verse 34, which assigns the responsibility of leadership and family maintenance to men.<sup>1</sup> *Qiwamah* is not merely about authority, but also encompasses the social and financial responsibilities borne by men to maintain the harmony and welfare of the family. However, the interpretation and application of the concept of *qiwamah* in the context of modern society have sparked various debates and challenges.<sup>2</sup> A deep understanding of the concept of *qiwamah* is essential for analyzing issues related to gender equality in Islam, particularly in the context of *faraid* law.

*Faraid* law governs the distribution of inheritance in Islam and is detailed in the al-Quran, specifically in Surah an-Nisa, verses 11, 12, and 176.<sup>3</sup> The basic principle of this law grants men a larger share compared to women in certain

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<sup>1</sup> Muhammad bin Ahmad Al-Qurtubi, *Al-Jami' li Ahkam al-Quran*. Kaherah: Dar Kutub 'Arabi, 1964, Vol. 5, p 170.

<sup>2</sup> Ziba Mir-Hosseini, Mulki Al-Sharmani, Jana Rumminger, and Sarah Marsso Musawah. *Who Provides? Who Cares? Changing Dynamics in Muslim Families*. Musawah. 2018, p. 3

<sup>3</sup> Isma'il bin 'Umar Ibn Kathir, *Tafsir Ibnu Kathir*. al-Riyad: Dar al-Tayyibah, 1999, Vol. 2, p. 224 ; Vol. 2, p. 482.

circumstances. For example, a son receives twice the share of a daughter. According to Kamali, this distribution reflects the greater economic responsibilities borne by men, including the obligation to provide for the family, which is not required of women.<sup>4</sup> Although this law has been implemented since the time of the Prophet Muhammad (PBUH), it now faces challenges in the context of modern society, which emphasizes gender equality.<sup>5</sup>

These challenges are evident through contemporary movements of Liberalism and Feminism, which increasingly question the *faraid* law, particularly regarding the right of men to receive twice as much as women. Among the prominent international figures advocating for gender equality are Amina Wadud (United States),<sup>6</sup> Riffat Hassan (Pakistan),<sup>7</sup> Siti Musdah Mulia (Indonesia),<sup>8</sup> Farha Ciciek (Indonesia),<sup>9</sup>

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<sup>4</sup> Mohammad Hashim Kamali, *Shari'ah Law: An Introduction*, Oneworld Publications, Oxford, 2008, p. 1-343.

<sup>5</sup> John L. Esposito and Natana J. DeLong-Bas, *Women in Muslim Family Law*. Syracuse University Press, 2nd edition, 2001, p. 1-195.

<sup>6</sup> Amina Wadud received her Ph.D. from the University of Michigan in 1988. From there, she joined the International Islamic University in Malaysia. While in Malaysia, she and a group of 7 other women organized the pro-feminist organization Sisters in Islam (SIS). She caused controversy when she openly led prayers for a male congregation. Among her works concerning women's rights are "Qur'an and Woman: Rereading the Sacred Text from Woman's Perspective" and "Inside the Gender Jihad: Women's Reform in Islam". <https://aminawadud.com/>. Accessed on August 09, 2024.

<sup>7</sup> A prominent Muslim feminist figure. She has been criticized for interpreting the al-Quran using her own understanding, particularly concerning women's rights. According to her, the al-Quran is biased because it does not differentiate between men and women. Among her written books are "Woman and Man's 'fall'" and "A Qur'anic Theological Perspective". Kiki Muhamad Hakiki and Ratu Vina Rohmatika. Riffat Hassan's Thoughts on Gender Issues in the Qur'an. *Al-Dzikra: Journal of Qur'anic and Hadith Studies*. Vol. 18, No. 1, 2024, p. 131 – 150.

<sup>8</sup> She is one of the leading feminist figures in Indonesia. She is a postgraduate professor at UIN Jakarta in the field of Islamic studies. She is a vocal advocate for gender equality and criticizes classical interpretations of the al-Quran and hadith. Among her well-known works are "Islam Menggugat Poligami " and "Muslimah Reformis". Karimuddin Nasution, Wan Nasyrudin Wan Abdullah & Mohd Faizulamri Mohd Saad. Musdah Mulia's Gender Interpretation Method. *Journal al-Turath*, Vol. 4, No. 2019, p. 1, 1-8.

<sup>9</sup> Her real name is Farha Abdul Kadir Assegaf. She is an activist who advocates for women's social freedom and is the founder and chairperson of a women's organization called Rahima. Rahima actively conducts various programs, including in Islamic boarding schools (*pesantren*), and publishes regular publications, among them, *Swara Rahima*. Among her written books are "Ikhtiar mengatasi kekerasan dalam rumah tangga: belajar dari kehidupan Rasulullah saw", and "Jangan Ada Lagi Kekerasan dalam Rumah Tangga." <https://www.insideindonesia.org/editions/edition-1034/interpreting-islam-for-women>. Accessed on August 09, 2024.

Zainah Anwar (Malaysia),<sup>10</sup> and Nik Noriani Nik Badli Shah (Malaysia).<sup>11</sup> They claim that there is gender discrimination in the distribution of inheritance, particularly involving Surah an-Nisa, verse 11.

يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثَيَيْنِ

*Allah the Almighty instructs you concerning your children: for the male, what is equal to the share of two females (al-Nisa': 11)*

In fact, according to them, such *faraid* laws are not suitable to be applied in modern society today.<sup>12</sup> However, this criticism often overlooks the socio-cultural context and responsibilities underlying Islamic law, which need to be understood holistically.

The challenge to *faraid* law is further reinforced by the introduction of the Sustainable Development Goals (SDGs) by the United Nations, particularly SDG 5, which advocates for gender equality.<sup>13</sup> This goal is fundamentally good, aiming to eliminate all forms of discrimination against women and ensure full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic, and public life. While this goal is important for global development, it has raised questions about how Islamic principles, including *faraid* law, can be aligned with these modern aspirations.<sup>14</sup>

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<sup>10</sup> Zainah Anwar is a well-known Malaysian non-governmental organization leader and activist. She was the head of Sisters in Islam (SIS) in Malaysia for two decades, advocating for women's rights. She has served as the project director for the global movement for justice and equality in the Muslim family (MUSAWAH). She received her postgraduate degree from the Fletcher School of Law and Diplomacy at Tufts University, and is a former member of the Human Rights Commission of Malaysia. Among her written books is one titled "Wanted: Equality and Justice in the Muslim Family". <https://www.mpvusa.org/zainah-anwar>. Accessed on August 09, 2024.

<sup>11</sup> Nik Noriani Nik Badli Shah played a crucial role in drafting the Domestic Violence Act 1994 while serving at the Attorney General's Department. She was appointed as Assistant Parliamentary Draftsman and Deputy Law Revision Commissioner between 1986 and 1996. She advocates for changes in Islamic legislation established during the time of Prophet Muhammad (PBUH), particularly involving gender equality. She claims that Islamic legislation was only suitable for the local culture of that time. Among her books are "Islamic Family Law and Justice for Muslim Women", "Marriage and Divorce Law Reform Within Islamic Framework", and "Polygamy: Not A God-Given Right to Muslims". <https://sistersinislam.org/8228/>. Accessed on August 10, 2024.

<sup>12</sup> Amina Wadud, *Qur'an and Woman: Rereading the Sacred Text from a Woman's Perspective*. New York, Oxford University Press, 1999, p. 1-145.

<sup>13</sup> United Nations, "Goal 5: Achieve gender equality and empower all women and girls", <https://sdgs.un.org/goals/goal5>. Accessed on August 09, 2024.

<sup>14</sup> Abdullahi Ahmed An-Na'im, *Islam and the Secular State: Negotiating the Future of Shari'a*. Harvard University Press, 2008, p. 1-336.

SGD 5: Gender Equality<sup>15</sup>

Based on SDG 5, there are 5 main elements emphasized: Persistent Gender Inequality, Timeframe for Change, Effectiveness of Gender Quotas, Issues of Women's Autonomy, and Child Marriage.<sup>16</sup> This study focuses on the fourth element, Issues of Women's Autonomy, which has a direct relationship to the research problem emphasized in this study. Therefore, this study aims to critically analyze whether gender discrimination exists in *faraid* law based on the concept of *qiwamah* in sustaining the Muslim family institution.

### The Concept of *Qiwamah* in Islam

From a linguistic perspective, *qiwamah* is a borrowed term from Arabic that refers to someone who leads in matters, property, and authority.<sup>17</sup> The word *qiwamah* also carries the meaning of leadership within the household. This is based on verse 34 in Surah an-Nisa.

الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ  
*Men are the caretakers of women, as Allah the Almighty has given some of them an advantage over others, and because they spend from their wealth. (Al-Nisa' 34)*

Al-Thabari explains that there are two reasons why men lead women in the household:

First: because the man is a husband who pays the dowry. Therefore, the husband is responsible for providing maintenance and protecting the family.

<sup>15</sup> United Nations, "Goal 5: Achieve gender equality and empower all women and girls" <https://sdgs.un.org/goals/goal5>. Accessed on August 08, 2024.

<sup>16</sup> United Nations, "Goal 5: Achieve gender equality and empower all women and girls" <https://sdgs.un.org/goals/goal5>. Accessed on August 08, 2024.

<sup>17</sup> Ibrahim Mustafa, *Al-Mu'jam al-wasit*. Iskandariah: Dar al-Da'wah, t.t., Vol.2, p. 768

Second: because of the superiority of men over women. This is based on the pronoun "هم" which is mentioned in plural form in the word "بَعْضَهُمْ".<sup>18</sup>

The position of men as leaders can also be clearly understood based on the saying of the Prophet:

كُلُّكُمْ رَاعٍ وَكُلُّكُمْ مَسْئُولٌ، فَالْإِمَامُ رَاعٍ وَهُوَ مَسْئُولٌ، وَالرَّجُلُ رَاعٍ عَلَى أَهْلِهِ وَهُوَ مَسْئُولٌ

The Meaning: *All of you are guardians and are responsible for your subjects. The ruler is a guardian of his subjects, the man is a guardian of his family, the woman is a guardian and is responsible for her husband's house and his offspring; and so all of you are guardians and are responsible for your subjects.*<sup>19</sup>

Based on the discussion above, the concept of *qiwamah* in the context of a family refers to a husband who is responsible for taking care of the family members under his care, such as his wife and children.

## Sustainable Development Goals (SDG)

### History of the SDGs

The history of the SDGs began to take shape in June 1992 through the Earth Summit in Rio de Janeiro, Brazil. At this time, 178 countries had accepted the implementation of Agenda 21.<sup>20</sup> Agenda 21 was a comprehensive action plan to build global cooperation for sustainable development. Subsequently, in September 2000, the Millennium Declaration was adopted at the Millennium Summit in New York. This declaration led to the eight Millennium Development Goals (MDGs) aimed at reducing extreme poverty by 2015.<sup>21</sup>



<sup>18</sup> Muhammad bin Jarir Al-Tabari, *Jami' al-Bayan*. Kaherah: Dar Turath al'Arabi, t.t., Vol. 8, p. 290.

<sup>19</sup> Muhammad bin Ismail al-Bukhari, *Sahih al-Bukhari*, Damsyik: Dar Ibn Kathir, 1993, Vol. 5, p 1988.

<sup>20</sup> Agenda 21, United Nations Conference on Environment & Development Rio de Janeiro, Brazil, 3 to 14 June 1992, p. 1-351.

<sup>21</sup> United Nations. "The 17 Goals", <https://sdgs.un.org/goals>. Accessed on August 06, 2024.

Figure 1: Millennium Development Goals (MDGs)<sup>22</sup>

To strengthen global commitment to poverty eradication and environmental protection, a declaration named the Johannesburg Declaration was signed in 2002. This effort gained momentum until 2012, when The United Nations Conference on Sustainable Development (Rio+20) held in Rio, Brazil produced a document outlining clear and practical steps to implement sustainable development.<sup>23</sup> At this conference, the participating UN countries accepted the document "The Future We Want". This was to formulate and develop SDGs that incorporated the 2015 Millennium Development Goals (MDGs) agenda.

Sustainable Development Goals (SDGs) are a concept encompassing 17 global goals. These SDGs were established by countries under the United Nations (UN) in September 2015 as a continuation of the Millennium Development Goals (MDGs) that ended in 2015. The scope of the SDGs is broader in a global context and holistic, regardless of a country's level of development. The SDGs reflect the needs and aspirations of various communities worldwide and are more comprehensive than the MDGs, which were more focused on developing countries.<sup>24</sup> Various stakeholders were involved in the formation of these SDG goals, such as governments, organizations, civil society, the private sector, and academics. The main emphasis is given to sustainability and equity.<sup>25</sup>

Sachs explains that the main principle of the SDGs is based on "Leave No One Behind". This principle emphasizes inclusive and equitable development for all by 2030.<sup>26</sup> This principle also stresses that complex global challenges require holistic solutions and extensive cooperation from various parties and sectors.<sup>27</sup> Figure 2 below lists the 17 SDG goals:

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<sup>22</sup> United Nations, "Millennium Development Goals", <https://www.un.org/millenniumgoals/>. Accessed on August 06, 2024.

<sup>23</sup> United Nations, "United Nations Conference on Sustainable Development, Rio+20" <https://sustainabledevelopment.un.org/rio20>. Accessed on August 06, 2024.

<sup>24</sup> United Nations. "The 17 Goals", <https://sdgs.un.org/goals>. Accessed on August 06, 2024.

<sup>25</sup> Sakiko Fukuda-Parr, From The Millennium Development Goals to the Sustainable Development Goals: Shifts in Purpose, Concept, and Politics of Global Goal Setting for Development. *Gender & Development*, Vol. 24, No. 1, 2016, p. 43–52.

<sup>26</sup> Jeffrey D Sachs, From Millennium Development Goals to Sustainable Development Goals, *The Lancet*, Vol. 379, No. 9832, 2012, p. 2206 – 2211.

<sup>27</sup> Peter Jones, Martin Wynn, David Hillier, and Daphne Comfort, The Sustainable Development Goals and Information and Communication Technologies. *Indonesian Journal of Sustainability Accounting and Management*, Vol. 1, No. 1, 2017, 1–15

Figure 2: 17 SDGs<sup>28</sup>

### SDG 5: Gender Equality

SDG 5 focuses on eliminating all forms of discrimination against women. Several targets and indicators have been set in SDG 5, such as:<sup>29</sup>

- i. End all forms of discrimination against all women worldwide.
- ii. Eliminate all forms of violence against all women in public and private spheres, including trafficking and sexual and other types of exploitation.
- iii. Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation.
- iv. Recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies, and the promotion of shared responsibility within the household and the family as nationally appropriate.
- v. Ensure women's full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic, and public life.
- vi. Ensure universal access to sexual and reproductive health and reproductive rights as agreed in accordance with the Programme of Action of the International Conference on Population and Development and the Beijing Platform for Action and the outcome documents of their review conferences.
- vii. Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws.

<sup>28</sup> United Nations, "The 17 Goals", <https://sdgs.un.org/goals>. Accessed on 6 August 2024.

<sup>29</sup> United Nations, Goal 5: Achieve gender equality and empower all women and girls, [https://sdgs.un.org/goals/goal5#targets\\_and\\_indicators](https://sdgs.un.org/goals/goal5#targets_and_indicators). Accessed on August 06, 2024.

- viii. Enhance the use of enabling technology, in particular information and communications technology, to promote the empowerment of women.
- ix. Adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels.

Based on the above targets and indicators of SDG 5, it shows a holistic approach to gender equality while recognizing that discrimination and inequality still exist in various forms and contexts.<sup>30</sup> However, progress in achieving these targets remains uneven worldwide, with various challenges existing.<sup>31</sup> Therefore, several countries have introduced specific laws to protect women's rights. For example, Iceland introduced the Equal Pay Certification law in 2018. This law requires companies and institutions with 25 or more employees to pay male and female workers equally.<sup>32</sup> Similarly, Rwanda has achieved the highest representation of women in parliament worldwide. A total of 61.3% of seats were held by women in 2024. This occurred after the introduction of a gender quota system following the 1994 conflict.<sup>33</sup>

Additionally, in 2015, India successfully launched the Beti Bachao Beti Padhao (Save the Girl Child, Educate the Girl Child) program. Through this program, issues of gender discrimination and education involving girls have been successfully addressed in Indian states.<sup>34</sup> Malaysia is also not excluded in achieving the goals of SDG 5. For example, the Malaysian government has introduced a policy of 30% women's participation in decision-making positions in the public and private sectors. As a result, women's representation in corporate leadership has increased from 24.4% in 2019 to 28.1% in 2022.<sup>35</sup> Furthermore, the introduction of the Women at Work (WoW) program in 2020 has successfully increased women's participation in the workforce through skills training and childcare assistance. A target has been

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<sup>30</sup> Sandra Fredman, Jaakko Kuosmanen and Meghan Campbell, Transformative Equality: Making the Sustainable Development Goals Work for Women. *Ethics & International Affairs*. Vol. 30, No. 2, 2016, p.177-187.

<sup>31</sup> United Nations, "Gender equality: Women's rights in review 25 years after Beijing", Research and Data Section, UN Women, USA, 2020, p. 1-28.

<sup>32</sup> Ines Wagner, Equal Pay for Work of Equal Value? Iceland and the Equal Pay Standard, *Social Politics: International Studies in Gender, State & Society*, Vol. 29, Issue 2, Summer 2022, p. 477-496,

<sup>33</sup> IPU Parline, Monthly ranking of women in national parliaments, Ranking as of 1st January 2024, [https://data.ipu.org/women-ranking/?date\\_month=1&date\\_year=2024](https://data.ipu.org/women-ranking/?date_month=1&date_year=2024). Accessed on August 11, 2024.

<sup>34</sup> Ministry of Women and Child Development, Government of India, 2021. <https://wcd.gov.in/>. Accessed on August 11, 2024.

<sup>35</sup> Ministry of Women, Family and Community Development, <https://www.kpwkm.gov.my/kpwkm/index.php?r=portal/about&id=b0J5ZFBERFhsalo2U05TWk1nSzVDQT09>. Accessed on 15 August 2024.

set to increase the female labor force participation rate from 55.6% in 2019 to 59% by 2025.<sup>36</sup>

Based on the discussion of the essence of SDG 5, it cannot be denied that it aims to empower women's rights. However, the SDG 5 indicator has raised questions about equality in inheritance rights as follows:

*vii. Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, **inheritance**...*

According to some organizations, including The Food and Agriculture Organization (FAO), which is one of the agencies under the United Nations, it is stated in their article that women and children are often discriminated against in inheritance. This occurs due to cultural norms and factors that prevent them from obtaining equal rights in land inheritance.<sup>37</sup> This polemic has also been raised by Ziba Mir-Hosseini, Mulki Al-Sharmani, Jana Rumminger, and Sarah Marsso, arguing that the *faraid* law needs to be reinterpreted. This is because, according to this group, in the modern socio-economic reality, women also contribute to the family economy.<sup>38</sup> Therefore, the *faraid* law is seen as a religious regulation that is unfair to women and is considered an obstacle to the implementation of the global SDG 5 agenda in eradicating gender discrimination. It doesn't stop there; issues related to *faraid* law have also become targets of attack by Liberalism and Feminism groups who also demand equal justice in this Islamic inheritance law.

### **The Doctrine of Liberalism and Feminism**

The *faraid* law is the best system that elevates and recognizes women's rights in inheritance, unparalleled before the advent of Islam. However, there are still aspects of the law determined by Islamic Sharia that are considered unfair to women by some parties who prioritize freedom, such as the liberalism movement. Liberal is a characteristic or view that leans towards freedom and democratic governance, as well as openness to developments in science, technology, and economics.<sup>39</sup> The word 'liberalism' is a combination of 'liberal', meaning freedom, and 'ism', meaning belief.

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<sup>36</sup> Economic Planning Unit. Twelfth Malaysia Plan, 2021-2025, a Prosperous, Inclusive, Sustainable Malaysia, 2021, p. 1-532.

<sup>37</sup> The Food and Agriculture Organization (FAO). "Realizing Women's Rights to Land in the Law: A Guide for Reporting on SDG Indicator 5.a.2", Rome Italy, 2018, p. 1-51.

<sup>38</sup> Ziba Mir-Hosseini, Mulki Al-Sharmani, Jana Rumminger and Sarah Marsso Musawah, *Who Provides? Who Cares? Changing Dynamics in Muslim Families*. Musawah, 2018, p. 7-8.

<sup>39</sup> "Liberal", Pusat Rujukan Persuratan Melayu, Dewan Bahasa dan Pustaka, <https://prpm.dbp.gov.my/cari1?keyword=liberal>. Accessed on August 15, 2024.

Generally, liberalism is a philosophy or belief that places individual freedom as the highest political value.<sup>40</sup>

This stream of Christian liberalism thought is not new, as its influence has existed since the Renaissance in Europe, which was the peak of division and the beginning of opposition from groups advocating for personal freedom from the grip of traditional power, namely church power. Consciously or unconsciously, the development of liberalism thought has crept into Malay society since the early pre-independence era. The seeds of liberalism were planted by colonizers when liberalism thought successfully dominated governance and influenced the majority of Western countries. Supporters of liberalism in the West simultaneously tried to apply similar thoughts and understandings to colonized countries. The administrative system that elevated administrative and religious leaders among Sultans and Kings was attempted to be sidelined, and a 'Western-style' secular system was created to erode religious elements in administration.<sup>41</sup>

Although in the early development of liberalism thought, this group did not prominently display their identity, over time, this thinking has somewhat influenced the Malay group. Liberal Islam, referring to the Muslim community in Malaysia, is believed to have developed more rapidly in the 1970s through the movement brought by Chandra Muzaffar through the National Awareness Movement (ALIRAN), and in the 1980s, this liberalism movement developed with anti-Hadith thinking through Kassim Ahmad.<sup>42</sup>

The stream of thought became more critical when this movement touched on issues of faith and questioned the Quranic interpretation methodology built by mufassirin scholars with the slogan of opening and liberating Quranic interpretation.<sup>43</sup> This liberalism thought understands revelation based on the paradigm of liberalism. They strive to introduce and create a progressive version of Quranic interpretation for the current context based on ideas that uphold universalism, human rights, modern values, giving equal and fair focus to men and women and all layers of humanity, based on progressive and developing views.<sup>44</sup>

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<sup>40</sup> Mohamad Kamil Ab Majid et al., *Wasatiyyah Islam: Antara Liberalisme dan Konservatisme di Malaysia*, Ampang: Pekan Buku Publications, 2012, p. 123.

<sup>41</sup> Wan Adli Wan Ramli, Menangani Cabaral Liberalisme Dalam Kalangan Muslim Berdasarkan Konsep Ijmak, *Jurnal Usuluddin*, Vol. 40, Julai-Disember 2014, p. 29-30

<sup>42</sup> Ibrahim Majdi Mohamad Kamila, Khadijah Mohd Khambali @ Hambalia & Wan Adli Wan Ramli, Falsafah Liberalisme di Malaysia: Satu Sorotan Awal: Liberalism Philosophy in Malaysia: A Preliminary Highlights, *Online Journal of Research in Islamic Studies*, Vol. 9, No. 2, 2022, p. 61-72. Wan Adli Wan Ramli, Menangani Cabaral Liberalisme Dalam Kalangan Muslim Berdasarkan Konsep Ijmak, *Jurnal Usuluddin*, Vol. 40, Julai-Disember 2014, p. 29-30.

<sup>43</sup> Keputusan Mesyuarat Muzakarah Jawatankuasa Fatwa Majlis Kebangsaan Bagi Hal Ehwal Agama Islam kali ke-74 pada tahun 2006 di bawah tajuk Aliran Pemikiran Liberal: Hukum Dan Implikasinya Kepada Islam Di Malaysia, [http://www.e-fatwa.gov.my/mufti/fatwa\\_search\\_result.asp?keyID=1487](http://www.e-fatwa.gov.my/mufti/fatwa_search_result.asp?keyID=1487). Accessed on 15 August 2024.

<sup>44</sup> Norani Othman, *Muslim Women and the Challenge of Islamic Extremism*, Kuala Lumpur: Vinlin Press Sdn. Bhd, 2005, p. 153.

For example, in Indonesia, in Counter Legal Draft submitted to the Ministry of Religion, the Indonesian Liberal Islam group under the supervision of Dr. Musdah Mulia proposed several suggestions, including "Article 8 paragraph 3: The inheritance portion for sons and daughters is equal." This proposal specifically aims to change Islamic law, especially concerning verse 14 of Surah an-Nisa, which states that men get twice as much as women. However, this plan was rejected by the Parliament and the Ministry of Religion of the Republic of Indonesia.<sup>45</sup>

The situation became more concerning when in 1993, liberalism thought was developed in the liberal Islam movement by bringing the concept of feminism through the organization Sisters in Islam (SIS). Feminism is a form of understanding that fights for equal rights between women and men. SIS is a group that advocates for equal rights between women and men, while promoting democracy and freedom. This organization is led by Zainah Anwar and consists of professional women. Although SIS is among the later women's organizations compared to others like the National Council of Women's Organizations (NCWO), since its early establishment, it has been seen as the most popular movement because its voice and activists are more vocal, active, and often spark controversy in Malaysia. SIS claims to be a movement that studies, promotes, and fights for human rights according to the Islamic perspective, especially for women and children.<sup>46</sup>

In the polemic of inheritance distribution law between men and women, feminism groups also see gender equality as the solution. According to Zainah Anwar, SIS agrees in recognizing that early Islam introduced economic policies and rights to women in inheritance. In fact, they do not reject the distribution of inheritance as contained in Surah al-Nisa verses 11, 12, and 176. However, according to SIS, the implementation of this law has neglected equal rights and opportunities for women. She argues that the implementation of this law should take into account the current situation of society, women's life experiences, eliminate injustice and discrimination against women by changing the mindset that considers women inferior to men.

Women today are competitive with men. Most women have careers, help their husbands financially, give birth to and educate children while also managing the household. Therefore, determining that men are given a larger share even though they have responsibilities towards women under their care such as mothers, sisters, or nieces is unfair. This is because many in society only know how to claim these special rights without thinking about the responsibility of maintaining and protecting women in their families as required by Islam, while responsibilities towards family and religion are often neglected. Thus, raising awareness in society and enacting

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<sup>45</sup> Mohammad Ariffin Bin Ismail, *Cabaran akidah pemikiran islam liberal*, Pejabat Mufti Wilayah Persekutuan, Jabatan Perdana Menteri: Putrajaya, 2012, p.17.

<sup>46</sup> Hafizah Mohd Bokri & Mohd Zamro Muda, Undang-undang pusaka Islam: Perspektif Sisters in Islam (SIS). *Al-Qanatir International Journal of Islamic Studies*, Vol. 7, No. 2, 2017, p. 16.

legal policies that meet the principles of justice and equality in Islam, such as inheritance can be distributed in a fairer way using the principle of *istihsan*.<sup>47</sup>

Meanwhile, Amina Wadud also criticizes Quranic verses interpreted by classical scholars as needing reconstruction of interpretation methodology or reinterpretation of knowledge through new methods such as hermeneutics so that verses said to be gender-biased are seen as fair to humans. Among them, referring to verses explaining women's inheritance rights receiving less share than men as gender-biased and needing reinterpretation. She criticizes the interpretation that divides two parts for sons and one part for daughters as just a mathematical formula, and its theory is not true because in certain situations, such as if there is one daughter, her share is half of the inheritance. The determination of shares based on this verse, according to her, is only one form of inheritance distribution model between men and women related to the development and life of society and is not obligatory to follow.<sup>48</sup>

Additionally, Ratna Osman, in presenting her paper at Al-Maktoum College Scotland, also discusses that the Islamic inheritance rules in Islamic Family Law in Malaysia are problematic because they adopt the Shafi'i School in taking the law of property distribution for men and women. The provided family law is only based on theories and concepts developed by classical scholars, which are very different in terms of history, social, and current economic context. Therefore, Islamic family law needs to be changed considering that these laws are not divine but are merely human interpretations of what is best for mankind. Progressive Islam should also celebrate changes in time, place, and circumstances to always be relevant in the current of globalization.<sup>49</sup>

This thinking often proclaims and claims that their movement is important in facing the currents of globalization, modernization, information technology, and external challenges. This understanding is excessive because it can open misunderstandings and misinterpretations of the al-Quran, especially regarding *faraid* law.<sup>50</sup> If this understanding is not corrected, then the concept of *qiwamah* in the sustainability of Muslim family institutions will not exist.

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<sup>47</sup> Zainah Anwar, *Fatwa Mengenai Kedudukan Penama EPF & PERKESO dan Kedudukan Penama Polisi Insuran Sebagai Harta Pusaka*, <https://sistersinislam.org/fatwa-mengenai-kedudukan-penama-epf-perkeso-dan-kedudukan-penama-polisi-insuran-sebagai-harta-pusaka/>. Accessed on August 17, 2024.

<sup>48</sup> Abdul Mustaqim and Amina Wadud, *Menuju Keadilan Gender*, in A. Khudhori Saleh (ed.), *Pemikiran Islam Kontemporer*, Jendela Yogyakarta, 2003 p. 313-314.

<sup>49</sup> Hafizah Mohd Bokri & Mohd Zamro Muda, *Undang-undang pusaka Islam: Perspektif Sisters in Islam (SIS)*. *Al-Qanadir International Journal of Islamic Studies*, Vol. 7, No. 2, 2017, p. 16.

<sup>50</sup> Wan Adli Wan Ramli, *Menangani Cabaran Liberalisme Dalam Kalangan Muslim Berdasarkan Konsep Ijmak*, *Jurnal Usuluddin*, Vol. 40, Julai-Disember 2014, p. 29-30. Mohammad Ariffin Bin Ismail, *Cabaran akidah pemikiran islam libera*, Pejabat Mufti Wilayah Persekutuan, Jabatan Perdana Menteri: Putrajaya, 2012, p. 17.

### The Concept of *Qiwamah* in the Sustainability of the Muslim Family Institution

History shows that women have always been victims of discrimination and even oppression. This has been proven through the practices of the Arab Jahiliyyah society in ancient times. They did not respect women's rights by killing female children, denying women's rights in society, and favoring inheritance rights for men.<sup>51</sup> On the contrary, when we refer to the reason for the revelation of the *faraid* verse in Surah an-Nisa' verse 11, it clearly shows that Islam recognizes that women also have rights in property inheritance.

In the Battle of Uhud, Saad bin Rabi' was martyred. Then, his biological brother seized all of Saad bin Rabi's inheritance without giving any of it to his wife and two daughters. Therefore, Saad bin Rabi's wife complained to the Prophet Muhammad (PBUH) about this matter. Then the Prophet Muhammad (PBUH) said:

يَقْضِي اللَّهُ فِي ذَلِكَ، فَنَزَلَتْ آيَةُ الْمِيرَاثِ ، فَبَعَثَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ إِلَى عَمِّهَا فَقَالَ:  
أَعْطِ ابْنَتِي سَعْدِ الثُّلُثَيْنِ وَأَعْطِ أُمَّهُمَا الثُّمْنَ، وَمَا بَقِيَ فَهُوَ لَكَ

The Meaning: *Allah the Almighty has established the distribution of the faraid law. Thus, the verse of faraid was revealed. The Prophet Muhammad (PBUH) then sent a messenger to the uncle of the two children. The Prophet Muhammad (PBUH) said: give 2/3 portion to the two daughters, 1/8 portion to the wife. Meanwhile, the remainder of the inheritance is given to Saad bin Rabi's brother as 'asabah (residuary heir).*<sup>52</sup>

Based on the reason for the revelation of Surah an-Nisa verse 11, Allah the Almighty guarantees the right of inheritance to women until the Day of Judgment. In fact, Ibn Kathir also mentioned that when Surah an-Nisa' verse 11 was revealed, the companions were perplexed. This was because they wondered how women could be eligible to receive property, given that they did not participate in warfare and were never entitled to war booty (*ghanimah*).<sup>53</sup> This is the wisdom behind the revelation of Surah an-Nisa verse 11 - to elevate women's rights. This study observes that when laws from Allah the Almighty are viewed holistically without denying women's rights, it indirectly forms the concept of *qiwamah* in sustaining Muslim family institutions.

Therefore, the doctrine of liberalism and feminism in Malaysia, as brought by Nik Noriani Nik Badlishah, is inaccurate. According to her, there is no justice involving women's rights, especially in matters of marriage and divorce. Thus, she

<sup>51</sup> Abdul Rahman Al-Sabuni, *Nizam al-Usrah wa Hillu Musykilatuha fi Daw'u al-Islam*. Beirut: Dar al-Fikr al-Mu'asir, 2005, p. 26

<sup>52</sup> Abu 'Isa Muhammad Bin 'Isa al-Tirmizi, *Sunan al-Tirmizi*, (Mesir: Matba'ah Mustafa al-Babi Halabi, 1975), Vol. 4, p. 414.

<sup>53</sup> Abu al-Fida' Ismail Bin 'Umar Bin Kathir al-Qurasyi al-Basri, *Tafsir al-Qur'an al-'Azim*, Kaherah, Mesir: Dar Tayyibah, 1999, Vol. 2, p. 226.

argues that polygamous marriages should not be implemented and the system of inheritance distribution should be changed because it favors men's rights.<sup>54</sup> This movement clearly rejects the laws of *faraid* that have been agreed upon among the *fuqaha* (Islamic jurists). How can equality in inheritance distribution occur between men and women? Whereas Allah the Almighty has clearly stated in Surah an-Nisa' verse 11 that men receive twice as much as women? Therefore, this study maintains that it is unjust to understand the laws of *faraid* separately from the concept of *qiwamah* in sustaining Muslim family institutions.<sup>55</sup> This study views that the concept of *qiwamah* in Muslim family institutions from the perspective of justice in *faraid* law is based on the following three factors:

### First: Not all situations result in men inheriting twice as much as women

Below are several situations that explain women's shares:

a) Situations where women's share is EQUAL to men's:

- 1) Mother and father will inherit the estate at the same rate, which is 1/6 share each, if the deceased only leaves behind a son.

Heir	Faraid Share	Share
Father	1/6	1/6
Mother	1/6	1/6
Son	' <i>Asabah bi al-Nafsi</i>	4/6

Table 1: *Faraid* calculation

- 2) Male and female maternal half-siblings (siblings who share the same mother but different fathers) will inherit the estate at a rate of 1/6 share each if the deceased does not leave behind a mother, father, or child.

Heir	Faraid Share
Male maternal half-brother	1/6
Female maternal half-sister	1/6
Baitul Mal	4/6

Table 2: *Faraid* calculation

b) Situations where the woman's share EXCEEDS the man's:

- 1) A woman passes away. Her heirs are her husband, mother, 2 full brothers (brothers from the same father and mother), and 1 maternal half-sister (sister

<sup>54</sup> Nik Noriani Nik Badli Shah. *Justice in Islam and Western Legal-Political Thought: A Dual Heritage Affecting Gender Justice in Malaysia*. Malaysia: International Institute of Advance Islamic Studies, 2012, p. 1-261

<sup>55</sup> Hafizah Mohd Bokri & Mohd Zamro Muda, Undang-undang pusaka Islam: Perspektif Sisters in Islam (SIS). *Al-Qanadir International Journal of Islamic Studies*, Vol. 7, No. 2, 2017, p. 11–21.

from the same mother but different father). In this situation, the maternal half-sister receives  $2/12$  of the estate, which is more than what the full brothers receive.

Heir	Faraid Share	Share
Husband	$1/2$	$6/12$
Mother	$1/6$	$2/12$
Full brother 1	<i>Asabah bi al-Nafsi</i>	$1/12$
Full brother 2		$1/12$
Maternal half-sister	$1/6$	$2/12$

Table 3: *Faraid* calculation

- 2) A woman passes away. Her heirs are her husband, father, mother, and 2 daughters. In this situation, each daughter receives  $4/15$  of the estate, which is more than what the male heirs receive.

Heir	Faraid Share	Share
Husband	$1/2$	$3/15$
Father	$1/6 + Asabah$	$2/15$
Mother	$1/6$	$2/15$
Daughter 1	$2/3$	$4/15$
Daughter 2		$4/15$

Table 4: *Faraid* calculation

- c) Situations where women INHERIT a portion of the estate while men of equal status do not inherit.

#### Example 1:

A wife passes away. Her heirs are her husband, father, mother, daughter, and granddaughter. In this situation, the granddaughter receives  $2/15$  of the estate.

Heir	Faraid Share	Share
Husband	$1/2$	$3/15$
Father	$1/6 + Asabah$	$2/15$
Mother	$1/6$	$2/15$
Daughter	$1/2$	$6/15$
Granddaughter	$1/6$	$2/15$

Table 5: *Faraid* calculation

Meanwhile, in the same situation but without the granddaughter, the grandson who is of equal status to the granddaughter would NOT INHERIT ANY PORTION of the estate.

**Example 2:**

Heir	Faraid Share	Share
Husband	1/2	3/13
Father	1/6 + <i>Asabah</i>	2/13
Mother	1/6	2/13
Daughter	1/2	6/13
Grandson	<i>Asabah Binafsih</i>	0

Table 6: *Faraid* calculation

Based on the various situations for women described above, it is clear that the share for women can also change depending on the existence of other heirs at that time. Therefore, the doctrine of liberalism and feminism that denies the justice of *faraid* law is not fair and is completely untrue.

**Second: The obligation of the man/groom to pay the marriage dowry to the bride**

Mahr or dowry means a gift that is obligated by Allah the Almighty for every husband to give to his wife. The ruling of mahr as a mandatory gift is based on the word of Allah the Almighty in Surah al-Nisa' verse 4:

وَأَتُوا النِّسَاءَ صَدُقَاتِهِنَّ نِحْلَةً فَإِنْ طِبَّنَ لَكُمْ عَنْ شَيْءٍ مِنْهُ نَفْسًا فَكُلُوهُ هَنِيئًا مَرِيئًا

The Meaning: *And give the women [upon marriage] their [bridal] gifts graciously. But if they give up willingly to you anything of it, then take it in satisfaction and ease. (al-Nisa': 4)*

Based on Surah al-Nisa' verse 4, the evidence for the obligation of giving marriage dowry from a man to a woman refers to the verb "give." This word is a command (*al-Amr*) from Allah SWT. Al-Mawardi said that this verse is addressed to the husband as an order from Allah the Almighty to give the marriage dowry to his wife. In fact, the ruling on giving the marriage dowry is definitive (*al-qati'*) and cannot be disputed.<sup>56</sup> This verse clearly affirms that the marriage dowry is the absolute right of the bride.

This shows that Islam, from the beginning, has placed women in a special position. The giving of this marriage dowry is also agreed upon by the majority of Islamic jurists.<sup>57</sup> This verse is a clear boundary to differentiate between the practices of Muslims and the practices of the people of jahiliyyah (pre-Islamic ignorance)

<sup>56</sup> Abu al-Hassan 'Ali Bin Muhammad Bin Muhammad Bin Habib al-Basri al-Baghdadi al-Mawardi, *Al-Hawi al-Kabir fi al-Fiqh mazhab al-Imam al-Syafi'i*, Beirut, Lubnan: Dar al-Kutub al-'Ilmiyyah, 1999, vol. 9, p. 390.

<sup>57</sup> Wahbah al-Zuhaili, *Al-Fiqh al-Islamiy wa Adillatuh*. Damsyik: Dar al-Fikr, 1989, Vol. 9, p. 6798.

before the advent of Islam. This is because, in the jahiliyyah period, the guardians of women had taken the marriage dowry that was not their right. As a result, the rights of the bride were denied.<sup>58</sup> Therefore, Islam gives men more rights compared to women in inheritance law (*faraid*) because men are responsible for paying the marriage dowry to the women.

### Third: The obligation of men to provide maintenance to family members

#### i. Maintenance for the wife

According to al-Zuhaili, maintenance means spending wealth on human necessities such as food and drink, clothing, shelter, and the like.<sup>59</sup> Therefore, men receive twice as much as women. This is because maintenance is a responsibility that must be borne by men for their dependents, such as wives and children. In fact, this obligation of maintenance does not cease even if the woman's position, rank, wealth, or lineage is higher than the man's.<sup>60</sup> Instead, the factor taken into consideration is the husband's ability, as stated in the word of Allah the Almighty:

لِيُنْفِقَ ذُو سَعَةٍ مِنْ سَعَتِهِ وَمَنْ قُدِرَ عَلَيْهِ رِزْقُهُ فَلْيُنْفِقْ مِمَّا آتَاهُ اللَّهُ

The Meaning: *Let a man of wealth spend from his wealth, and he whose provision is restricted - let him spend from what Allah the Almighty has given him. (Al-Talaq: 7)*

However, if men fail to fulfill this responsibility of maintenance, al-Qurtubi says they are no longer included among those honored by Allah the Almighty<sup>61</sup>, as recorded in Surah an-Nisa' verse 34: "Men are the protectors and maintainers of women." Although men receive twice the inheritance compared to women, this does not indicate that women are looked down upon or that their rights are denied. This is based on the hadith of the Prophet Muhammad (PBUH):

وَلَهُنَّ عَلَيْكُمْ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ

<sup>58</sup> Hafizah Mohd Bokri & Mohd Zamro Muda, Undang-undang pusaka Islam: Perspektif Sisters in Islam (SIS). *Al-Qanatir International Journal of Islamic Studies*, Vol. 7, No. 2, 2017, p. 11–21.

<sup>59</sup> Muhammad al-Zuhaili, *Al-Faraid wa al-Mawarith wa al-Wasaya*. Damsyik: Dar al-Kalam al-Tayyib, 2001, p. 45, 49, 139.

<sup>60</sup> Hafizah Mohd Bokri & Mohd Zamro Muda, Undang-undang pusaka Islam: Perspektif Sisters in Islam (SIS). *Al-Qanatir International Journal of Islamic Studies*, Vol. 7, No. 2, 2017, p. 11–21.

<sup>61</sup> Muhammad bin Ahmad Al-Qurtubi, *al-Jami' li Ahkam al-Quran*. Kaherah: Dar Kutub al-Misriyyah, 1964, vol.2, p. 84.

The Meaning: *They (women) have rights over you (the men) to provide them with their sustenance and clothing in a reasonable manner.*<sup>62</sup>

ii. Maintenance for children

The provision of maintenance for sons and daughters differs according to predetermined periods. Ibn Hajar explains that the father's obligation to provide maintenance for a son is until he reaches puberty. However, al-Sabuni mentions that maintenance for sons also continues until they are able to be independent.<sup>63</sup> Meanwhile, the provision of maintenance for daughters is until they get married.<sup>64</sup> This discussion clearly shows that maintenance for daughters remains the responsibility of their father except after the daughter establishes her own household. This is because the obligation to provide maintenance will then transfer to her husband. This is as affirmed by Ibn Qudamah and Ibn Rushd, who state that when a marriage bond occurs, the responsibility of providing maintenance by a father to his daughter is transferred to her husband.<sup>65</sup> However, if the woman is divorced, the responsibility of providing maintenance will return to her father.

iii. Maintenance for parents

Scholars agree that children are obligated to provide maintenance, especially to poor parents who have no means of livelihood.<sup>66</sup> In this case, if the parents have *furu'* (children and descendants) who are equal in terms of kinship, they share the responsibility to provide maintenance. The portion of maintenance that needs to be provided by females is half of the male's portion, similar to the *faraid* (inheritance) distribution. Meanwhile, if the heirs differ in terms of status, maintenance is obligated to the closest *furu'*, whether male or female heirs, regardless of whether they have the right to inherit or not.<sup>67</sup> This is based on the word of Allah the Almighty:

وَصَاحِبُهُمَا فِي الدُّنْيَا مَعْرُوفًا

The Meaning: *Accompany them in [this] world with appropriate kindness* (Luqman: 15)

<sup>62</sup> Muslim bin al-Hajaj. *Sahih Muslim*. Beirut: Dar ihya' Turath al-Arabi, 1955, Vol. 2, p. 886.

<sup>63</sup> Abdul Rahman Al-Sabuni, *Nizam al-Usarah wa Hillu Musykilatuha fi Daw'u al-Islam*, Beirut: Dar al-Fikr al-Mua'sir, 2005, p. 228.

<sup>64</sup> Ibn Hajar al-'Asqalani. *Fath al-Bari*. Beirut: Dar al-Ma'rifah, 1959, Vol. 9, p. 501.

<sup>65</sup> Abdullah Ahmad Ibn Qudamah, *al-Mughni*. Beirut: Dar al-Fikr, 2000, Vol. 8, p. 215; Muhammad Ahmad Ibn Rushd, *Bidayatul Mujtahid*. Kaherah: Dar al-Hadis, 2004, Vol. 3, p. 41.

<sup>66</sup> Muhammad Ibrahim Ibn Munzir, *al-Isyraf 'ala Mazahib al-'Ulama'*, Emiriah: Maktabah Mekah al-Tsaqafiyah, 2004, vol. 5, p. 167

<sup>67</sup> Mustafa al-Khin, Mustafa al-Bugha and Ali Syibarji. *Al-Fiqh al-Manhaji a'la Mazhab al-Imām al-Shafi'i*. Damsyik: Dar al-Qalam, 1992, Vol. 3, p. 110.

This matter shows that a son is responsible for providing maintenance to both his parents.<sup>68</sup> Likewise, maintenance must be given even when parents are not Muslims. Originally, non-Muslim parents are prevented from inheriting estate, but the law of providing maintenance remains obligatory on the basis of responsibility as a child to do good to both parents. Although on the surface, the man inherits twice as much as the woman, the responsibility of maintenance remains his obligation and never denies the rights of those under his care, especially women.

Therefore, based on the three factors discussed above, it proves that the *faraid* law is fair and capable of creating the concept of *qiwamah* in the sustainability of Muslim family institutions. This study also sees that Sustainable Development Goal 5, which advocates for gender equality, needs to be understood in the true framework guided by Shariah and not according to the limited understanding of human intellect. Islamic Shariah never denies women's rights or oppresses them. Although Allah the Almighty clearly states that men get twice as much as women, this ratio does not at all deny the rights of a woman but rather emphasizes the element of justice and empowers from the perspective of men's responsibility and protection towards them. At the same time, this study also proves that the claims brought by liberalism and feminism groups stating that the *faraid* law is unfair are completely untrue. This is because Islamic Shariah always elevates the status of women and a man has obligatory demands to fulfill for every woman under their responsibility.

## Conclusion

In conclusion, SDG 5 which focuses on women's full participation, equal opportunities in leadership, and decision-making in political, economic, and public spheres, is accurate and worthy of pursuit. However, women's rights in the aspect of inheritance must be understood and based on the laws of *faraid* as Allah the Almighty has established in Surah an-Nisa, verse 11. This study proves that the *faraid* law is just and does not discriminate against women's rights at all. The wisdom behind the *faraid* law, particularly involving the provision of inheritance at twice the rate to men, can only be understood through a mindset open to divine revelation. However, if this understanding is limited to finite human intellect, the concept of *qiwamah* cannot be sustained in Muslim family institutions. As stated in previous discussions, the *faraid* law is the most detailed law in the al-Quran. Therefore, it is illogical to state that Islam is unfair to women as claimed by liberalism and feminism. The justice of *faraid* law is in line with the nature of human creation, which is created in pairs - male and female. Men have heavier responsibilities in matters of maintenance for wives, children, and both parents. Thus, if this concept of *qiwamah* is well understood, the issue of gender equality does not arise. Justice should be understood by putting things in their proper place. Therefore, this study suggests a

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<sup>68</sup> Muhammad Ahmad Al-Qurtubi, *Al-Jami' li Ahkam al-Quran*. Kaherah: Dar Kutub, al-Misriyyah, 1964, Vol. 14, p. 64-65.

multi-dimensional approach in understanding and implementing the concept of *qiwamah* in contemporary contexts, such as comprehensive education about rights and responsibilities in Islam, dialogue between Islamic scholars and women's rights activists to achieve better understanding should be implemented. In addition, platforms such as scholarly discussions with liberalism and feminism groups should be increased to avoid misunderstandings of *faraid* laws. In fact, action should also be taken by the government and Islamic religious councils if such extreme understandings become more widespread and damage the understanding of Muslim family society in general in Malaysia.

## References

### Journals and Books

- Abdul Mustaqim and Amina Wadud, *Menuju Keadilan Gender*, in A.Khudhori Saleh (ed.), *Pemikiran Islam Kontemporer*, Jendela Yogyakarta, 2003.
- Abdul Rahman Al-Sabuni, *Nizam al-Usrah wa Hillu Musykilatuha fi Daw'u al-Islam* Beirut: Dar al-Fikr al-Mu'asir, 2005.
- Abdullah Ahmad Ibn Qudamah, *al-Mughni*. Beirut: Dar al-Fikr, 2000.
- Abdullahi Ahmed An-Na'im, *Islam and the Secular State: Negotiating the Future of Shari'a*. Harvard University Press, 2008.
- Abu 'Isa Muhammad Bin 'Isa al-Tirmizi, *Sunan al-Tirmizi*. Mesir: Matba'ah Mustafa al-Babi Halabi, 1975.
- Abu al-Fida' Ismail Bin 'Umar Bin Kathir al-Qurasyi al-Basri. *Tafsir al-Qur'an al-'Azim*. Kaherah, Mesir: Dar Tayyibah, 1999
- Abu al-Hassan 'Ali Bin Muhammad Bin Muhammad Bin Habib al-Basri al-Baghdadi al-Mawardi. *Al-Hawi al-Kabir fi al-Fiqh mazhab al-Imam al-Syafi'i*. Beirut, Lubnan: Dar al-Kutub al-'Ilmiyyah, 1999.
- Agenda 21, United Nations Conference on Environment & Development Rio de Janeiro, Brazil, 3 to 14 June 1992.
- Aliran Pemikiran Liberal: Hukum Dan Implikasinya Kepada Islam Di Malaysia, [http://www.e-fatwa.gov.my/mufti/fatwa\\_search\\_result.asp?keyID=1487](http://www.e-fatwa.gov.my/mufti/fatwa_search_result.asp?keyID=1487). Accessed on August 15, 2024.
- Amina Wadud profile. <https://aminawadud.com/>. Accessed on 9 August 2024.
- Amina Wadud, *Qur'an and Woman: Rereading the Sacred Text from a Woman's Perspective*. New York, Oxford University Press, 1999.
- Economic Planning Unit. Twelfth Malaysia Plan, 2021-2025, a Prosperous, Inclusive, Sustainable Malaysia, 2021.
- Farha Abdul Kadir Assegaf profile. <https://www.insideindonesia.org/editions/edition-1034/interpreting-islam-for-women>. Accessed on 9 August 2024.
- Hafizah Mohd Bokri & Mohd Zamro Muda, Undang-undang Pusaka Islam: Perspektif Sisters in Islam (SIS). *Al-Qanatir International Journal of Islamic Studies*, Vol. 7, No. 2, 2017.

- Ibn Hajr al-'Asqalani. *Fath al-Bari*. Beirut: Dar al-Ma'rifah, 1959.
- Ibrahim Majdi Mohamad Kamila, Khadijah Mohd Khambali @ Hambalia & Wan Adli Wan Ramli, Falsafah Liberalisme di Malaysia: Satu Sorotan Awal: Liberalism Philosophy in Malaysia: A Preliminary Highlights, *Online Journal of Research in Islamic Studies*, Vol. 9, No. 2, 2022. <https://doi.org/10.22452/ris.vol9no2.4>
- Ibrahim Mustafa, *Al-Mu'jam al-wasit*. Iskandariah: Dar al-Da'wah, t.t,
- Ines Wagner, Equal Pay for Work of Equal Value? Iceland and the Equal Pay Standard, *Social Politics: International Studies in Gender, State & Society*, Vol. 29, Issue 2, Summer 2022. <https://doi.org/10.1093/sp/jxaa032>
- IPU Parline. Monthly ranking of women in national parliaments, Ranking as of 1st January 2024, [https://data.ipu.org/women-ranking/?date\\_month=1&date\\_year=2024](https://data.ipu.org/women-ranking/?date_month=1&date_year=2024). Accessed on 11 August 2024.
- Jeffrey D Sachs, From Millennium Development Goals to Sustainable Development Goals, *The Lancet*, Vol. 379, No. 9832, 2012. doi:10.1016/S0140-6736(12)60685-0
- John L. Esposito and Natana J. DeLong-Bas, *Women in Muslim Family Law*. Syracuse University Press, 2nd edition, 2001.
- Karimuddin Nasution, Wan Nasyrudin Wan Abdullah & Mohd Faizulamri Mohd Saad. Musdah Mulia's Gender Interpretation Method. *Journal al-Turath*, Vol. 4, No. 2019.
- Kiki Muhamad Hakiki and Ratu Vina Rohmatika. Riffat Hassan's Thoughts on Gender Issues in the Qur'an. *Al-Dzikra: Journal of Qur'anic and Hadith Studies*. Vol. 18, No. 1, 2024. doi: 10.24042/al-dzikra.002024182212500
- Ministry of Women and Child Development, Government of India, 2021. <https://wcd.gov.in/>. Accessed on August 11, 2024.
- Ministry of Women, Family and Community Development, <https://www.kpwkm.gov.my/kpwkm/index.php?r=portal/about&id=b0J5ZFBERFhsalo2U05TWk1nSzVDQT0>. Accessed on 15 August 2024.
- Mohamad Kamil Ab Majid et al., *Wasatiyyah Islam: Antara Liberalisme dan Konservatisme di Malaysia*, Ampang: Pekan Buku Publications, 2012.
- Mohammad Ariffin Bin Ismail, *Cabaran akidah pemikiran islam liberal*, Pejabat Mufti Wilayah Persekutuan, Jabatan Perdana Menteri: Putrajaya, 2012.
- Mohammad Hashim Kamali, *Shari'ah Law: An Introduction*, Oneworld Publications, Oxford, 2008.
- Muhammad Ahmad Al-Qurtubi, *Al-Jami' li Ahkam al-Quran*. Kaherah: Dar Kutub al-Misriyyah, 1964.
- Muhammad Ahmad ibn Rushd, *Bidayatul Mujtahid*. Kaherah: Dar al-Hadis, 2004.
- Muhammad al-Zuhaili . *Al-Faraid wa al-Mawarith wa al-Wasaya*. Damsyik: Dar al-Kalam al-Tayyib, 2001.
- Muhammad bin Ismail al-Bukhari, *Sahih al-Bukhari*, Damsyik: Dar Ibn Kathir, 1993.

- Muhammad bin Jarir Al-Tabari, *Jami' al-Bayan*. Beirut: Dar al-Kutub al-'Ilmiyah, 1992.
- Muhammad Ibrahim Ibn Munzir, *al-Isyraf 'ala Mazahib al-'Ulama'*, Emiriah: Maktabah Mekah al-Tsaqafiyah, Jil. 5, 2004.
- Muslim bin al-Hajaj. *Sahih Muslim*. Beirut: Dar ihya' Turath al-Arabi, 1955.
- Mustafa al-Khin, Mustafa al-Bugha, and Ali Syibarji. *Al-Fiqh al-Manhaji a'la Mazhab al-Imām al-Shafi'i*. Damsyik: Dar al-Qalam. Jil. 3, 1992.
- Nik Noriani Nik Badli Shah profile. <https://sistersinislam.org/8228/>. Accessed on August 10, 2024.
- Nik Noriani Nik Badli Shah. *Justice in Islam and Western Legal-Political Thought: A Dual Heritage Affecting Gender Justice in Malaysia*. Malaysia: International Institute of Advance Islamic Studies, 2012.
- Norani Othman, *Muslim Women and the Challenge of Islamic Extremism*, Kuala Lumpur: Vinlin Press Sdn. Bhd, 2005.
- Peter Jones, Martin Wynn, David Hillier, and Daphne Comfort, The Sustainable Development Goals and Information and Communication Technologies. *Indonesian Journal of Sustainability Accounting and Management*, Vol. 1, No. 1, 2017. doi:10.28992/ijSAM.v1i1.22
- Pusat Rujukan Persuratan Melayu, Dewan Bahasa dan Pustaka, <https://prpm.dbp.gov.my/cari1?keyword=liberal>. Accessed on August 15, 2024.
- Sakiko Fukuda-Parr, From The Millennium Development Goals to the Sustainable Development Goals: Shifts in Purpose, Concept, and Politics of Global Goal Setting for Development. *Gender & Development*, Vol. 24, No. 1, 2016. doi.org/10.1080/13552074.2016.1145895
- Sandra Fredman, Jaakko Kuosmanen and Meghan Campbell, Transformative Equality: Making the Sustainable Development Goals Work for Women. *Ethics & International Affairs*. Vol. 30, No. 2, 2016. <https://doi.org/10.1017/S089267941600006X>
- The Food and Agriculture Organization (FAO). "Realizing Women's Rights to Land in the Law: A Guide for Reporting on SDG Indicator 5.a.2", Rome Italy, 2018.
- United Nations, "Gender equality: Women's rights in review 25 years after Beijing", Research and Data Section, UN Women, USA, 2020.
- United Nations, "Millennium Development Goals", <https://www.un.org/millenniumgoals/>. Accessed on August 06, 2024.
- United Nations, "The 17 Goals", <https://sdgs.un.org/goals>. Accessed on August 06, 2024.
- United Nations, "United Nations Conference on Sustainable Development, Rio+20" <https://sustainabledevelopment.un.org/rio20>. Accessed on August 06, 2024.
- United Nations, Goal 5: Achieve gender equality and empower all women and girls, [https://sdgs.un.org/goals/goal5#targets\\_and\\_indicators](https://sdgs.un.org/goals/goal5#targets_and_indicators). Accessed on 6 August 2024.

Wahbah al-Zuhaili, *Al-Fiqh al-Islamiy wa Adillatuh*. Damsyik: Dar al-Fikr, 1989.

Wan Adli Wan Ramli, Menangani Cabaral Liberalisme Dalam Kalangan Muslim Berdasarkan Konsep Ijmak, *Jurnal Usuluddin*, Vol. 40, Julai-Disember 2014.

Zainah Anwar profile. <https://www.mpvusa.org/zainah-anwar>. Accessed on August 09, 2024.

Zainah Anwar, *Fatwa Mengenai Kedudukan Penama EPF & PERKESO dan Kedudukan Penama Polisi Insuran Sebagai Harta Pusaka*, <https://sistersinislam.org/fatwa-mengenai-kedudukan-penama-epf-perkeso-dan-kedudukan-penama-polisi-insuran-sebagai-harta-pusaka/>. Accessed on August 17, 2024.

Ziba Mir-Hosseini, Mulki Al-Sharmani, Jana Rumminger, and Sarah Marsso Musawah. *Who Provides? Who Cares? Changing Dynamics in Muslim Families*. Musawah. 2018.