

# THE POSITION OF WOMEN IN THE FAMILY LAW ACCORDING TO LIBERAL FEMINIS

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DOI: <https://doi.org/10.35719/ijlil.v4i1.137>

**Abstract:** Historical facts reveal that thousands of years before Islam came, especially in the era of Jahiliyah, women were seen as not having complete humanity and therefore women did not have the right to speak out, did not have the right to work, and did not have the right to own property, this caused the feeling of shame to have daughters who resulting in the burial of innocent baby girls being buried alive is also an injustice due to wrong traditions. The results of this research are (1) The misunderstanding of society regarding the position of women in the family according to Siti Musdah Mulia is the result of wrongly interpreting this verse of the Koran due to several reasons. One of them is that in general, Muslims understand religion more dogmatically, the Islamic community obtains religious knowledge through lectures from the scholars', and (2) Musdah Mulia's basic thoughts are related to formulating the position of women in the family, including a) There are no differences in men -men and women. One of God's blessings is that all human beings, whether male or female, are equal, regardless of ethnicity, wealth, or social position. In God's view, man is valued only based on his obedience; b) the essence of Islamic teachings is to humanize humans and respect their sovereignty. and therefore must be recognized as natural; c) The essence of religious teachings is to humanize humans, respect humans and honor them.

**Keywords:** women, liberal feminists, Family Law, Musdah Mulia.

**Abstrak:** Fakta sejarah mengungkapkan bahwa ribuan tahun sebelum Islam datang, khususnya di era Jahiliyah, perempuan dipandang tidak memiliki kemanusiaan yang utuh sehingga perempuan tidak memiliki hak untuk bersuara, tidak memiliki hak untuk bekerja, dan tidak memiliki hak untuk bersuara. hak untuk memiliki harta benda, hal ini

**IJLIL: INDONESIAN JOURNAL OF LAW AND ISLAMIC LAW  
VOLUME 4 NUMBER 1 JANUARY-JUNE 2022;  
ISSN 2721-5261 E-ISSN 2775-460X**



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menyebabkan rasa malu memiliki anak perempuan yang mengakibatkan penguburan bayi perempuan yang tidak bersalah dikubur hidup-hidup juga merupakan ketidakadilan karena tradisi yang salah. Hasil dari penelitian ini adalah (1) Kesalahpahaman masyarakat tentang kedudukan perempuan dalam keluarga menurut Siti Musdah Mulia adalah akibat dari penafsiran yang salah terhadap ayat Alquran ini karena beberapa alasan. Salah satunya adalah pada umumnya umat Islam lebih memahami agama secara dogmatis, masyarakat Islam memperoleh ilmu agama melalui ceramah dari para ulama, dan (2) dasar pemikiran Musdah Mulia terkait dengan merumuskan kedudukan perempuan dalam keluarga, antara lain a) Tidak ada perbedaan antara pria - pria dan wanita. Salah satu nikmat Allah adalah bahwa semua manusia, baik laki-laki maupun perempuan, adalah sama, tanpa membedakan suku, kekayaan, atau kedudukan sosial. Dalam pandangan Tuhan, manusia hanya dinilai berdasarkan ketaatannya; b) inti ajaran Islam adalah memanusiaikan manusia dan menghormati kedaulatannya. dan karena itu harus diakui sebagai alami; c) Hakikat ajaran agama adalah memanusiaikan manusia, menghormati manusia dan menghormatinya.

Kata kunci: Perempuan, Feminis liberal, Hukum Keluarga, Musdah Mulia.

## Introduction

Women as the subject of discussion always attract attention, especially with regard to the issue of movement of women wherever they are, never stop and are not consumed by time. Women from time to time have always been guinea pigs, so they can't help but keep trying and trying not to be made fun of and gossiped by men. Historical facts reveal that thousands of years before Islam came, especially in the era of Jahiliyah, women were seen as not having complete humanity and therefore women did not have the right to speak out, did not have the right to work, and did not have the right to own

property, this caused the feeling of shame to have daughters who resulting in the burial of innocent baby girls being buried alive is also an injustice due to wrong traditions.<sup>1</sup>

In the teachings of Islam it is taught to humans how to have true godliness, and then guide them to true humanity. In everyday life, monotheism is the main guideline that guides and directs humans to act right, both in relation to God, with fellow humans, and with the universe.<sup>2</sup>Jahiliyah culture despises women and sees them as despicable creatures. That culture is now known as patriarchal culture.<sup>3</sup>A culture that tolerates oppression, unfair treatment and inhumanity, especially towards women. As a result of the domination of the Jahiliyah culture, many women have to be confined, shackled, and shackled. They are not allowed to study, enjoy higher education, have careers, work and have professions, carry out useful humanitarian activities and gain knowledge to help others.

The issue of equality is always hotly discussed. The debate about the position of men and women has always been a magnet that has attracted Muslim scholars to always talk about it, even though they know that issues of equality are a

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<sup>1</sup> Siti Musdah Mulia, *The Glory of Women in Islam*, (Jakarta: Megawati Institute, 2014), 9

<sup>2</sup> Siti Musdah Mulia, *Beautiful Islam Voices Gender Equality and Justice* (Yogyakarta: Nauvan Pustaka & Megawati Institute, 2014), 1.

<sup>3</sup> *Ibid.*, 9.

classic phenomenon that adorns Islamic scholarship.<sup>4</sup>Life in pre-Islamic history found a very sad phenomenon to occur in the human class, where the phenomenon of burying female babies alive because of the concern that parents would later endure shame had become a custom and tradition at that time. Women are deprived of their rights, their position and honor are insulted so that they cannot get their rights to study, enjoy education, have careers, work, have professions and carry out other humanitarian activities to benefit the people around them.

In addition, at that time the fact was that the position of women was always far below that of men in their social strata. In an indefinite period of time, women continue to receive different treatment, especially when they are juxtaposed with men. Their fate was always concerning because their existence was no more like puppets which were only used as a means of satisfying the lust of the kings and rulers who reigned at that time. In fact, it is not uncommon for them to become like goods that can be bought and sold.<sup>5</sup>

Then Islam came proclaiming women's humanity as a whole human being. Islam has changed this and placed

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<sup>4</sup> Muhamad Subekti, "Equality of Husband and Wife in Domestic Life (Study of Siti Musdah Mulia's Thought)," (Thesis, Postgraduate of UIN Sunan Kalijaga Yogyakarta, 2017), 01.

<sup>5</sup> Haya bint Mubarak Al-Bari, *Mausu'at al-Mar'ah al-Muslimah*. Terj. Amir Hamzah Fachruddin, Cet. I, (Jakarta: Darul Falah, 1997), 5.

women in a place that is noble and equal to men. The recognition of the noble position of women in Islam is proven by the existence of the letter an-Nisa, 4: 1:

يَا أَيُّهَا النَّاسُ اتَّقُوا رَبَّ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ وَخَلَقَ مِنْهَا زَوْجَهَا وَبَثَّ مِنْهُمَا  
أَرْجَالًا كَثِيرًا وَنَسَاءً وَاتَّقُوا اللَّهَ الَّذِي تَسَاءَلُونَ بِهِ وَالْأَرْحَامَ إِنَّ اللَّهَ كَانَ عَلَيْكُمْ رَقِيبًا

Meaning: O people! Fear your Lord who created you from one (Adam), and (Allah) created his partner (Eve) from his (self); and from both Allah gave birth to a large number of men and women. Fear God, with whose name you ask each other, and (maintain) kinship. Indeed, Allah is always watching and watching over you.

Through this verse, efforts to eliminate discriminatory traditions against women emerge. Islam has also regulated the roles and duties of a woman. Rasulullah SAW was very persistent in opposing and eroding the culture of ignorance which inhumane and harass women. He fights for the realization of Islamic teachings that are accommodating to human values, teachings that promote gender equality and justice. She gradually restored women's human rights as complete and independent human beings.

Indonesian people who have always preserved the values of patriarchal culture are easily influenced by gender-biased interpretations of Islamic teachings. And in turn, such interpretations form or construct gender relations that are

unequal and unfair. Gender relations are the result of cultural construction, therefore to change gender relations that are unequal and unfair to women requires cultural reconstruction efforts.<sup>6</sup>

One of the sectors that plays the role of women is in the family. Family is a group consisting of more than two people formed by marriage, blood ties, or adoption. In a family there is a deep and strong relationship, some people even call it an inner bond, a strong sense of belonging also forms this bond. In the family, a woman has the role of a housewife who cares for children and serves her husband.<sup>7</sup>

In the family, the wife also has a role in coaching and welfare together both physically, psychologically and socially. This is expected to be able to improve the family in society. The mindset that is embedded in society is that women have a role as caretakers of the state of the house, this is due to restrictions on the scope of women.

In the family, the woman who is being talked about is not only concerned with the position of a wife. We can also see the position of women in the family as mother, child and wife. The wife has a role in coaching and well-being together physically, psychologically and socially. This is expected to be

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<sup>6</sup> Siti Musdah Mulia, *The Glory of Women in Islam*, (Jakarta: Megawati Institute, 2014), 14

<sup>7</sup> Adil Fathi Abdullah, *Being an Ideal Mother*, (Jakarta: Pustaka Al-Kautsar, 2001), cet first, 36.

able to improve the family in society. Mothers have a role in educating and giving love and affection to their children. Children have a role to be filial and help both parents. So that we can conclude that the position of women discussed is not only about one position but other positions that participate in efforts to increase welfare.

In social life, we often find that there is a negative stigma regarding women, which we often hear that women are still labeled as being greedy. The result of this mindset and labeling is the emergence of discussions and struggles for women's rights, because of an awareness, association, and information flow that makes Indonesian women more critical of what happens to their people. Fighters for women's rights in Indonesia are greatly influenced by the development of feminism that exists outside, both in the west and some get inspiration from Islamic feminists.

There is nothing wrong with the analytical knife approach offered by Western feminists with their various streams (Liberal, Radical, Marxist and Socialist, Psychoanalyst and Gender, Existentialist, Postmodern, Multicultural and Global, Ecofeminism) and what Islamic feminists such as Asghar Ali offer Engineer, Fatimah Mernissi, Riffat Hassan, and Amina Wadud. However, the historical, cultural and social backgrounds faced by Indonesian women are different from what happened in the west and in Islamic (Arab)

countries. Though these factors influence him in analyzing or making a conclusion and policy. Therefore, researchers assess and feel the need for a concept that truly originates from Indonesia and is in accordance with the culture and personality of the Indonesian people.

Siti Musdah Mulia is a feminist figure of Indonesian Islam, because she is a Muslim woman who in analyzing various important issues around women's lives refers to the holy book of the Koran as a source of women's emancipation and liberation. He expressed his view of the Koran, namely "walahunna mislu al-lazi 'alaihina bi al-ma'ruf" meaning that women have rights over men as men have rights over women.<sup>8</sup>

One of Siti Musdah Mulia's thoughts is that a wife can become the head of the family. He argues that the word head in the sentence of the head of the family has the connotation of power, this has also succeeded in breaking the stigma of society that women are equal partners with men.<sup>9</sup>

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<sup>8</sup> Mohammad Ali, Siti Sariroh, and Rumawi Rumawi, "Social Construction of Widow's Marital Rights without Finishing Waiting Period (Idah) in Indonesia," *Studia Iuridica Lublinensia* 30, no. 5 (December 17, 2021): 13–28, <https://doi.org/10.17951/sil.2021.30.5.13-28>.

<sup>9</sup> Siti Musdah Mulia, *The Glory of Women in Islam*, (Jakarta: Megawati Institute, 2014), 9



## **Research methods**

The approach used in this study is a qualitative approach, while qualitative itself is a research procedure that produces descriptive data in the form of written or spoken words from people and observable behavior.<sup>10</sup> While the type of research used is a type of library research (library research). What is meant by library research is research carried out using literature, in the form of books, notes, and reports of research results from previous researchers. This type of research was chosen because the sources of research data were obtained from various written works, such as books, magazines, and other documents which were directly or indirectly related to the problems being studied.

## **Discussion**

### **Biography Siti Musdah Mulia**

A religious thinker who recently appeared frequently in the public media because some of his thoughts were considered to be very brave in voicing human rights, especially a weak creature called a woman. He voiced it out loud. That figure was none other than Prof. Dr. Siti Musdah Mulia, MA, APU.<sup>11</sup>

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<sup>10</sup> Lexy J Moleong, *Qualitative Research Methods* (Bandung: Youth Rosdakarya, 2009), 4

<sup>11</sup> Marwan Sarijo, *Cak Nur between the Sarong and Tie and Musdah Mulia still veiled* (Jakarta: Ngali Aksara Foundation, 2005), 66.

To be able to know who Musdah Mulia is and a series of thoughts, it is undeniable not to trace the background of his life history and educational journey. Because it is likely that a character's thinking will be heavily influenced by the environment in which he grew up and lives with his family.<sup>12</sup>

Siti Musdah Mulia, the name that had been pinned by her parents, but because she felt the name 'siti' was not 'cool', finally the first name was removed when she was still in Junior High School (SMP). It turned out that removing the first name 'Siti' was a mistake for her, because Musdah Mulia's name was considered a male name, so it was not uncommon for people who did not know her to write her name on the invitation letter saying "father", that's where she felt that she regretted losing her name. that front. Although in the family his nickname is still known as Mulia.<sup>13</sup>

Precisely on March 3, 1958 in Bone, South Sulawesi Musdah Mulia was born to H. Mustamin Abdul Fatah and Hj. Buaidah Ahmad. Musdah Mulia grew up in a very religious environment. Her mother is the first girl in the village to successfully complete education at the Darud Dakwah wal Irsyad (DDI) pesantren, the oldest and most famous Islamic

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<sup>12</sup> Muhammad Subekti, "Husband and Wife Equality in Domestic Life (Study of Siti Musdah Mulia's Thought)", (Thesis, UIN Sunan Kalijaga, Yogyakarta, 2017), 47.

<sup>13</sup> Ahmad Bulyan Nasution, "Gender in Islam: A Study of Siti Musdah Mulia's Thought", (Thesis, IAIN North Sumatra, Medan, 2014), 29.

boarding school in Pare-Pare, Sulawesi. Meanwhile, his father was an activist for an Islamic organization, which became known as a fundamentalist Islamic organization. His father became one of the respected leaders in the Islamic State version of Abdul Kahar Muzakkar which was later called the DI / TII movement in South Sulawesi. However, in her daily life, her father always teaches tolerance in the family, meaning that Musdah was never forced to follow a career in her father's organization.<sup>14</sup>

In the course of his life, Bone only became the city of his birth, because after the age of 2 years Musdah was invited to join his parents to move to Surabaya. It was in this city that Musdah spent her childhood (1960-1967).<sup>15</sup> When he was 7 years old, he moved from Surabaya to Jakarta. Precisely in a slum fishing village in Kalibaru Village, Tanjung Priok. This area is generally inhabited by poor fishermen. Many children drop out of school and their communities are accustomed to drinking, fighting among residents, and sex workers are easily found on every street corner and in irregular houses. Generally, they also only finish elementary school (SD) and then get married. The moral crisis then resulted in damage. Including the number of sexual harassment against women. Seeing the sight of people who love free sex made a special cut

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<sup>14</sup> Ira D. Aini, *Mujahidah Muslimah: Prof. Dr. Siti Musdah Mulia*, (Bandung: Nuansa Cendekia, 2013), 36.

<sup>15</sup> Subekti, "Husband-Wife Equality in Domestic Life ....", 48.

and made an impression on Musdah. So that with the harsh reality that surrounds her, she is determined to uplift human rights, especially oppression of women.<sup>16</sup>

His career in government is also demonstrated by his functional position as a researcher with the rank of Main Research Expert (APU). He has also been an Expert Staff to the State Minister for Human Rights in the field of discrimination prevention and minority protection (2000-2001). In addition, he was also the Expert Team for the Indonesian Minister of Manpower.<sup>17</sup> His current activities, aside from being APU, are also a postgraduate lecturer at UIN Jakarta and a lecturer at other universities.<sup>18</sup>

The reason why she felt that she really liked her profession as a researcher was that Musdah wanted to prove

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<sup>16</sup> Siti Musdah Mulia and Anik Farida, *Women and Politics*, (Jakarta: PT. Gramedia Pustaka Utama, 2005), xi.

<sup>17</sup> Saridjo, Cak Nur: *Between the Sarong and Tie and Musdah Mulia ...*, 71.

<sup>18</sup> His career began as a non-permanent lecturer at IAIN Alaudin, Makassar (1982-1989) and Univ. Indonesian Muslim Muslims, Makassar (1982-1989); Researcher at the Research Institute for Religious Literature, Makassar (1985-1989); Researcher at the Balitbang Department of Religion, Jakarta (1990-1999); Lecturer at the Institute of Al-Qur'an Science (IIQ), Jakarta (1997-1999); Director of the Central al-Wathoniyah College, Jakarta (1995-present); Postgraduate Lecturer at UIN, Jakarta (1997-present); Head of the Jakarta Institute for Religious Research (1999-2000); Expert Staff to the State Minister for Human Rights (HAM) in the field of Discrimination Prevention and Protection of Minorities (2000-2001); Indonesian Minister of Manpower Expert Team (2000-2001); Expert Staff of the Minister of Religion R. I in the field of International Religious Organization Relations (2001-present). See: Noble, *Islam and Inspiration for Gender Equality ...*, 256.

that women can also become true researchers. Due to the fact, in his workplace there are only 2 women among 20 male researchers, even though as he knows that being a researcher is not bound by a certain gender, however, what is an absolute requirement for researchers is that lies in their expertise and abilities.<sup>19</sup>Therefore, gender differences should not cause differences in status in the world of work (public).

### **Position of Women in the Family**

Equality is the position of equal / equal position between men and women in all aspects of life, both in family life and in life in society. Men and women have the same opportunities and rights in terms of receiving education, politics and other social roles.<sup>20</sup> All of this is aimed at promoting and dignifying human rights, especially women, who have often suffered from acts of distortion.

Whether they realize it or not, up to now, most women have not fully enjoyed the freedom enjoyed by men. In fact, there are still many women who are powerless when they experience discrimination. This is due to the lack of awareness of women about their rights and also a lack of awareness for men to treat women as they should. Such conditions occur in almost all levels of society, including

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<sup>19</sup> Ira D. Aini, Mujahidah Muslimah: Prof. Dr. Siti Musdah Mulia. Bandung: Nuansa Cendekia, 2013),

<sup>20</sup> Siti Musdah Mulia, Reformed Muslimah - Women Reform Religious (Bandung: Mizan, 2004), 228.

Muslim communities. The contributing factor is the environmental conditions developed by the Muslim community. Namely, a mixture of a number of local traditions against Islamic teachings.

According to Musdah Mulia, the mission of Islam which is conditional on the values of equality (al-musawah), brotherhood (al-ikha '), and freedom (al-khuriyah) to uplift the dignity of the weak (women) is not well realized because society's doctrine will patriarchal culture is very strong intimidating women's rights. As a result, there is still a lot of violence directed at women, especially in relation to the family.<sup>21</sup>

The position of men who are always favored over women means that the fulfillment of women's rights as wives is often not fulfilled. Whereas the position of husband and wife according to Musdah is equal to their duties and obligations in the family. Polemics that often result in distortion and bias in the positions of men and women in relation to the family originate from differences in people's understanding of the essence of Islamic law sources.

According to Musdah, the public's misunderstanding in interpreting this verse of the Qur'an is due to several

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<sup>21</sup> Muhammad Subekti, "Husband and Wife Equality in Domestic Life (Study of Siti Musdah Mulia's Thought)", (Thesis, UIN Sunan Kalijaga, Yogyakarta, 2017), 68.

reasons. First, in general, Muslims understand religion more dogmatically, not based on critical reasoning, especially religious knowledge which is closely related to the position of women. Second, in general the Muslim community obtains religious knowledge through lectures from scholars - who are generally very gender biased - not based on critical experiences from various media read as references. Third, the understanding of the relationship between men and women in society refers more to textual understanding of sacred texts so that they ignore their contextual understanding.<sup>22</sup> which is more egalitarian and accommodating to human values.<sup>23</sup>

Therefore, Musdah wanted to carry a concept of renewal in which she adapted some of Amina Wadud's thoughts in reinterpreting the verses of the Koran which had been considered to provide gender biased understanding of women. One of the verses that Musdah brings up in relation

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<sup>22</sup> The term contextual is a new term in the world of interpretation. This means that this idea arose as a result of concern over the appearance of the interpretation of the Qur'an so far, which is considered less fair and comprehensive. Fazlur Rahman, as one of the initiators of this contextual interpretation, considers that the interpretation of the Koran has only interpreted the verses in fragments (partial). Therefore, according to Rahman, the interpretation of classical and middle scholars does not produce a cohesive and meaningful *weltanschauung* (world view) for life as a whole. Contextual is the meaning which means more at 'historical roots'. The term context is used to describe the situations and conditions that surround the reader. So, contextual means everything that is or relates to the context of the reader. See: Munirul Abidin, *Paradigm of Women's Interpretation in Indonesia*. Malang: UIN Maliki Press, 2011), 42.

<sup>23</sup> Siti Musdah Mulia, *Islam and Inspiration for Gender Equality*, cet. 2. (Yogyakarta: Kibar Press, 2007), 24.

to equalizing women's rights as wives is the concept of 'qawwam' in Surah an-Nisa': 34.

الرجال قوامون على النساء بما فضل الله بعضهم على بعض وبما أنفقوا من أموالهم  
فالصلحت قنتت حفظت للغيب بما حفظ الله والتي تخافون نشوزهن فعظوهن  
واهجروهن في المضاجع واضربوهن فإن اطعنكم فلا تبغوا عليهن سبيلا ان الله كان  
۳۴ عليا كبيرا

Meaning:

"Men are the leaders of women, because Allah has exaggerated some of them (men) over others (women), and because they (men) have spent part of their wealth. Therefore, a godly woman who is obedient to God takes care of herself<sup>24</sup> when her husband is not there, because Allah has taken care of (them). <sup>25</sup>The ladies you worry about nusyuznya, <sup>26</sup>So advise them and separate them in their beds, and beat them. then if they obey you, then do not find a way to trouble them.<sup>27</sup> Allah is Most High, Most Great. "

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<sup>24</sup> It means: not cheating and maintaining her husband's secrets and assets.

<sup>25</sup> Meaning: Allah has obliged the husband to have a good relationship with his wife.

<sup>26</sup> Nusyuz: Namely leaving the obligation to be married to a wife. nusyuz from the wife's side is like leaving the house without her husband's permission.

<sup>27</sup> The point is: to teach a wife who is worried about her defiance, she must first be given advice, if advice is not useful then separated from their bed, if it is not useful then it is permissible to beat them with a beating that leaves no mark. if the first method has been beneficial, do not do the other way and so on.



So far, the meaning of 'qawwam' has been defined as superior to men so that the position of men as husbands is one level in power above that of wives and families.<sup>28</sup> Musdah tried to reinterpret the word 'qawwam' by humanizing women more. This means, according to Musdah, the meaning of 'qawwam' which has been interpreted as saying that men are the 'head of the family' or the leader for women in their families is not an absolute stipulation that the husband has, in a situation the conditions may change, the men are no longer able to become a 'qawwam' for their family, then the position of 'qawwam' can be offered to women who do have the qualifications to hold that position.<sup>29</sup>

Musdah Mulia offers several solutions to rectify the gender-biased views of society in interpreting the above verse. There are two things that need to be considered in interpreting the word 'qawwam', namely: First, the above verse must be interpreted in its entirety, not in pieces as it has been socialized to the community so that it creates multiple interpretations. Second, this verse speaks in the context of husband-wife relations in the family realm, and does not

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<sup>28</sup> Your Excellency, Reformed Muslimah..., 376.

<sup>29</sup> S Muhamad Subekti, "Equality of Husband and Wife in Domestic Life (Study of Siti Musdah Mulia's Thought)," (Thesis, Postgraduate of UIN Sunan Kalijaga YOGYAKARTA, 2017), 69.

include the relationship between men and women in the public sphere.<sup>30</sup>

The use of the words 'head' and 'leader' which relies on men as a result of these multiple interpretations will place men as human beings who are powerful and very authoritarian. The implication that will appear in society is that the husband is like getting legitimacy to do something in his family according to his will. This is what Musdah thinks will lead to domination, discrimination, exploitation, and all forms of violence that often occur in women in the family.<sup>31</sup>

Therefore, Musdah said that only men who meet certain qualifications can carry the 'qawwam' category. Namely, those who have higher quality than their wives and have fulfilled their obligations to provide for the family. That is why the word rijal uses alif laam which in Arabic terms means something definitive or certain. That is, it does not refer to all husbands who do not have these qualifications.<sup>32\</sup>

Musdah Mulia's opinion or offer regarding the equal rights and obligations of husband and wife in this family is based on her theological view that women must also have independence, including:

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<sup>30</sup> Siti Musdah Mulia, *Building Heaven on Earth* (Jakarta: PT. Elex Media Komputindo, 2011), 85.

<sup>31</sup> Noble, *Islam and equality...*, 19

<sup>32</sup> *Your Majesty, Build Heaven on Earth...*, 85.

1. Women have political independence (al-istiqlal al-siyasah). QS. an-Naml (27): 23 states that leadership figures such as Queen Balqis who rule the super power kingdom ('arsyun' adzim).
2. Independence in the economic field (al-istiqlal al-iqtishadi) QS. an-Nahl (16): 97. As explained in the Qur'an, the story of the woman who runs the farm in the story of Prophet Musa in Madyan (Surah al-Qashash (28): 23).
3. Muslimah must have individual independence (al-istiqlal al-syakhshi). Women at the time of the Prophet were given the freedom to be able to achieve achievements as achieved by men in the sectors of life in society, politics, economics, and various other public sectors. Therefore, in the Qur'an, women are encouraged to have the courage to make choices that they consider right even in the presence of their husbands (QS. At-Tahrim (66): 11) or against the crowd (QS. At-Tahrim (66): 12).<sup>33</sup>

According to researchers, the concept offered by Musdah Mulia in reinterpreting the meaning of 'qawwam' in verse 34 of Surah an-Nisa 'above is a new form of refreshment in the field of Islamic interpretation and understanding to the public. In this way, Musdah hopes that stereotypical views of women can be eroded and fused along with the realization of

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<sup>33</sup> Noble, Islam and the Inspiration of Equality..., 18.

human values in paying attention to the improvement of women's fate.

As the researcher explained above, Musdah's concept departed from Muslim feminist theory, namely Amina Wadud. A Muslim feminist from Pakistan who loudly voices freedom openly to women.

From some of the statements above, the researcher thinks that all the statements made by feminists actually want to elevate the status of women to be equal to men in the realm of the family. However, in reality, the essence of the creation of men and women is so different that to equate it 50:50 seems unlikely. However, what should be done is how to create harmony between the two through these differences.

Seeing such problems, according to the researcher, what Musdah Mulia has triggered in relation to equalizing the rights and obligations of husband and wife in the family is a big contribution to the freedom of women who have been allegedly confined in their rights. However, it needs to be known that freedom advocates like Musdah Mulia will continue to echo this freedom so that if that freedom is left without being embedded in religious doctrine, it will go too far and bring destruction to its adherents. The reason is, the concept brought by Musdah Mulia does not show a complete understanding of the rights and obligations of husband and wife, all of this is clearly seen in his analysis of the letter an-

Nisa ': 34 which he deems can represent an explanation of the concept of the rights and obligations of husband and wife in the family.<sup>34</sup>

In fact, the concept of the rights and obligations of husband and wife cannot be understood by using just one verse, because the interpretation of this verse requires an explanation of several other verses that are also related in it. Therefore, for the individual researcher, regarding the discussion of the rights and obligations of husband and wife, the concept of classical ulama is more detailed and intact because in reality the problems in the family can be resolved if the husband and wife are able to carry out their respective rights and obligations.

Fulfilling the rights and obligations of classical scholars does not only emphasize the role of the husband as a leader who must provide for clothing, food and shelter in his family.<sup>35</sup> However, the role of the wife is also required to fulfill

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<sup>34</sup> Joko Sayono et al., *Community Empowerment through Research, Innovation and Open Access: Proceedings of the 3rd International Conference on Humanities and Social Sciences (ICHSS 2020)*, Malang, Indonesia, 28 October 2020, 1st ed. (London: Routledge, 2021), <https://doi.org/10.1201/9781003189206>.

<sup>35</sup> Other obligations that a husband must fulfill to his wife are: First, to teach a wife something she needs, namely related to religious knowledge. Second, for those who practice polygamy, the husband must treat his wives fairly. Third, a husband should also guard his wife's disgrace (this is to maintain a good relationship between the two). Fourth, leading with kindness and firmness as exemplified by the Prophet in his family. Fifth, keep jealousy as necessary / appropriate. Sixth, it can overcome problems

her obligations to her husband.<sup>36</sup> One of the most important roles of a wife in matters of her obligations to her husband is obedience not to disobedience and fulfillment of the husband's biological services.

In addition, it is necessary to build awareness that in essence there is no religious doctrine which tends to be gender biased, namely favoring one gender and discrediting other gender groups because religion was revealed to mankind to provide blessings for all nature. Based on this reason, it is hoped that any bias that occurs in any background can be understood wisely and of course it is studied more deeply based on strong religious arguments.

### **Formulating the Position of Women in the Family The Position of Women in the Family**

Women are always an interesting topic to discuss. Today there are many forms of perpetuating injustice in society, including injustice in the relationship between men and women which is often referred to as gender injustice. The position of women in social reality is the point of discussion. Various actions arise, starting from those that harass and

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between husband and wife. See: al-Ghazali, *Revealing the Nature of Marriage...*, 140.

<sup>36</sup> The wife's obligations towards the husband which are also the rights of the husbands that must be fulfilled by the wife are: First, the wife must obey her husband because of the husband's position as leader. Second, the wife's fulfillment of her husband's biological pleasures. Third, do everything with the husband's permission. See: al-Uthaimin, *Rights in accordance with Fitrah and Shari'a...*, 36.

marginalize them to those that give such a big role as if they don't need men anymore.

The role of women is considered a second role, even though many women have succeeded in being equal even more so than men. In determining social fiqh-fiqh, men are more dominant and organize this system of life in men's standards which change from time to time, depending on these gender interests. Meanwhile, women are forced to conform within the boundaries of men. This is what causes the powerlessness of women in the face of social engineering. Many women are victims of social and industrial shifts in development. With domestic positions, myths and culture do not place women at the forefront.

In the view of Islamic law, everything is created by Allah by nature. Likewise humans, between men and women as individuals and sexes have their respective natures. The Koran recognizes the anatomical differences between men and women. The Koran also recognizes that members of each gender function by reflecting on well-defined differences that are maintained by culture, both among men and women themselves.

The nature of women is often used as an excuse to reduce the various roles of women in the family and society, men are often seen as more dominant in playing various roles, while women have a limited role in the domestic sector. The

culture that develops in society also sees women as weak, emotional, subtle and shy creatures while men are strong, rational, rough and brave creatures. Strangely, these differences are then believed to be natural, it is still a gift from God. Anyone who tries to change it is considered to be against nature and even against God's provisions.

The Koran itself does not teach discrimination between men and women as human beings. Before God, men and women have the same degree, but the problem lies in the implementation or operationalization of these teachings. The emergence of religion is basically a pause which periodically tries to dilute the viscosity of the patriarchal culture. Therefore, the emergence of each religion always gets resistance from those who benefit from the patriarchal culture. this resistance experienced ups and downs in the development of human history.

Not a few Muslims misinterpret feminism; considered as a movement that was deliberately created to destroy the faith of Muslims; regarded as women's resistance to nature; hostility towards men; women's rebellion against household obligations; and even considered as an attempt to reject sharia. All these assumptions are wrong and therefore must be corrected. Then, what is feminism?

Throughout its history, the feminist movement has always defined itself as a movement against the unfair



treatment of women. The point is to reject every form of gender-based discrimination, exploitation and violence against women, whatever the reasons. In other words, feminism is an effort to change that leads to the creation of more just and egalitarian social systems and institutions. It is true that feminism is a product of Western culture so it is not surprising that some people view feminism as synonymous with westernization. However, the early 20th century Islamic history introduced us to a number of feminist Muslim men, such as Rifa'ah al-Thahthawi, Muhammad Abduh and Qasim Amin. The three of them actually remind Muslims not to be trapped in the labeling of West or East.

The three feminists invite Muslims to think critically, rationally and openly. Every idea and idea wherever it comes from, east or west, north or south must be responded critically, rationally and proportionally. This means that every idea and thought wherever they come, must be read by Muslims critically and rationally and always prioritizing the principles of justice and benefit which are the essence of Islamic teachings. The aim is none other than that Muslims can reap positive and constructive aspects of these ideas and thoughts as well as to try to avoid all negative and destructive things. Of course, Muslims must adhere to the essence of Islamic teachings as contained in the Al-Qur'an and Sunnah.

The substance of the feminist movement is to fight for a society that is just and gender-equal, a society free from all forms of discrimination, exploitation and violence. If so, the Prophet Muhammad (saw) could not be called the first feminist in Islam. This is because he was sent with a mission of liberation, namely to free all human beings from all forms of injustice. The Prophet was here to free humans from the shackles of thagut (all forms of discrimination and exploitation) as well as various superstitions and khurafat by introducing the concept of tauhid (pure monotheism).

Fiqh is a formulation of Islamic understanding extracted from the Qur'an and Sunnah, because of course it is not absolute and uncertain (zhanni). As a result of intelligent engineering of human thought, there is no guarantee that this view does not contain any mistakes or errors in itself. A result of ijtiḥad is usually always influenced by the socio-cultural and socio-historical factors of the community around it or during the life of the ulama. Therefore, a result of ijtiḥad may not apply eternally to all human beings throughout the ages. It may be that the results of ijtiḥad are suitable for a certain period of time, but not necessarily for another period. It may be that an ijtiḥad is suitable for a particular society, but it is not certain for other societies that have different cultures and needs.

Indonesian Muslims need new interpretations in their Islamic interpretation and understanding. The presence of an Islamic understanding that is accommodative of human values and pays attention to the improvement of the fate of women in Indonesia is a necessity. Only in this way can women improve the quality of themselves towards the birth of a better human civilization. With a new, more humanist interpretation, Islam can show its true face as a religion that is very accommodating to human values, friendly to women, and at the same time rahmatan lil-alamin (a blessing for the universe).

One of the factors behind the conclusion of Musdah Mulia's law is that it departs from his assumption that there are some irrelevance of classical fiqh because it is composed of different eras, cultures and social imaginations. Because of this, it does not truly represent the needs and needs of Indonesian Muslims, as a result of not being thoroughly explored from the local wisdom of the Indonesian people. In a different language, he also said that there had been a sacralization of classical fiqh which the writers believed themselves did not want.

## **Conclusion**

Based on Musdah Mulia's concept of thought above, it can be concluded: 1. The position of women in the family according

to Siti Musdah Mulia; a. The position of women as children, parents must accept the child sincerely and must not waste it. Women in their position as children cannot be neglected, abused or wronged. Every parent is responsible for providing protection and fair treatment to children, regardless of gender. b. Position of women as mothers, not all women have to become mothers. Being a mother is also a free choice that is determined with full awareness and responsibility. Therefore, a woman has full rights over her uterus, she can determine when to marry, and when to become pregnant. The female body is not a reproductive machine. And c. The position of women as wives, the position of women as wives is equal to that of husbands. Both are entitled to happiness and satisfaction, both biological and mental. The two are equally responsible for both domestic duties in the household and in public duties in society. 2. Musdah Mulia's rationale is related to formulating the position of women in the family, including: a) There are no differences between men and women. One of God's blessings is that all human beings, whether male or female, are equal, regardless of ethnicity, wealth or social position. In God's view, man is valued only on the basis of his obedience; b) the essence of Islamic teachings is to humanize humans and respect their sovereignty. and therefore must be recognized as natural; c) The essence of religious teachings is to humanize humans, respect humans and honor them. It

doesn't matter what race, ethnicity, color, gender and social status. In fact, it doesn't matter what religion; d) There is no prohibition in Islam regarding women's leadership in politics.

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