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Patriarchy and Islamic Family Law in Indonesia: A Socio-Legal and Hermeneutical Analysis of Injustice

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Abstract: Islamic family law in Indonesia has developed through the interaction of Islamic legal traditions, state regulation, and social practices. Despite legal reforms through Law No. 16 of 2019 concerning Marriage and the Compilation of Islamic Law (KHI) No. 1 of 1991, several legal constructions continue to reflect patriarchal assumptions that may affect the position of women in marriage and family relations. This study employs a normative/doctrinal legal research method supported by literature-based analysis, examining relevant provisions of Indonesian marriage law, the KHI, QS An-Nisa' (4):34, and scholarly literature on Islamic family law, patriarchy, gender equality, and feminist hermeneutics. The analysis applies statutory, conceptual, and feminist hermeneutical approaches to examine the construction of marital roles, qiwāmah, ta'ah and nusyūz, divorce, and marriage guardianship. The study finds that patriarchal assumptions remain visible in several normative constructions and conventional interpretations of Islamic family law, particularly in the positioning of the husband as the head of the family, the asymmetrical construction of divorce rights, and the requirement of male guardianship in marriage. The literature further indicates that such constructions may be reinforced through social and judicial interpretations, although these observations derive from secondary studies rather than original empirical data collected in this research. The study argues that the reconstruction of Islamic family law should not be limited to legislative reform but should also involve contextual reinterpretation of Islamic legal texts through principles of justice, gender equality, mutuality (mubāḍalah), human dignity, non-harm (lā dharar), and maqāṣid al-syarī'ah. Such an approach provides a normative basis for developing Islamic family law that is more just, humane, and responsive to contemporary social conditions.

Keywords: Islamic Family Law, Patriarchy, Gender Equality, Feminist Hermeneutics, Normative Legal Research.

INTRODUCTION

Islamic family law in Indonesia has long been a contentious arena between tradition, religion, and social change. Despite the existence of legal regulations such as Marriage Law No. 16 of 2019 and the Compilation of Islamic Law (KHI) No. 1 of 1991, many of its provisions remain tied to a social structure influenced by patriarchal values. Patriarchy is a social system that places men in dominant positions regarding leadership, decision-making, and access to resources, while women are often subordinated. In Islamic family law, patriarchy is not only inherent in the culture but is also reflected in religious interpretations, national laws, and even the practice of religious justice within society.

Recent studies have emphasized that the interpretation of concepts such as *qiwamah* (husband's leadership) and *tā'ah* (wife's obedience) is often interpreted in an unbalanced and hierarchical manner. For example, research by (Kadumi et al., 2024) Al Kadumi, Seff, and Hakim demonstrates that in Indonesian social practice, *qiwamah* tends to reinforce male control and limit women's space, despite the growing theoretical discourse on gender equality.

The socio-legal approach to family law research is becoming increasingly relevant because law cannot be separated from its social context. Other research also suggests that understanding Islamic family law must be based on its interaction with social values, including the patriarchy recognized as strong in Indonesian society.

Further research by Hafani and Buldani (2025) demonstrates that male dominance in the family occurs not only through symbolic authority but also through economic control. Although women are increasingly playing active roles outside the domestic sphere, control over income, asset management, and important family decisions remains with men, thus perpetuating the patriarchal structure. Other research by Hafani and Buldani shows that male dominance in the family occurs not only through symbolic authority but also through economic control. Although women are increasingly playing active roles outside the domestic sphere, control over income, asset management, and important family decisions remains with men, thus perpetuating patriarchal structures.

In a religious context, the term "sakinah family" is often used to justify patriarchal structures. In fact, the concept of *sakinah* in Islam should convey the meaning of mutual respect, justice, and harmony. Research by AT-THARIQ (Khoiriyah et al., 2025) shows that in practice, the concept of *sakinah* is often interpreted hierarchically, placing the husband as the primary authority within the family.

This is where a feminist hermeneutic approach becomes crucial. The hermeneutical method allows for a rereading of religious texts, taking into account the contemporary social context and principles of gender justice. Ahmad Ash Shiddieqy, Akhmad Roja Badrus Zaman & Muhammad Nur Fathoni (2025) assert that although family law reforms have begun to move toward equality, the legacy of classical patriarchal interpretations still plays a significant role in influencing attitudes, norms, and legal practices in Indonesia.

The process of reforming Islamic family law has begun to emerge through new ideas. For example, the implementation of the *iddah* (waiting period) for husbands as a symbol of justice and gender equality after divorce. These ideas demonstrate that legal reform can remain grounded in sharia values while addressing ever-changing social challenges.

Gender inequality within the family not only impacts social relationships but can also trigger domestic violence. The power imbalance resulting from patriarchy is a major cause of gender-based violence in Muslim families in Indonesia.

Furthermore, studies in various regions show that women are often at a disadvantage in matters of divorce, child custody, maintenance, and the division of joint property. This highlights the need to review the existing structure of Islamic family law.

METHOD

This research employs a normative/doctrinal legal research method supported by literature-based analysis to examine patriarchal structures and gender injustice in Islamic family law in Indonesia. The primary legal materials consist of Law No. 1 of 1974 concerning Marriage as amended by Law No. 16 of 2019, relevant provisions of the Compilation of Islamic Law (KHI) under Presidential Instruction No. 1 of 1991, and relevant Islamic legal texts, particularly QS An-Nisa' (4):34 concerning *qiwāmah*. Secondary materials include relevant scholarly literature on Islamic family law, patriarchy, gender equality, *qiwāmah*, *ta'ah*, *nusyūz*, divorce, marriage guardianship, and *maqāṣid al-syarī'ah*. These materials were selected based on their relevance to the research problem and analyzed thematically to identify patriarchal assumptions and their implications for gender justice.

The analysis combines a statutory, conceptual, and feminist hermeneutical approach. The statutory approach examines the construction of marital roles, divorce, guardianship, and marital obligations in Indonesian family law, while the conceptual approach examines key concepts such as patriarchy, gender equality, *qiwāmah*, *nusyūz*, justice, and mutuality (*mubādalah*). The feminist hermeneutical approach interprets relevant Islamic legal texts through their textual, historical, social, and contemporary contexts by identifying patriarchal assumptions and assessing them against the principles of justice, equality, human dignity, *maqāṣid al-syarī'ah*, and non-harm (*lā dharar*). Claims concerning social practices and judicial behavior are treated as findings reported in the cited secondary literature, whereas the findings of this study are derived from the authors' normative comparison, conceptual analysis, and hermeneutical interpretation.

RESULTS AND DISCUSSION

Analysis of Islamic Family Law in Indonesia: Strengths and Weaknesses

Islamic family law in Indonesia developed through a long and complex historical process, reflecting the intersection of Islamic jurisprudence (*fiqh*) tradition, social practices, and state intervention in shaping a structured legal system. In Indonesia's multicultural context, Islamic family law does not exist as a single entity, sterile from external influences, but rather is the result of a synthesis of various interacting legal sources. *Fiqh*, as a normative religious basis, provides an ethical and legal framework for regulating family life, while local customs contribute cultural elements that existed in society long before state codification. On the other hand, the state plays a significant role in shaping Islamic family law through the processes of legislation, codification, and the institutionalization of judicial institutions. The long interaction between these three elements has resulted in a form of Islamic family law that is not uniform, but displays a unique character that distinguishes it from other Muslim countries (Cholil, 2019).

The formal development of Islamic family law can be traced back to the enactment of Law No. 16 of 2019 concerning Marriage, which became a major milestone in the reform of family law in Indonesia. This law not only regulates marriage for Muslims but also serves as a national legal umbrella applicable to all religions. However, for Muslims, this law holds a stronger position because it was later reinforced by the Religious Courts, a judicial institution with exclusive authority to resolve Muslim family disputes. This institution's power was further strengthened by the Compilation of Islamic Law (KHI) No. 1 of 1991, which serves as the primary reference for judges in deciding family cases (Hidayat & Mahmudah, 2022). These three instruments subsequently formed an Indonesian Islamic family law system that is relatively stable, clear, and has a strong legal basis.

One of the main advantages of this legal system is the state's success in integrating religious norms into the national legal system without making it absolute religious law. The

Religious Courts, as official institutions, place Islamic family law on an equal footing with other civil laws, granting it formal legitimacy while providing a dispute resolution mechanism tailored to the needs of the Muslim community. This position demonstrates the state's ability to manage the legal diversity of Indonesian society and demonstrates that religious law can be accommodated within the national legal system without obscuring the principle of the rule of law.

The Compilation of Islamic Law (KHI), as a form of codification, also demonstrates another strength of Islamic family law: its success in unifying various Islamic jurisprudence views previously scattered across classical texts. Prior to the KHI, judicial practice often relied on specific Islamic jurisprudence texts selected based on the judge's educational background, local religious environment, or local traditions. As a result, judicial decisions were inconsistent and created legal uncertainty. The advent of the KHI brought significant change by providing a single set of guidelines that were easier for both judicial officials and the public to understand and implement. This codification process also reflects the dynamic nature of Islamic family law in Indonesia, and the state did not passively accept Islamic jurisprudence as it was, but instead made contextual adjustments to better suit the needs of society (Mahfiana, 2025).

The modernization of Indonesian family law is also evident in the provisions of the 2019 Marriage Law. The establishment of a minimum age for marriage, mandatory marriage registration, and restrictions on polygamy demonstrate the state's efforts to make family law more responsive to the protection of women and children. These policies represent an adaptation of Islamic law to the demands of social, economic, and global developments, particularly regarding issues of women's rights and family protection. Thus, Islamic family law in Indonesia is not only based on textual normative principles but also considers the core objectives of sharia (maqasid al-syariah), namely justice, protection, and welfare.

However, despite these strengths (Ilda Hayati, Busman Edyar, 2023), Indonesian Islamic family law harbors a number of fundamental weaknesses that hinder the achievement of substantive justice, particularly for women. These weaknesses largely stem from the construction of classical fiqh (Islamic jurisprudence) developed in a patriarchal society of the past. Fiqh, as an intellectual product of Islamic scholars, not only represents religious values but also reflects the social and cultural structures of its time. As a result, a number of norms in fiqh which were later adopted into the KHI still contain patriarchal assumptions which are not entirely compatible with the conditions of a more egalitarian modern society.

One of the most frequently criticized examples is the affirmation of the husband as head of the family in Article 31 paragraph (3) of the Marriage Law. This provision positions men as leaders and holders of supreme authority within the household, while women are positioned as managers of domestic affairs (Muhammad Fadhly Akbar, 2021). This rigid division of roles is clearly no longer relevant to current societal developments, where women play not only domestic roles but also active roles in education, employment, and public leadership. While some argue that this provision reflects Islamic teachings, it actually reflects a gender-biased interpretation of past Islamic jurisprudence (fiqh). The concept of a husband's leadership in the family is not theologically absolute, but rather a social construct within a specific context.

Another potential dimension of gender inequality concerns the different legal constructions of *cerai talak* and *cerai gugat* under the Compilation of Islamic Law (KHI). The existing legal framework does not permit a husband to terminate a marriage through an extra-judicial unilateral act. Article 39 of Law No. 1 of 1974 concerning Marriage, as amended by Law No. 16 of 2019, and Article 115 KHI require divorce to be conducted before a court. Within this framework, Article 114 KHI distinguishes divorce through *talak* from divorce based on a divorce claim, while Article 117 defines *talak* as the husband's declaration before

the Religious Court. Article 129 further provides that a husband seeking to pronounce *talak* must submit an application to the Religious Court, whereas Article 132 paragraph (1) recognizes the wife's right to file a *cerai gugat*.

Accordingly, the gender issue should not be framed as a contrast between an extra-judicial unilateral right of the husband and a court-bound right of the wife, because both forms of divorce are subject to judicial proceedings under Indonesian positive law. Rather, the relevant issue concerns the different procedural constructions and legal positions assigned to husbands and wives in divorce proceedings. From a gender-justice perspective, this distinction warrants examination as to whether the *cerai talak* and *cerai gugat* mechanisms provide substantively equivalent access to the dissolution of marriage, particularly in relation to procedural burdens, evidentiary requirements, and the protection of parties in situations involving marital conflict, neglect, or violence. Such an assessment must be based on the actual normative provisions and, where empirical effects are asserted, on findings reported in relevant secondary literature rather than on an unsupported generalization about women's experiences.

Regarding the issue of marriage guardianship, the Compilation of Islamic Law (KHI) also demonstrates strong patriarchal tendencies by prohibiting women from marrying themselves even though they are adults and have legal capacity. This provision reflects the view that women are considered incapable of making their own decisions in fundamental matters such as marriage. However, in the national legal system, women are recognized as independent and competent legal subjects in various other aspects, such as entering into contracts, owning property, and carrying out other legal actions. This inconsistency demonstrates the tension between the spirit of gender equality in national law and the patriarchal norms of the KHI.

In addition to substantive weaknesses in the legal text, the weaknesses of the Islamic family law system are also evident in judicial practice. The persistent patriarchal culture in society often influences how judges understand and apply the law. Several decisions demonstrate that judges still employ a dual moral standard, which tends to require women to be more obedient and submissive, while men's behavior is more tolerant. For example, in divorce cases, some judges still use the "nusyuz" (inability to obtain a divorce) argument to reject women's claims, despite failing to consider the complexity of power relations within the household or the presence of non-physical violence such as economic control and emotional manipulation (Krismono & Dzulfikar Rahman, 2024).

These weaknesses indicate that Indonesian Islamic family law requires reconstruction to be more just and appropriate to modern social conditions. This reform does not mean abandoning Islamic teachings, but rather returning family law to the spirit of the *maqasid al-sharia* (the principles of sharia), namely, creating justice, protecting human dignity, and preventing harm (Akbar, 2018). From a legal hermeneutic perspective, *fiqh* texts must be understood within their social context, rather than applied literally without considering changing times. This approach allows Islamic family law to develop dynamically without becoming trapped in the patriarchal structures of the past.

Ultimately, the strengths and weaknesses of Indonesian Islamic family law demonstrate an interesting duality. On the one hand, Islamic family law has a strong institutional foundation, a stable judicial system, and significant potential for modernization. However, on the other hand, the substance of the law remains constrained by patriarchal texts that require reinterpretation. For Islamic family law to truly deliver substantive justice, a reconstruction of understanding, revision of discriminatory norms, and increased gender sensitivity in judicial practice are necessary. These efforts will move Indonesian Islamic family law toward a system that is not only formally legal but also morally and socially just.

Patriarchal Perspective in Islamic Family Law in Indonesia

Patriarchy in the context of Islamic family law in Indonesia cannot be understood simply as a remnant of traditional culture, but rather as a social structure that has been institutionalized through various religious norms, classical Islamic jurisprudence interpretations, and state legal policies. Patriarchy itself is a system that organizes society by placing men as the primary authority in almost all aspects of life, both in the public and private spheres (Faizah, 2018). In Islamic family law, this patriarchal structure is present not only at the social level but also rooted in normative constructions that regulate the relationship between husband and wife, marital rights and obligations, forms of household leadership, and the mechanisms of divorce and guardianship. Thus, patriarchy becomes a broad framework that influences how legal texts are understood and applied in everyday life (Seff et al., 2025).

One of the most debated patriarchal norms in Islamic family law in Indonesia is the concept of *qiwamah*. Ideally, *qiwamah* can be understood as the husband's moral responsibility to care for and provide for the family. However, in practice, *qiwamah* is often interpreted as theological legitimacy for placing men as the sole leaders and holders of absolute authority within the household. This literal and ahistorical interpretation then results in the formation of unequal power relations between husband and wife. Although a number of contemporary Muslim scholars emphasize that *qiwamah* is not a symbol of domination, but rather a moral mandate, patriarchal interpretations continue to dominate family law discourse in Indonesia. Through interpretations that place men in control, patriarchal structures gain legitimacy from the legal language itself, making them appear as permanent and unquestionable normative provisions (Yulinda et al., 2025).

In a social context, this interpretation of *qiwamah* has resulted in asymmetrical gender relations. Men are positioned not only as protectors and primary breadwinners, but also as the ones who determine the direction of the family. Meanwhile, women are imagined as individuals who must be submissive, obedient, and play a role in the domestic sphere as housewives. This narrative was then institutionalized in Law No. 16 of 2019 and Compilation of Laws No. 1 of 1991 (Muthoharoh et al., 2025). Article 31 of the Marriage Law, for example, reproduces this division of roles by stating that the husband is the head of the family and the wife is the housewife. This legal formulation explicitly perpetuates the patriarchal family structure, where the authority structure is skewed in favor of men.

Patriarchy is also evident in the concept of "wifely obedience," or *ta'ah*, which remains a reference in a number of Religious Court decisions. In many divorce cases, the term *nusyuz* is used to assess the wife's behavior, not the husband's. While theoretically, disobedience could be committed by the husband, in judicial practice, *nusyuz* is applied biasedly because wives are considered more likely to engage in "rebellious" or "disobedient" behavior. The selective use of this term demonstrates how powerful patriarchal structures operate in influencing the moral perceptions of judges and law enforcement officials regarding domestic relations (Muslih Sultan, Alimin, Ahmad Muttaqin, Syawaluddin Hanafi, 2025). This bias directly impacts women's access to justice, as their status as a "nusyuz wife" can hinder their rights, including the right to maintenance, housing, and even the right to children under certain circumstances.

Another aspect of patriarchy in Islamic family law is evident in the divorce mechanism. Divorce, as the husband's prerogative, is one of the most fundamental elements demonstrating gender inequality. Under the existing system, a husband can issue a divorce through a relatively simple procedure, while a woman must file for divorce through a lengthy litigation process that requires evidence. In practice, this situation places women in a vulnerable position, particularly in cases of unhealthy, violent, or economically dependent households. This inequality in access to solutions to a marriage clearly demonstrates how

Islamic family law operates on patriarchal logic, placing the ultimate authority to terminate a marriage in the hands of men.

Not only in divorce, but inequality is also evident in the rules regarding marriage guardianship. The Compilation of Islamic Law (KHI) states that a woman cannot marry herself even if she is an adult and fully legally competent. The marriage guardian must still be a man, whether a father, brother, or other male relative. This provision emphasizes that women's autonomy over themselves is still considered incomplete in Indonesian Islamic family law. Yet, in various other legal aspects, such as contracts, property ownership, transactions, and financial decision-making, women are recognized as independent legal subjects (Imaduddin & Firdausi, 2023). This inconsistency illustrates that patriarchy is still permitted to regulate women's private space through paternalistic guardianship mechanisms. In the modern context, such provisions are often considered irrelevant because they diminish women's rights to independently determine their marital future.

Besides appearing in legal texts, patriarchy is also perpetuated through social practices that internalize traditional values regarding gender roles. Many Indonesian Muslims still view men as possessing the highest moral authority within the family. They are considered more rational, more mature in decision-making, and more worthy of taking control of family affairs. Conversely, women are often relegated to the role of housekeeper, husband's companion, and mother to children. When this social construct is combined with gender-biased legal norms, it creates conditions that reinforce inequality and limit women's freedom of movement in both the private and public spheres.

In judicial practice, this patriarchal bias is evident in the many decisions of judges that view family matters from a traditional moral perspective. For example, in divorce cases, judges often question the wife's reasons, even suspecting economic motives or disobedience, while the husband's negligence or violence are not always considered compelling reasons. This demonstrates a double standard in assessing the behavior of husbands and wives. Patriarchy exists not only in legal texts but also in the way judges view and interpret the facts of the trial (Pangestu et al., 2025).

However, it is important to understand that patriarchy in family law does not originate solely from Islam, but is largely a legacy of patriarchal culture that developed before modernity. In many traditional societies, including those in the Middle East and Southeast Asia, family structures are inherently patriarchal. Because Islamic jurisprudence (fiqh) was formed within this social context, it is not surprising that many of its provisions reflect male dominance. When this fiqh was later adopted by the state through the Compilation of Islamic Law (KHI), the patriarchal logic inherent in it was inherited into positive law.

Therefore, patriarchy in Indonesian Islamic family law cannot be viewed as a final religious teaching, but rather as a result of social interpretation subject to revision. Many contemporary scholars have deconstructed gender-biased classical Islamic jurisprudence concepts, including reinterpretations of *qiwamah* (contract of marriage), guardianship, and the right of divorce. They assert that the fundamental principle of sharia is not male domination, but rather justice, mutuality, and the protection of human dignity. With a contextual, hermeneutical approach, norms that appear patriarchal can be understood as historical products that no longer need to be upheld literally.

In the development of global gender law discourse, it is increasingly recognized that patriarchy is not merely an issue of relations between men and women, but also a social structure that determines access to resources, power, and legitimacy. Islamic family law in Indonesia, as part of this structure, plays a dual role: on the one hand, it provides legal certainty, but on the other, it has the potential to become an instrument that reinforces injustice if not interpreted progressively. Current reform of Islamic family law requires considering two important aspects: first, the involvement of women as empowered legal

subjects. Second, the reinterpretation of patriarchal norms to align with constitutional values such as equality, non-discrimination, and substantive justice (Roidatus Shofiyah, 2025).

In this context, patriarchy in Indonesian Islamic family law is not an untouchable or unchangeable entity. Instead, through socio-legal studies and critical hermeneutics, patriarchy can be identified, highlighted, and then reconstructed to make Islamic family law more responsive to the needs of modern society. The realization that patriarchal norms can be challenged and reinterpreted is the first step towards establishing a more humane, just, and sharia-compliant family law.

Socio-Legal and Hermeneutical Analysis of Injustice in Islamic Family Law in Indonesia

The study of gender inequality in Islamic family law in Indonesia requires an analytical approach that focuses not only on legal texts but also on social structures, cultural practices, and how society and legal officials understand and apply them. Socio-legal and hermeneutical approaches are crucial foundations because they enable researchers to view Islamic family law as a living phenomenon, a normative instrument produced, interpreted, and implemented within a broader social context (Suud Sarim Karimullah, Mukhid, Zumiyati Sanu Ibrahim, 2024). With these two approaches, it is possible to understand that inequality is not solely caused by the normative provisions in the Marriage Law or the Compilation of Islamic Law (KHI), but also by the patriarchal culture inherent in social practices, the perceptions of legal officials, and traditional interpretations of the referenced fiqh texts.

Socio-legal analysis teaches that law never stands alone. The norms written in regulations are often the result of the accumulation of history, social structures, and political and cultural interests of the time when the law was formulated. From a historical perspective, many provisions of Islamic family law are rooted in classical fiqh that developed in tribal and patriarchal societies in the Middle East. At that time, gender roles were rigid, with men positioned as leaders of families, managers of property, and holders of moral authority, while women were responsible for the domestic sphere and often subordinated. When these Islamic jurisprudence provisions were adopted into the modern legal system through the Compilation of Islamic Law (KHI) or religious court practices, these ancient social values were carried over and absorbed normatively (Wahyu Ningsih, 2025). This is what causes the structure of Islamic family law to appear biased against women in various issues such as divorce, guardianship, and the division of household roles.

As stated in Article 2 paragraph (1) of Law No. 1 of 1974 and Law No. 16 of 2019, which states that a marriage is valid if it is conducted according to the laws of each religion and its beliefs, it often becomes a gateway for gender bias. When the religious interpretation used is patriarchal, state legitimacy reinforces gender inequality.

From a socio-legal perspective, gender inequality in Islamic family law cannot be separated from the role of society in enforcing these norms. Indonesian society, which largely adheres to a patriarchal culture with traditional role divisions, tends to understand family law through the lens of these social values. For example, the unilateral right of divorce granted to a husband is often considered natural or appropriate, because society views men as more rational and worthy of making major decisions within the family. Conversely, women are considered more emotional and unstable, and there are concerns that they will abuse this right if granted the same legal status. However, this assumption lacks a strong theological basis but rather grows out of long-standing social culture (Nurhikmah, 2024).

When these gender-biased social views enter the judicial system, the impact can be profound. Many socio-legal studies of Religious Courts have found that judges often interpret the roles of wives and husbands based on patriarchal mindsets inherent in everyday culture. In divorce cases, for example, judges often position the wife as disobedient, rebelling against

her husband, or seeking to dominate the household, while the husband's behavior is rarely analyzed in such depth. The use of the term *nusyūz*, which historically refers to disobedience, is almost always directed at women, even though theoretically disobedience can be committed by either party. This practice demonstrates that the legal structure is not only biased in its text but also in the way it is applied (Djalaluddin et al., 2023). Thus, gender inequality in Islamic family law is the result of a complex interaction between written norms, interpretations by legal officials, and societal cultural constructs.

On the other hand, a hermeneutical approach provides a perspective for rereading Islamic legal texts critically, historically, and contextually. Hermeneutics seeks not only the literal meaning of a text, but also attempts to understand how it was created, under what conditions it was formulated, and how it should be reread in a society that has changed socially, economically, and politically. Feminist hermeneutics in Islamic legal studies emphasizes that many classical *fiqh* provisions emerged from men's social experiences and were interpreted by scholars who were almost exclusively male. Therefore, it is not surprising that a significant number of interpretations of family law are patriarchal.

Hermeneutics invites readers to see that the verses of the Qur'an regarding the household, for example the verse about *qiwāmah* which is found in QS An-Nisa' (4):34

الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ فَالصَّالِحَاتُ قَانِتَاتٌ لِّلْعَيْبِ بِمَا حَفِظَ اللَّهُ وَالَّتِي تَخَافُونَ نُشُوزَهُنَّ فَعِظُوهُنَّ وَاهْجُرُوهُنَّ فِي الْمَضَاجِعِ وَاضْرِبُوهُنَّ فَإِنْ أَطَعْنَكُمْ فَلَا تَبْغُوا عَلَيْهِنَّ سَبِيلًا إِنَّ اللَّهَ كَانَ عَلِيمًا كَبِيرًا

Meaning: Men (husbands) are responsible for women (wives) because Allah has made some of them (men) excel others (women) and because they (men) have spent part of their wealth. Righteous women are those who obey (Allah) and guard themselves in (their husbands) absence because Allah has protected (them). As for those women about whom you fear *nushuz*, advise them, leave them in bed (separate beds), and (if necessary,) beat them (in a way that is not painful). But if they obey you, do not seek ways to cause them trouble. Indeed, Allah is Most High, Most Great.

This verse cannot be understood solely as a justification for male superiority, but must be read in the context of Arab society in the early days of Islam which was still very patriarchal. Using hermeneutical methods, Muslim feminist scholars such as Amina Wadud, Asma Barlas, and Ziba Mir-Hosseini have proposed a rereading of key concepts in family jurisprudence, emphasizing fundamental sharia values such as justice ('*adl*), mutual benefit (*mubādalah*), protection of women's rights, and the principle of non-harm (*lā dharar*). This approach is particularly relevant given that many norms applied in Indonesia still adhere to literal interpretations that fail to take social change into account (Irsyadunnas, 2015).

When socio-legal and hermeneutical analyses are combined, it becomes clear that injustice in Islamic family law in Indonesia is not a single issue located in the legal texts, but rather a structural phenomenon. First, the legal texts used (the Marriage Law and the Compilation of Islamic Law) still largely adopt the provisions of classical, patriarchal *fiqh* (Islamic jurisprudence). Second, the social structure of Indonesian society, which still interprets gender traditionally, reinforces this bias. Third, law enforcement officials, particularly judges in the Religious Courts, also bring personal and cultural biases into their interpretation of the legal texts. These three factors reinforce each other, giving rise to systemic injustice.

The results of the socio-legal analysis show that patriarchal bias also manifests in the basic assumptions of family law regarding the function and role of women. Many legal provisions imply that women are in need of protection, not legally independent. This is evident in the regulations on marriage guardianship, which place the male guardian as the party representing the woman in determining her marriage. This provision seems to deem women less mature in determining their own future, even though in the context of modern civil law, women are recognized as independent legal subjects. This disharmony shows that

there is a contradiction between modern legal principles based on equality and Islamic family law norms that still refer to past patriarchal structures (Maghfurrohman et al., 2024).

Meanwhile, a hermeneutical approach allows for the reinterpretation of norms that appear discriminatory. Through historical reading, for example, it can be understood that the provision of guardianship in marriage in the past arose because women in classical times lacked access to education, economic opportunities, or public spaces. Thus, guardianship served as a protective mechanism. However, when the social context changes and women now have the same education, income, and legal capacity as men, these provisions must be reread. If guardianship is maintained, an interpretation must be sought that does not disadvantage women and aligns with the principle of *maslahah* (beneficial benefits).

A hermeneutical approach also provides a strong basis for reconsidering the right to divorce. Historically, the right to divorce was granted to the husband because he served as the breadwinner and head of the family. However, in modern society, the husband-wife relationship has shifted toward mutuality. Women now play not only domestic roles but also earn a living, study, and participate in the public sector. Therefore, granting the right to divorce exclusively to the husband is no longer relevant. Feminist hermeneutics emphasizes that provisions that eliminate a woman's right to terminate a marriage are inconsistent with the purpose of Sharia, which is to uphold justice.

Through a combined socio-legal and hermeneutical approach, it can be concluded that reforming Islamic family law in Indonesia is not sufficient through mere revision of laws. Reform must also address aspects of legal interpretation, legal education, community culture, and the thinking of Islamic scholars. If legal texts are only revised without improving how judges and the public read them, gender injustice will persist. Therefore, a paradigm shift in interpreting Islamic legal texts is a crucial step in eliminating structural injustice.

CONCLUSION

This research confirms that Islamic family law in Indonesia has a strong foundation through the existence of the Compilation of Islamic Law (KHI), the Marriage Law, and a relatively stable religious court system. The state's efforts to integrate religious norms into national law, including restrictions on polygamy, the determination of a minimum age for marriage, and mandatory marriage registration, demonstrate the law's adaptation to modern social demands. These steps reflect a commitment to strengthening protection for women and children and unifying family law practices in Indonesia.

On the other hand, the research shows that Islamic family law remains rife with patriarchal bias, both in its regulations and implementation. Concepts such as *qiwamah* (the right to divorce), the husband's exclusive right to divorce, marital guardianship, and the application of *ta'ah* and *nusyuz* (the right to divorce), place women in a less than equal position. This injustice is reinforced by interpretations by legal officials and societal culture, which still positions men as dominant figures, often leaving women vulnerable in divorce, custody, and household decision-making.

By combining socio-legal and feminist hermeneutics approaches, this study emphasizes that family law reform requires not only regulatory changes but also transformations in how legal texts are read, judicial practices, and social awareness. Reinterpretation of gender-biased norms is necessary to align them with the principles of justice and the *maqāsid al-syarī'ah* (objectives of justice). Through this multidimensional reform, Indonesian Islamic family law has the potential to develop into a more just, humane, and responsive system to societal developments, where women can be recognized as equal legal subjects.

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