

Gender Equity in Muslim Family Law: Modern and Contemporary *'Ulamā's* View

Mohamed Sulthan Ismiya Begum,^{1,2*} Indriaty Ismail,¹ Zul'azmi Yaakob,¹
Ahamed Sarjoon Razick,² Mohamed Mahroof Ali Abdullah³

¹Research Centre for Theology & Philosophy, Faculty of Islamic Studies, Universiti Kebangsaan Malaysia, Bangi, Selangor – Malaysia; ²Department of Islamic Studies, South Eastern University of Sri Lanka, Oluvil – Sri Lanka; ³Ahmad Ibrahim Kulliyah of Laws, International Islamic University Malaysia, Gombak, Selangor – Malaysia

*Corresponding author. Email: ismiyams@seu.ac.lk

Abstract

The concept of equality has been a rhetoric of increasing importance globally today. This concept teaches that men and women are equal in all aspects without distinction. The Islamic teaching totally reject this concept. Therefore, the main feminist movement claims that Islam is a anti-religion to equality. The equality concept of Islam is quite different from the Western perspective. Hence, this study focuses on the *'ulamā's* view on some important aspects related to equity, especially the nature of different gender and different responsibilities, divorce rights, polygamy, testimony, and inheritable rights based on narrative review. It employs a qualitative approach, where the relevant document is based on primary and secondary sources such as books, journals and website articles and videos. The data collected in this regard were analyzed using the content analyzing method. The findings show that the modern and contemporary *'ulamā's* opinion aligns with Islam's principle of equity, emphasizing the reality and justice behind the concept of equity. Through the understanding and practice of Islamic doctrine can establish a fair equality in the world.

Keywords: equity; gender equality; Islamic perspective; Islamic sources, *'ulamā'*

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Konsep kesetaraan telah menjadi retorika yang semakin penting secara global saat ini. Konsep ini mengajarkan bahwa pria dan wanita setara dalam segala aspek tanpa ada perbedaan. Ajaran Islam secara total menolak konsep ini. Oleh karena itu, gerakan feminis mengklaim bahwa Islam adalah agama yang anti terhadap kesetaraan. Konsep kesetaraan dalam Islam sangat berbeda dengan perspektif Barat. Penelitian ini berfokus pada pandangan *'ulamā'* tentang aspek penting yang berkaitan dengan kesetaraan, terutama sifat gender yang berbeda dan tanggung jawab yang berbeda, hak-hak perceraian, poligami, kesaksian, dan hak-hak yang dapat diwarisi berdasarkan tinjauan naratif. Penelitian ini menggunakan pendekatan kualitatif; dokumen yang relevan didasarkan pada sumber-sumber primer dan sekunder seperti buku, jurnal, artikel, dan situs web, serta video. Data yang dikumpulkan dalam hal ini dianalisis dengan menggunakan metode analisis konten. Temuan penelitian menunjukkan bahwa pendapat *'ulamā'* modern dan kontemporer sejalan dengan prinsip kesetaraan dalam Islam, yang menekankan pada realitas dan keadilan di balik konsep kesetaraan. Melalui pemahaman dan pengamalan doktrin Islam dapat membangun kesetaraan yang adil di dunia.

Kata Kunci: kesetaraan; kesetaraan gender; perspektif Islam, sumber-sumber Islam; *'ulamā'*

Introduction

Islam is the first religion to promote gender equality, although historically, women have been marginalized, oppressed, degraded, deprived of resources, separated, and excluded.¹ According to Galloway,² the patriarchal community in Muslim culture has advanced and vigorously enforced old Islamic jurisprudence books on gender equity under the guise of Islam. As a result, one of the most important issues and on-going concerns of the modern period is the status of women in Islam.³ Islam's beliefs on gender equality are not the only ones that have generated controversy.⁴ As a result, the main feminist movement claims that the Qur'an is sexist and promotes animosity against Islam.⁵ According to Western feminist viewpoints on gender equality, it is out dated and prejudiced towards women.⁶ The rejection and repression of Islamic *Shar'iah* was another effect of Western culture's infiltration into the Islamic world.⁷ In light of the growing gender equality issue, Muslims' opinions on their rights, obligations, and duties are unclear.⁸

Even feminism achieved victory in sustaining equal rights, achieving development in all sectors without any gender differentiation, eliminating the gender discrimination that has been around for ages. However, it is an inevitable

¹ Sajo and A. Muhammad, "An Islamic Perspective on Gender Equality Controversy in Nigeria," *African Scholar Journal of Humanities and Social Sciences* 15, no. 6 (2019): 27–34.

² Sonia D. Galloway, "The Impact of Islam as a Religion and Muslim Women on Gender Equality: A Phenomenological Research Study," *Doctoral Thesis* (Nova Southeastern University, 2014).

³ G. H. Adeel, "Status of Women in Islam," al-Islam.org, 2010, <https://www.al-islam.org/message-thaqalayn/vol-11-no-1-spring-2010/status-women-islam-critical-analysis/status-women-islam>.

⁴ Mufidah Cholil, "Complexities in Dealing With Gender Inequality: Muslim Women and Mosque-Based Social Services in East Java Indonesia," *Journal of Indonesian Islam* 11, no. 2 (2017): 459–88, <https://doi.org/10.15642/JIIS.2017.11.2.459-488>.

⁵ N. Ahmad and M. H. Ishak, "Gender Equality from the Quranic Perspective," in *The 6th International Prophetic Heritage Conference (SWAN)*, 2018, 129–135; Etim E. Okon, "The Status of Woman in Islam," *IOSR Journal of Humanities and Social Science (IOSR-JHSS)* 10, no. 2 (2013): 21–27, [/https://www.iosrjournals.org/iosr-jhss/papers/Vol10-issue2/C01022127.pdf?id=6205](https://www.iosrjournals.org/iosr-jhss/papers/Vol10-issue2/C01022127.pdf?id=6205).

⁶ Trisnawati Trisnawati, "Justice In Islam on Gender Issues (the Study of Discourse on Polygamy Regulation in Pamekasan Regency)," *Islamuna: Jurnal Studi Islam* 3, no. 2 (2016): 259–80, <https://doi.org/10.19105/islamuna.v3i2.1155>.

⁷ Faisal Hj. Othman, "How Muslim Women Have Been Misunderstood by Muslims," *Islamiyyat: Jurnal Antarabangsa Pengajian Islam* 11 (1990): 25–38.

⁸ T. Saiful et al., "Gender Equality Perspective and Women Position in Islam," in *Proceedings of the International Conference on Law, Governance and Islamic Society (ICOLGIS 2019)* (Paris, France: Atlantis Press, 2020), <https://doi.org/10.2991/assehr.k.200306.212>.

fact that there has been prevailing gender inequality all over the world. So far, it has not achieved the expected success.⁹ As a result, Jahan et al.¹⁰ said that in 2015, there were seventeen Sustainable Development Goals that the United Nations has adopted. Achieving gender equality and empowering all women and girls globally is the fifth goal. It is emphasized that women can be essential to accomplishing this objective. Thus, Ibrahim et al.¹¹ said that women are becoming more involved in various industries, and they compete with males for jobs and other opportunities due to their education, abilities, and other attributes. However, while the modern world is headed toward technology, violence against women and gender injustice still exists societal gender disparity has not yet been eradicated.

Therefore, achieving gender equality without considering the nature of both men and women remains a major challenge nowadays. To achieve justice, Islam's teaching proclaims the basic principle. Hence, Qur'an and Sunnah are the prime sources of Islamic teaching. However, there is prevailing inequality in the Muslim community, too, due to the misunderstanding of Islamic doctrine, lack of religious knowledge, cultural beliefs, and malpractice in the name of Islam led to misunderstanding on the religion.

Based on this, several scholars academician has been continuously emphasizing the real teaching of Islamic doctrine. In this base Islamic scholars' view considers as next importance source of Islamic doctrine as they indicate represent the goal of the primary sources of Qur'an and Sunnah.¹² Hence, noted that Muslim scholars can be divided as classical, modern and they take various position to address gender and sexuality issues.¹³

⁹ Nur Saadah Hamisan@Khair et al., "Evaluating the Concept of Gender Equality in the Islamic Perspective and SDG: An Analysis," *Rabbanica: Jurnal Ilmu Wahyu* 2, no. 2 (2021): 149-166, <https://ejournals.kias.edu.my/index.php/rabbanica/article/view/199>.

¹⁰ Rownok Jahan et al., "The Role of Women in Achieving Sustainable Development Goals (SDGs) In Islam: An Analysis of Gender Equality and Women Empowerment in the Modern World," *al-Burhān: Journal of Qurʾān and Sunnah Studies* 7, no. 2 (2023): 110-24, <https://doi.org/10.31436/alburhn.v7i2.329>.

¹¹ Nasrin Muhammadu Ibrahim et al., "The Challenges Faced by Muslim Women in Pursuing Postgraduate Studies," *Islamiyyat* 44, no. 2 (2022): 149-57, <https://doi.org/10.17576/islamiyyat-2022-4402-11>.

¹² I. Saujan and A. S. Razick, "Awareness of Environmental Protection amongst Muslims in Ampara District," *Islamiyyat* 43, no. 2 (2021): 27-37, <https://doi.org/10.17576/islamiyyat-2021-4302-03>.

¹³ Hatim Muhammad Mahamid and Younis Fareed Abu Alhaja, "Muslim Scholars (ʿUlamā) as Educational Leadership in Medieval Islamic History," *International Journal of Social Science and Human Research* 6, no. 7 (2023): 4317-4324, <https://doi.org/10.47191/ijsshr/v6-i7-57>.

To achieve justice Islam's teaching proclaim the basic principle. Both of the Qur'an and the Sunnah are crucial components of Islamic jurisprudence. Islamic law also considers 'ulamā's comments genuine in addition to the Qur'an and the Sunnah.¹⁴ In conformity with the foundations of Islamic *sharī'ah*, many imams advocate for equity. The teachings of the Qur'an and Sunnah are further strengthened by perspectives of scholars on the notion of gender equity. Begum et al.¹⁵ said that it is inevitable fact that Islam has proclaimed the equity of both men and women beyond the distinction of gender considering the nature of both men and women. Because in some respects gender differences cannot be expected in any goal that directs inequality in the society. Therefore, Islam recognizes the differences between men and women in certain matters.

However, critics of traditional 'ulamā' claim that their interpretation of the Qur'an and Sunnah has led to misunderstandings in the concept of equity in Islam. As a result, it is necessary to explain these issues in light of Islamic theology based on the opinions of the 'ulamā'.

The majority of current research on the idea of gender equity in Islam is based on the Qur'an and Sunnah and takes the opinions of the 'ulamā' into consideration.¹⁶ Although the views of 'ulamā' on gender equity has been

¹⁴ Erwati Aziz, Irwan Abdullah, and Zaenuddin H. Prasajo, "Why Are Women Subordinated? The Misrepresentation of the Qur'an in Indonesian Discourse and Practice," *Journal of International Women's Studies* 21, no. 26 (2020): 238–251, <https://vc.bridgew.edu/jiws/vol21/iss6/14/>.

¹⁵ Mohamed Sulthan Ismiya Begum, Indriaty Ismail, and Zul' Azmi Yaakob, "The Concept of Gender Equality and Equity: An Islamic View," *International Journal of Religion, Arts and Humanities*, no. 2 (2023): 103–115.

¹⁶ Sajo and Muhammad, "An Islamic Perspective on Gender Equality Controversy in Nigeria"; Tedi Supriyadi, J. Julia, and Endis Firdaus, "The Problems of Gender Equality: A Reconstruction of Islamic Doctrine," *Journal of Social Studies Education Research* 10, no. 2 (2019): 91–110, <https://jsser.org/index.php/jsser/article/view/698>; Fathimah Dayaning Pertiwi et al., "Gender Equality in Faminism," *The Bulletin* 5, no. 381 (2019): 112–21, <https://doi.org/10.32014/2019.2518-1467.130>; Muhammad Salman Qazi and Burhan Ud Din, "Islamic Concept of Gender Equality: Origins and Signs," *Al-Qawārīr* 1, no. 3 (2020): 1–11, <https://journal.al-qawarir.com/index.php/alqawarir/article/view/61>; Wilis Werdiningsih and Ahmad Natsir, "Gender Equality and Equity with Mubadalah Concept and Its Implementation in Islamic Education," *Addin* 14, no. 2 (2020): 305, <https://doi.org/10.21043/addin.v14i2.7179>; Hamisan@Khair et al., "Evaluating the Concept of Gender Equality in the Islamic Perspective and SDG: An Analysis"; Tri Winda Oktavia, Firyal Iftikhar Cikalkinanty, and Agus Fakhruddin, "Patriarchy Culture in Gender Equality Concept: Islamic Perspective," *Al-Mada: Jurnal Agama Sosiasl Dan Budaya* 5, no. 1 (2022): 81–93, <https://ejournal.uac.ac.id/index.php/almada/article/view/2010>; Moh. Nor Ichwan and Faizal Amin, "Quraish Shihab's Interpretation of Gender Equality in Tafsir Al-Misbah," *Humanisma: Journal of Gender Studies* 6, no. 1 (2022): 57–71, <https://doi.org/10.30983/humanisme.v6i1.5406>; Nurdin Nurdin, "Gender Equality" Revisited: Deconstruction of Islamic Thought Towards Gender Equality," *Fitua: Jurnal Studi Islam* 3, no. 1 (2022): 12–24, <https://doi.org/10.47625/fitua.v3i1.341>; Manzoor Ali, Asad Raza Talpur,

examined, they focused on particular section or individual or group. Based on this, current research tends to clarify the gender equity in Islamic perspective in the view of modern and contemporary *'ulamā'* based on the research question: What do the *'ulamā'* think about the equity in the Quranic and Sunnah teachings? This evaluation is predicated on the supposition that the *'ulamā'*'s opinions are consistent with the egalitarian principles of the Qur'an and Sunnah and serve as an example of the concept of equity in Islamic teachings.

This study does not cover all aspects of gender equity in Islam. It is limited by the *'ulamā'*'s view on the nature of men and women; different responsibilities for men and women in family institution, rights only for men such as polygamy, divorce rights and different scales in testimony and inheritance. As far as this study is concerned, it is important to evaluate the views of modern and contemporary scholars who explain the reality and justice embodied in the different rights, responsibilities, and duties that Islam provides to both men and women, including the opinions of a few traditional thinkers.

As this is a qualitative approach-based study, data were collected from secondary sources such as journal articles, books, electronic articles, videos, etc. The data were analyzed using the content analyzing method.

Gender Equality and the Nature of Genders

According to the foundations of Islamic teachings, several imams advocated for the equality of both men and women.¹⁷ Although men and women are equal, they are not the same, according to the *'ulamā'*'s viewpoint as Islam has given men and women equitable equality in accordance with their natural tendencies.

According to this principle, Islamic ideals should thus be demonstrated in daily life, and these actions help to develop those principles. Therefore, Islam

and Jalil Ahmed, "Concept of Gender Equity: An Islamic Perspective," *Al-Qamar* 5, no. 3 (2022): 177–186, <https://alqamarjournal.com/index.php/alqamar/article/view/1297>; Indriaty Ismail, Nuramalina Huda Yahya, and Faiz Hadi Sanadi, "Analysis on Gender Equality in Norharyati Kaprawi's Works," *International Journal of Islamic Thought* 17, no. 1 (2020): 53–65, <https://doi.org/10.24035/ijit.17.2020.169>; Aprilian Ria Adisti, "Reviving the Spirit of Gender Equality: Fatayat Nahdlatul Ulama between Idealism and Realization," *Journal of Nahdlatul Ulama Studies* 2, no. 1 (2021): 17–33, <https://doi.org/10.35672/jnus.v2i1.24>; Siti Nikhayatul Ma'unah, "The Concept of Gender Justice from the Perspective of Indonesian Women Ulama," *Santri: Journal of Pesantren and Fiqh Sosial* 2, no. 1 (2021): 65–76, <https://doi.org/10.35878/santri.v2i1.284>.

¹⁷ Aziz, Abdullah, and Prasojo, "Why are Women Subordinated? The Misrepresentation of the Qur'an in Indonesian Discourse and Practice."

places greater emphasis on its theoretical component (equity) than its practical element (equality). According to Elias, equity derives from a word that means “to distribute”.¹⁸ It is the ability to treat others equitably in accordance with their needs and expectations. This idea does not imply that each person should receive an equal amount. Instead, it emphasizes the necessity for resources to be allocated in accordance with people’s needs. In other terms, Hamisan et al.¹⁹ define equity as treating men and women equally.

Despite the Quranic evidence 49:18, which emphasizes the equality of men and women as Almighty’s creation, the Qur’an 3:36 explicitly declares that they are not the same: “The male is not like the female”. Iqbal (1877–1938) who examined the position and role of women in society, according to Eijaz and Ahmed,²⁰ has accepted the Quranic principle that “men are the defenders of women”, but he disagreed with the concept of equality as it is practiced in Europe. Additionally, he contends that their differences in nature and duty prohibit them from being compared on the same scale. Al-Ghazālī (1917–1996) believed that Islam strongly supports a sense of gender equality. Any discrepancies arise from each person’s unique duties and inherent attributes.²¹ Likewise, Assim al-Hakeem’s²² concept of equality, which says that “men and women are equal”, is a different concept in Islam. Islam rejects the notion that men and women are on an equal footing. He cites the Quranic proof from Surah Āli-Imrān, verse 36, which states: “The male is not like the female”. Therefore, in his opinion, there exist differences between men and women. According to Islam, this idea is wholly incompatible.²³ Equity in Islam refers to upholding these principles. Regarding social equality, their relationship is complementary (al-Nisā’ 4:32), not their identity. Men and women in this position are treated

¹⁸ Abu Amina Elias, “Equality and Equity in Islam,” 2018, <https://www.abuaminaelias.com/equalityand-equity-in-islam/>.

¹⁹ Hamisan@Khair et al., “Evaluating the Concept of Gender Equality in the Islamic Perspective and SDG: An Analysis.”

²⁰ Abida Eijaz and Rana Eijaz Ahmed, “Discourses of Feminism in the Perspective of Allama Iqbal and the West,” *Canadian Social Science* 7, no. 5 (2011): 190–197, <https://doi.org/10.3968/J.css.1923669720110705.410>.

²¹ Yusuf Sidani, “Women, Work, and Islam in Arab Societies,” *Women in Management Review* 20, no. 7 (2005): 498–512, <https://doi.org/10.1108/09649420510624738>.

²² Assim al-Hakeem, “Valid Reasons under Which a Wife Can Ask Her Husband for Divorce/Khula in Islam,” YouTube, 2022.

²³ Assim al-Hakeem, “Are Men and Women Equal in Islam?,” YouTube, 2021, <https://www.youtube.com/watch?v=pOTUQISsLg8>.

differently, and everyone fulfils their tasks in line with their individual personalities.²⁴

Al-Hakeem also claims that without enough understanding of Islam, many conclude that Islam does not support gender equality.²⁵ Although both are creations of Allah, due to their many physical and mental differences, it is difficult for them to behave in a manner that is comparable to one another. Thus, males are unable to become pregnant. Aboobabacker Musaliya, General Secretary of the Sunni Jammiyathul '*ulamā*' in India, stressed that the concept of gender equality is incompatible with Islam, illogical, and goes against society and the principles of Islam.²⁶ He highlights the distinctions between the genders. He believes that because women are just good for giving birth, lack mental toughness, and the ability to command the universe, they will never be able to match with males. They belong to males since they have stronger brains. Therefore, while their female colleagues are permitted to practice medicine and become pediatricians, male doctors are authorized to undertake major surgery. Thus, ideas about gender equality are false and unattainable. They disagree with Islam. Both have moral and intellectual flaws.²⁷ Ayatollah Tehrani asserts that equality is not the same as resemblance since there are inherited disparities between the sexes; in his opinion, men and women are superior in different ways.²⁸

Islam specifies the numerous responsibilities given to men and women while affirming that all individuals are equal regardless of their positions, choices, or sense of dignity. Islam favors the idea of justice that goes beyond equality because it believes that responsibilities must take into account people's unique inherent tendencies and affinities. Islam places a strong emphasis on the equality of men and women as human beings as a result. Islam, therefore

²⁴ Ali Gomaa, "The Islamic View on Female Circumcision," *African Journal of Urology* 19, no. 3 (2013): 123–26, <https://doi.org/10.1016/j.afju.2013.02.007>.

²⁵ al-Hakeem, "Valid Reasons under which a Wife Can Ask Her Husband for Divorce/Khula in Islam."

²⁶ DH Admin, "Gender Equality Un-Islamic, Says Muslim Leader," *deccanherald.com*, 2015, <https://www.deccanherald.com/india/gender-equality-un-islamic-says-2163017>.

²⁷ DH Admin.

²⁸ Muhammad Yaufi Nur Mutiullah, "Reinterpretation Meaning of Qiwama in Surah an-Nisa'verse 34 Perspective Hermeneutics of Khaled M. Abou el-Fadl," *Prosiding Konferensi Gender dan Gerakan Sosial* 1, no. 1 (2022): 193–209, <https://proceedings.radenfatah.ac.id/index.php/kggs/article/view/235>.

specifies the duties and obligations of men and women according to their nature, talent, propensity, and competence. Islam forbids burdening someone beyond their capacity. According to al-Qur'an 2:286, no one is burdened above their capacity. For this reason, Islam places some obligations on males and releases some on women.²⁹

Ibn Rushd (1126–1188), asserted that despite the idea that both sexes are equal, men might occasionally be more productive than women. He argues that he and his wife can work in the same industry, despite the fact that he concedes that women are stronger than males in some areas.³⁰ Ghulam Parvez (1903–1985) believed that gender equality in all areas of life is the cornerstone of mankind. However, physiologically speaking, they are two distinct creatures, and their variety is brought about by the diverse tasks that Allah has assigned to them.³¹ These differences, in accordance with Hasan al-Banna (1906–1949), are caused by their differing natures and gender roles. Mir-Hosseini created the term “neo-*fiqh*” or “neo-traditionalist” to characterize the current gender debate based on Banna’s perspectives on various gender roles. The words “equity” and “complementarity” are used by both to highlight the distinct qualities of people.³² According to Iqbal, each person has a unique area of accountability, obligation, and field of activity because everyone has been equally bestowed with a unique potential ego.³³ According to him, men and women are on an equal footing in terms of race. The roles we perform, however, are unique because of the variances in our nature.³⁴

²⁹ Jannatul Ferdaus, “Rights of Maintenance of a Muslim Wife under Islamic Law: A Legal Analysis,” *Bangladesh Journal of Integrated Thoughts* 13, no. 20 (2020): 23–36, <https://doi.org/10.52805/bjtit.v13i20.174>; Muhammad Zahirul Islam, “Concept of Gender Equality in Islam,” 2019.

³⁰ Nadia Harhash, “Debating Gender: A Study of Medieval and Contemporary Discussion in Islam” (Ramallah: Al Nasher Technical Services, 2023).

³¹ Noor Mohammad Osmani, “Ghulam Ahmad Parvez on Issues Concerning Women: A Critical Analysis,” *International Journal of Islamic Thoughts* 1, no. 1 (2012): 35–48, https://ijits.net/ojs3/index.php/ijits/article/view/4?_im-ogxAzLOv=3101778095176089526.

³² Eva F. Nisa, “Women and Islamic Movements,” in *Handbook of Islamic Sects and Movements*, ed. M.A.U.C.M. Cusack, vol. 21 (Brill, 2021), 151–75, https://doi.org/10.1163/9789004435544_010.

³³ Ali Raza Tahir, “Status of Women in Allama Muhammad Iqbal’s Thought,” *al-Hikmat: A Journal of Philosophy* 39 (2019): 97–109, https://pu.edu.pk/images/journal/phill/pdf_files/8_v39_19.pdf.

³⁴ Paola García, “Iqbal’s Philosophy of the Khudi as a Tool for Women’s Empowerment,” *Bahria Research Journal on Iqbal Studies (BRJIS)* 1, no. 1 (2022): 1–16, <https://brjis.bahria.edu.pk/index.php/ojs/article/view/6>.

Thereby, women are responsible for home-related chores, while males are responsible for external responsibilities and family leadership. As a result of the differences between men and women, this duty falls on the family. Man is given the title of family head and is responsible for providing care. Men are in charge of managing the affairs of women because Allah has created men superior to women and has given them the responsibility of providing for them financially, according to Surah al-Nisā' verse 34. The same is affirmed in Surah al-Baqarah, verse 233, "*the mothers may nurse their children for two whole years.*" Here, the duties are distributed between males and females based on their nature.

A woman's character attributes are love, kindness, honesty, tolerance, submission, and appreciation. It is necessary for a family to function effectively. Islam consequently grants women this responsibility due to the nature of women. Despite everyone having distinct responsibilities to perform, they are all equally accountable for achieving their mutually beneficial goals. This is because men now have the status of *qawwāmūn*. Verse 34 of Surah al-Nisā' indicates that "*and the virtuous women are the honestly dedicated ones, who preserve the closeness which God has ordered to be guarded.*" According to this verse, males are totally responsible for taking care of women. In verse 32 of Surah al-Nisā', Allah, says: "*And in no way desire those things in respect to which Allah has given his gifts to some of you more freely than to others.*"

Different Responsibilities

In the administration of the family, a man is given a higher prestige since he is the caregiver, and a woman is given a higher status because of the role of mother. The Quranic notion of "*qawwāmūn*" is also given the same interpretation by contemporary Islamic scholars. Women are equal in all respects, in 'Abduh's opinion, including intellect, passion, and spirituality. This is how the Qur'an defines equality. The traditionalists' interpretation of Surah al-Baqarah verse 228 that "*men have authority over women*" was rejected by 'Abduh. He makes an effort to swallow it whole. Being powerful and having the duty to defend women make males qualified for leadership roles in the family since the family is a social institution. This does not imply that women are unsuited to leadership; rather, given the nature of the human race, males need to fill that position. The phrase "authority" in this verse does not signify suppression or control, he underscored. He portrays the freedom of both men and women as they rely on one another.

Therefore, the woman is the body, and the male is the head. He also suggests that leadership is not always dominated by males over women if women have the necessary qualities and personalities.³⁵ These views are further supported by al-Hakeem.³⁶ Allah declares that the husband is the wife's master. He is the family's captain; thus, both should go together. Because disputes will be the result if there exist two leaders. This does not imply that either men or women are better than the other, that they are not as necessary, or that they should not be consulted. Men are superior to women in areas of management and parental care, but on the Day of Judgment, both will be equal in the sight of Allah. Ahmad al-Tayeb reinforced the same idea by making the implication that governance is crucial to the family as a social structure and that man is best suited to handle these challenging tasks. He continues saying that although he asks his wife's opinion and consults her on every family matter, the husband still has the final say. Additionally, he has leadership responsibilities inside the family. He emphasizes the value of men and women working together to support the family.³⁷ Ahmad Mustafā al-Marāghī (1883–1952) explains that "*qiwāmah*" is exclusive for males. Therefore, he must carry out the maintenance tasks that God has assigned. Allah gave males more importance than women as a result. Women were given this obligation based on their talents, such as the ability to get pregnant and give birth to children, whereas males were given this responsibility based on their abilities.³⁸ Women are also given the responsibility of taking care of the family. The majority of '*ulamā*' feel that on this matter they agree with the Qur'an and the hadiths. According to Imam al-Ghazālī, the wife takes care of domestic duties while the husband worked and earned a respectable salary. They spend time together when he gets home. The spouse has a responsibility to give his family legal protection. He gives his wife and children every bit of support he can, and doing so is the same as *jihād* (striving) for God's honor. On the other hand, the woman must make every effort to help

³⁵ Yusra Khreegi, "Women in the Writings of Muhammad 'Abduh. [Ph.D Thesis]" (School of Oriental & African Studies, University of London, 2014), 21.

³⁶ al-Hakeem, "Are Men and Women Equal in Islam?"

³⁷ Ahram Online Admin, "Egypt's al-Azhar's Grand Imam Says Islamic Inheritance Law Is 'not up for Reinterpretation,'" *Ahram Online*, August 21, 2017, <https://english.ahram.org.eg/NewsContent/1/64/275762/Egypt/Politics-/AlAzhars-grand-imam-says-Islamic-inheritance-law-i.aspx>.

³⁸ Mutiullah, "Reinterpretation Meaning of Qiwama in Surah An-Nisa'verse 34 Perspective Hermeneutics of Khaled M. Abou El-Fadl."

out around the house. Even though remaining in is favoured, a woman may leave the house if she has an emergency and requires her husband's permission.³⁹ Similarly, a woman is recognized under Islamic law as a man's principal partner who is, along with her husband, responsible for taking care of the family and raising their children. It enables a lady to maintain her dignity and demonstrate her humility toward her spouse and his family.

Morality, ethics, and more generalized behavioral patterns are derived from religion. A lady will provide a positive example for her husband and his family if she abides by these rules. A faithless lady may follow her wishes, but she treats her husband poorly, pays no attention to him, and disregards his belongings.⁴⁰ Even though Islam grants women many societal rights, they should prioritize their responsibilities to their families. According to al-Hakeem,⁴¹ a woman who works in an organization can create a tool or machine, but a woman who remains at home will make an entire generation.⁴² Consequently, Parvez claims that from the perspective of the Qur'an, men and women are assigned separate tasks and obligations.⁴³

Polygamy: Rights Only for Men

The practice of having many wives at once is referred to as polygamy.⁴⁴ It is a custom that predates the dawn of human civilization. Islam recognizes polygamy for men and forbids them from treating any of their wives unequally or unjustly.⁴⁵ Islam does not make it a requirement but gives permission to do it under specific conditions. The key passages in the Qur'an regarding polygamy are 4:3 and 4:129. It is further supported by the *'ulamā's* viewpoints. In his book

³⁹ Kaoru Aoyagi, "al-Ghazālī and Marriage from the Viewpoint of Sufism," *Orient* 40 (2005): 124–39, <https://doi.org/10.5356/orient40.124>.

⁴⁰ Sayfullayeva Dिल्фуза Qahramonovna, "al-Ghazali about the Role and Value of a Woman in Building the Family," *Proceeding of The ICECRS: International Conference on World Science and Education. Case of Asia* 4 (2019).

⁴¹ al-Hakeem, "Are Men and Women Equal in Islam?"

⁴² al-Hakeem, "Valid Reasons under Which a Wife Can Ask Her Husband for Divorce/Khula in Islam."

⁴³ Osmani, "Ghulam Ahmad Parvez on Issues Concerning Women: A Critical Analysis."

⁴⁴ M H Kamis and N Ismail, "Feminist Themes in Nawal El Saadawi's Novels," *Islamiyyat* 37, no. 2 (2015): 107–112, <https://doi.org/10.17576/islamiyyat-2015-3702-02>.

⁴⁵ Aziz-Ur-Rehman Saifee et al., "Status, Identity, and Privileges of Women in Islam," *European Journal of Social Sciences* 30, no. 1 (2012): 146–154.

Maṭālib al-Furqān, Parvez explains that if such a condition arises, for instance due to war, and the number of men is reduced in society. The number of orphans increases, especially the number of widows. There are no other reasonable solutions, or if some such individual cases arise (whose cases will be decided by society and not by the individuals themselves), then permission may be given to men to marry. This situation justifies making an exemption to the “one wife, one husband” rule. But if you are unable to uphold fairness between these women, then adhere to the monogamous concept. It is regarded by many *‘ulamā’* as they frequently interpret verse 4:3 of the Qur’an as a suggestion rather than merely permission. Considering the contemporary condition of Muslim culture, modernist academics’ reinterpretations of the pertinent injunction are particularly crucial considering the recent intensive debate on polygamy among Muslim scholars.⁴⁶ The Qur’an is extremely reluctant to accept the institution of polygamy, as evidenced by verse 4:3, but because it was unable to wish it away in light of the current situation, it allowed men to marry up to four wives as long as they treated them equally. If they were unable to meet this crucial requirement, of one or those whom they rightfully possessed, i.e., slave girls, in such circumstances, the recommended evident goal of the Qur’an is monogamy. As a result, Razi (1149–1209) suggests that offering *nawāfil* (optional prayers) is preferable than getting married or taking several spouses. He believed that this text only permitted four spouses. Spouses must cling to one when they are unable to equally divide oneself between them. Imam Ṭabarī (839–923) provides an explanation of Qur’an 4:129, that a guy cannot treat each wife he is married to equally in terms of sex and devotion. He also uses the words of Umar, the second Caliph, who stated in prayer, “O Allah, I have no control over my heart, except for this” (i.e., equal love), and added, “I will try to do justice to all my wives.” More specifically, he cites the Prophet as saying, “O Allah, this is how I divide my time between the wives over which I have control, but do not blame me in matters over which you have control, not me.” Razi concurs with Tabarī’s argument. He contends that this text makes it impossible to treat all spouses equally and that one is not compelled to do what is impractical for him. As a result, men are not obligated to treat their spouses affectionately and sexually in an equal manner.⁴⁷

⁴⁶ R Firdous, “Polygamy in Islam: A Study on the Modernist Approach,” n.d., <https://irigs.iiu.edu.pk>

⁴⁷ Asghar Ali Engineer, *The Qur’an Women and Modern Society*, 2nd ed. (Berkshire: New Dawn Press, 2005), <https://csss-islam.com/wp-content/uploads/2019/07/The-Quran-Women-and-Modern-society.pdf>.

According to Ahmed al-Tayeb, justice is crucial to Islamic practice. As long as the women are treated fairly and the husband abides by the fairness criterion, Islam permits males to have up to four wives; if there is no fairness, having numerous wives is prohibited.⁴⁸

The wide concept of justice in polygamous partnerships that Abduh (1849 - 1905) held sets him apart from Salaf philosophy and demonstrates his reform-focused approach. Abduh argues that polygamy should be avoided since it may lead to social unrest, family strife, and is an act of female humiliation, even though legal schools recognize and encourage it. Furthermore, he draws attention to the fact that the Qur'an's passages on polygamy (4:3 and 4:129) make it quite apparent that a person cannot love more than one woman at once. Because of this, Islamic law permits monogamy and forbids polygamy unless absolutely necessary. The Quranic passages plainly declare that the husband should preserve fairness between the women, yet he cannot do so, according to Abduh, who continues by saying that this verse has been misconstrued by Islamic jurists. Abduh is vehemently opposed to polygamy as a result.⁴⁹

Abduh alludes to verse 4:3's last clause. It is clear from this reading and verse 4:129 that monogamy is the rule, and polygamy is the exception. One learns that polygamy is indeed prohibited by Islamic law.⁵⁰ In contrast, Mumtaz Ali thought polygamy was a practice that was in line with Quranic ideals. Additionally, Yusuf Ali remarked that he thought the verse supported monogamy since it is so difficult to achieve the polygamy criteria for equality.⁵¹ Muhammed-Mikaaeel⁵² explains therefore, Ibn Kathir, while explaining the verse, opined that it is not obligatory to treat them equally but rather, it is recommended to act such that if one does it, it is good for him, and if he is unable to do that, there is no harm to

⁴⁸ Amr Emam, "al-Azhar Grand Imam Sparks Polygamy Rethink," *The Arab Weekly*, March 10, 2019, <https://theArabweekly.com/al-azhar-grand-imam-sparks-polygamy-rethink>.

⁴⁹ Abdur Rahman Doi, *Women in Shari'ah (Islamic Law)*, 4th ed. (Kuala Lumpur: A. S. Nordeen, 1992); M. S. M. Anas, *Thatkala Islamiya Cinthanai: Islathil Navvenathuwa Vadhamum Puthiyurpu Vadhamum (Contemporary Islamic Thought: Modernism and Revivalism in Islam)* (Peradeniya: Cultural Study Circle, 2001).

⁵⁰ Muhammad Naeem-ul-Haq Chishti, "Gender Equality: Human Rights v. Islam," *Pakistan Perspectives* 17, no. 1 (2012): 109-29, <https://journal.psc.edu.pk/index.php/pp/article/view/204>.

⁵¹ A. A. R. Othman and W. M. Y. Wan, *Islam and Polygamy, Sisters in Islam*, 2019, <https://sistersinislam.org/wp-content/uploads/2019/10/Islam-and-polygamy.pdf>.

⁵² Ahmed Abiodun Muhammed-Mikaaeel, "Legal Implication of Quran Chapter 4 Verse 3 on Muslims' Marital Affairs," *Jurnal Hukum Novelty* 12, no. 2 (2021): 204-224, <https://journal.uad.ac.id/index.php/Novelty/article/view/20633>.

him. Doi⁵³ and Muhammad-Mikaeel⁵⁴ states that according to Ibn Sirin (653–729), the Quranic phrase alludes to it being impossible to live and engage in sexual activity. In the same way, according to Abu Bakr ibn al-Arabi, a man cannot control his soul because it is under God’s care. The same is true if one wife receives harsher treatment than the others. The man wasn’t intentionally doing this; this could not be considered as his own fault. He would not anyhow consider sensible as a result. Furthermore, Abu Zayd feels that justice is the most important topic that should be emphasized in a society, according to Zainol et al.⁵⁵, citing the verse from al-Nisa’ 4: 129. Al-Tabari concurs with Ibn Kathir that the basis of polygamy should be justice or fairness. However, if there is an imbalance in how the spouse is treated, how the house and nightly routine are shared, among other things, then the individual will have to choose to adhere to monogamy.

The Quranic verse 4:3 that supports polygamy, according to Moulana Wahiduddin Khan (1925-2021) and Abd al-Ati (1980-2017), refers to a situational dilemma rather than a legal need. This was brought down to provide assistance and social standing to women who lost their husbands and children who lost their dads as a result of the Uhud battle. It was justified to protect widows and orphans appropriately and improve their standing in society.⁵⁶ Abu Zayd (1943–2010) shares the same understanding in this regard.⁵⁷

Some academics make this argument because of the fairness it results in and the fact that Islam has only granted males this power. Quraish Shihab said that urgent and crucial situations may encourage the man’s employment of polygamy, including infertility, a wife’s refusal to “serve” her lover, and others. He asserts that the verse’s main purpose, as mentioned in Tafsir al-Misbah, is to govern the wellbeing of men and women in a home, including their lineage,

⁵³ Doi, *Women in Shari’ah (Islamic Law)*.

⁵⁴ Muhammed-Mikaeel, “Legal Implication of Quran Chapter 4 Verse 3 on Muslims’ Marital Affairs.”

⁵⁵ Nur Zainatul Nadra Zainol, Latifah Abd Majid, and Muhd Najib Abdul Kadir, “Nasr Hamid Abu Zayd as a Modern Muslim Thinker,” *International Journal of Islamic Thought* 5, no. 1 (2014): 62–70, <https://doi.org/10.24035/ijit.05.2014.008>.

⁵⁶ M. B. M. Firdous, M. Y. M. Suheera, and M. C. S. Shadifa, “Islathil Palatharathirumanam Oru Panmuha Nokku,” in *Islamiya Noukkil Paalnilai Samathuvam Matrum Samaneedhi*, ed. M. C. Rasmin and H. S. Issadeen (Colombo: Media Forum for the Development of Sri Lanka, 2015).

⁵⁷ Zainol, Abd Majid, and Abdul Kadir, “Nasr Hamid Abu Zayd as a Modern Muslim Thinker.”

prosperity, dignity, and fundamental requirement.⁵⁸ According to Masfuk Zuhdi, polygamy is more bothersome than useful since it leads to conflict and envy inside the family. It is why Islam supports monogamy majorly. According to some contemporary academics, polygamy is practiced to balance the gender ratio, save war widows and orphans, maintain social welfare and discipleship by lowering prostitution.⁵⁹ Even though it is permitted in Islam in unavoidable situations like when the wife is sterile (unable to bear children) or has a physical or mental disability that prevents her from carrying out her wifely obligations.⁶⁰

Maryam Jameela (1934–2012), points out that if a man stays faithful to his four wives, his family structure is preserved, but if a woman allowed to have more than one husband, family life would be irreparably disrupted since no one would be able to identify with certainty who the precise biological father of each child was. As a result, Islam condemns polyandry and authorizes restricted polygamy.⁶¹ As a result, Sheha (H: 1418) makes it clear that polygamy is only acceptable for men under extreme circumstances in Islam. Who will be in charge of running the household if a woman has two or more husbands? Again, whose guy's desires—those of the first man or the second man's—shall the ladies satisfy? A woman cannot possibly satisfy the needs, wants, and demands of all her husbands. They would all become angry and outraged if the woman preferred one over the other. In addition, if at all, women can only get pregnant once a year. There is only one male she can conceive a child with. However, if a guy has more than one wife, he may have more than one kid from more than one woman in the same year. In addition, if women are permitted to marry more than one guy, how will it be known who is the child's biological father in the event of a pregnancy?

It is crystal clear that although traditional and modern academics interpret the Quranic passages on polygamy differently, it is abundantly obvious that they typically concur on the following points: polygamy is equitable treatment, which is challenging for one individual to provide among many spouses; monogamy is preferred. However, if polygamy provides a solution to such societal issues, it

⁵⁸ F. Syarif, "The Contextual Interpretation of Polygamy Verses in the Qur'an," *Journal of Islamic Studies and Humanities* 5, no. 1 (n.d.), <https://doi.org/10.21580/jish.v5i1.5212>.

⁵⁹ Firdous, "Polygamy in Islam A Study on the Modernist Approach."

⁶⁰ Edi Sahputra Siregar, "The Views of NU Ulama in Medan about Polygamy," *Budapest International Research and Critics Institute (BIRCI-Journal): Humanities and Social Sciences* 3, no. 3 (2020): 2551–59, <https://doi.org/10.33258/birci.v3i3.1242>.

⁶¹ Doi, *Women in Shari'ah (Islamic Law)*.

has a place in religion. Furthermore, if polygamy may help to solve the issues that have emerged in society, Islam permits men to have a maximum of four wives. In a scientific perspective, women do not provide explanations when considered scientifically because of their inherent character. Sharia forbids claiming permission or right for this as a female duty because of this submissiveness.

Divorce is an Absolute Right for Men

One area where Islam makes a distinction between men and women is divorce. However, males do not have unrestricted access to divorce (*talāq*); rather, it is constrained by both religious and legal rules. The idea that having a headship is a privilege reserved for men causes some people to believe that women are subjected to discrimination.

Islam recognizes that men and women have equal rights in this regard; the only thing that varies is the method, which considers both parties' needs. Women have the option to get a divorce based on *khulu'* (women-initiated divorce). However, there is a widespread misperception that divorce is solely a man's decision and that women have no such rights under Islamic law. A woman is, however, permitted to divorce her husband if she believes she cannot continue her wedded life with him, according to a Hadith of the Prophet Muhammad (pbuh).⁶²

Ibn 'Abbas narrated: "The wife of thābit ibn qays came to the Prophet (pbuh) and said: o messenger of allah, i do not find any fault with thaabit regarding his religious commitment or his attitude, but i hate to go back to kufr after coming to islam. the Prophet (pbuh) said: "will you give his garden (*mahr*) back to him?" she said: yes. the Prophet (pbuh) said (to Thābit): "accept your garden, and divorce her (one *ṭalāq*)."⁶³

The Prophet Muhammad (pbuh) did not mention that the ladies in these circumstances might get a divorce. The right of a woman to quit an unhappy marriage is acknowledged, according to Badawi, "just as her right to choose her marriage is." According to Qarḍāwī, the *sharī'ah* permits a woman to sever her ties to her husband if she finds it intolerable to coexist with him by returning the *mahr*, the obligatory wedded gift. According to Allah's command in Qur'an 2:229

⁶² pbuh: peace be upon him.

⁶³ Abū Abdillāh bin Ismāil bin Ibrāhīm al-Bukhārī, *Ṣaḥīḥ al-Bukhārī* (Mesir: 'Ibād al-Raḥmān, 2008), 5273.

verse, the husband should not seek for more in this situation than he has already provided to her.⁶⁴

The Islamic legal system does, however, permit a woman to go to a *Qāḍi* and request the dissolution of her marriage on the grounds of cruelty, neglect, or if her spouse has a potentially fatal communicable disease like leprosy. She can also go to a *Qāḍi* to get her marriage annulled even if they are incompatible.⁶⁵ The right to *ṭalāq* belongs mostly to the husband, not the woman. This privilege should be granted to a man in order to safeguard both the rights of men and women as well as the welfare of the family. He reveals that the individual was given the financial responsibility. As a result, when a male gets divorced, he considers the financial loss he will suffer, but if a woman is granted this choice, she does not have the same financial obligation and does not consider it calmly.

Although divorce is permissible under Islamic law, the Prophet (pbuh) claims that “of all things that Islam has permitted, divorce is the most hated by Allah.”⁶⁶ There is no need for divorce to be painful. When it is required, it should be carried out with respect, decency, and gentleness.⁶⁷

Allah says in the Qur’an, “Then when they have almost reached the end of their waiting period, either retain them honourably or separate from them honourably” (65:2). This demonstrates that the right should only be used when there are strong enough justifications for doing so. The most detestable act in Islam is the hasty and reckless exercise of the right to divorce. Islam encourages spouses to reconcile rather than break their relationships as a result.⁶⁸

Islam promotes the idea of settling disputes between husband and wife in family life via reconciliation and peaceful cohabitation since it views marriage as a legally binding contract. Islam promotes peaceful methods of coexisting with one another so long as the real release of this legally binding agreement is prohibited. Islam, according to Nusri & Firdous, prescribes particular

⁶⁴ R. Abdulhamid, “Feminism and the Rights of Muslim Women in Modern Legal Interpretations,” *European Journal of Business and Innovation Research* 4, no. 2 (2016): 36–60, <https://ejournals.org/ejbir/vol-4-issue-2-april-2016/feminism-and-the-rights-of-muslim-women-in-modern-legal-interpretations/>.

⁶⁵ Doi, *Women in Shari’ah (Islamic Law)*.

⁶⁶ Abū Dāwud Sulaimān bin al-Asy’ās al-Sijistānī, *Sunan Abi Dāwud* (Beirut: Dār al-Kitāb al-‘Arabī, n.d.), 1863.

⁶⁷ Ahmad Bello Dogarawa, “Marriage and Divorce in Islam,” *The NTA/FRCN Ramadan Annual Lecture Series 1430, 2009*, <https://mpr.ub.uni-muenchen.de/23194/>.

⁶⁸ Doi, *Women in Shari’ah (Islamic Law)*.

procedures to be followed in the event of marital disagreement and also allows for divorce on the part of both the husband and the wife even if those procedures are unsuccessful. According to al-Qur'an 4:34–35, there are four stages that Allah uses to settle conflicts between husband and wife: providing constructive counselling, refraining from using the bed if that doesn't work, striking gently to avoid injury, and then reconciling with the other party. Divorce is the next step of action recommended by Islam if these do not succeed. The goal of the Qur'an's verses on equality cannot harm women after divorce.⁶⁹

Furthermore, while choosing to divorce as a final choice, Islam establishes some rigorous guidelines. Even if divorce (*talāq*) is legal, according to Ibn Qudamah, Allah detests it more than anything else legal. It is unpopular for a guy to divorce his wife without any previous treatment from her. A man or a woman cannot compel his spouse to get a divorce. He must adhere to these four guidelines if he chooses to file for divorce: He must get a divorce from her following her period if they haven't had sexual relations yet. If she does this, she won't have to wait very long. He ought to simply divorce her with a single [repudiation declaration] so that he might take her back (*rij'a*) if he changes his mind. To be able to take the upset lady back if he changes his mind, he should manage the matter gently by giving the distressed woman what soothes her. He should also avoid learning her secrets (*sirr*). One of the worst people in status before Allah on the Day of Resurrection is a husband who approaches his wife while she approaches him and then divulges her secrets.⁷⁰

Similar to this, Islam has very rigorous restrictions against *ṭalāq* even if it is permissible. Divorce is legal for both men and women; the only distinction is how the law treats these two genders. According to al-Hakeem, there are precise guidelines in Islam for divorcing a woman. A husband may declare divorce three times if he so chooses. The husband can also reinstate the previous two techniques, but if he uses them a third time, the wife will no longer be his wife, and they will be unable to cohabit. The wife continues living in the husband's home following the divorce under both divorce regimes. The *'iddah* period—three days of purity and absence from menstruation—occurs after a divorce. Only sexual activity should be avoided because the husband and wife share a

⁶⁹ M. Nusri and M. B. M. Firdous, "Islamiya Vivaharathum Pennurumayum," in *Islamiya Noukkil Paalnilai Samathuvam Matrum Samaneedhi*, ed. M. C. Rasmin and H. S. Issadeen (Colombo: Media Forum for the Development of Sri Lanka, 2015).

⁷⁰ Imām Aḥmad Ibn Qudāmah al-Maqdisī, *The Refinement of Character: A Textbook on the Ethics of Good Character* (Birmingham: Dār as-Sunnah Publishers, 2019).

home. A change of heart and eventual reunion as husband and wife might result from living together. During this time, her husband should support her.⁷¹ According to the Seyyed Qutub, the Quranic statement states that divorce should be pronounced during the wife's chaste period; therefore, it is clear that a husband cannot say what he thinks. It is in the hands of the wife.⁷²

Islam emphasizes that the husband should use the third *ṭalāq* with composure since the third *ṭalāq* marks the end of the time for that. The Quranic verse 2:230 is explained by Ṭabari that it was revealed, and divorce on the side of the husband was restricted to two, and if he proclaimed it the third time, the wife would be separated from him for good till she married another husband and divorced her, thereafter, he could only return to her first husband. This criterion was created to prevent the practice of tormenting a spouse while repeatedly divorcing them. In addition, if the husband and wife get a divorce, he forfeits his right to any of the property they have shared, but if they do not have sex, she gets half of what he's given her. The wife must pay the husband the *mahr* sum if she files for divorce on her own. This rule has been established on the premise that neither party should endure financial hardship and that their rights and interests should be safeguarded. Divorce is heavily reliant on verses 2:229 and 230 of the Qur'an. This well-known divorce confirms that each spouse has the legal right to end their marriage. Similar to how a divorced wife is entitled to full support from her husband throughout the *iddah* time, a husband who finds out she is pregnant must retain her till she gives birth. A divorce would end the relationship between the husband and wife but not the child's relationship with the father, so the husband is still liable for the child's entire maintenance even if he divorces his wife.⁷³

Testimony Justice

Speaking against inequity is covered in another aspect of Islam called testimony. One should first become familiar with the passage in the holy Qur'an in question and its context, which is said to imply that a woman's testimony would only be worth half as much as a man's. It eloquently highlights the issue of sex-based discrimination and gender disparity under international human

⁷¹ Assim al-Hakeem, "Are Women Allowed to Work in Islam? Why Is Everything Haram or Prohibited in Islam?" YouTube, 2021, <https://www.youtube.com/watch?v=wyKz-6mUasM>.

⁷² Sayyid Quṭub, *Fī Zīlāl al-Qur'ān*, 1st ed. (Kairo: Dār al-Shurūq, 1412), Vol. 6, 3599.

⁷³ Engineer, *The Qur'an Women and Modern Society*.

rights law.⁷⁴ It is possible to establish justice and rights through testimony, which is a way of asserting that a certain event has occurred. Islamic *Shari'ah* mandates that a witness possesses some fundamental requirements. Men and women do not differ from one another.

In Sura 2:282, al-Qur'an mentions the following regarding testimony: "And let two men from among you bear witness to all such documents [contracts of loans without interest]. But if two men are not available, there should be one man and two women to bear witness so that if one of the women forgets anything, the other may remind her." This verse states that a man's testimony is equal to the testimony of two women. It is sometimes used to counter the assertion that a woman's testimony in Islam only constitutes half of the male testimony because two female testimonies equal one male testimony.

This verse has to do with giving testimony when borrowing. During the *Jahiliyyah*, Arab males did not allow women the right to engage in commerce as equals with them.⁷⁵ One could count the number of female business owners on one hand; most of them act as investors and are not actively engaged in transactions.

The next verse in the Qur'an mentions money issues, but according to traditional scholars, it also relates to all situations, including hudud, which cover things like theft, rape, adultery, fornication, false accusations, murder, etc. Modernist scholars claim that the Quranic passage specifically refers to financial issues and that its application cannot be extended to other types of issues. The women of the *Jahiliyyah* era are mentioned in this verse of the Qur'an as being ignorant of business practices and problems relating to giving and receiving. Maulana Muhammad Ali says, "*Two women are required instead of one man,*" because women didn't participate in business activities and couldn't comprehend the transaction. In agreement with Muhammad Ali's justification is Muhammad Asad. He asserts that "*women, on average, are less familiar with business procedures than men and, as a result, are more likely to commit errors in this regard*".⁷⁶ Similarly, Ibn Taymiyya explains why having two women as witnesses with one man is appropriate by saying that "*generally, women are not involved in buying and selling activities or related places.*"

⁷⁴ Chishti, "Gender Equality: Human Rights v. Islam."

⁷⁵ Taha J. Al 'Alwani, "The Testimony of Women in Islamic Law," *American Journal of Islam and Society* 13, no. 2 (1996): 173-96, <https://doi.org/10.35632/ajis.v13i2.2329>.

⁷⁶ Engineer, *The Qur'an Women and Modern Society*.

This verse of the Qur'an was motivated by the existing circumstance. Women remain that way. They typically do not concentrate on business or contracts. The existence of exceptional individuals does not alter the fundamental principles governing life in general.⁷⁷

Two women should be put next to a man, according to verse 2:282, so that one can remind the other if she forgets. Some academics incorrectly extrapolate from this verse the alleged ontological inability of women to testify unaided and independently, asserting that forgetfulness and a lack of intelligence are their innate features, which is undoubtedly false. It is not the physical or mental health of women that is in question, but rather their social and cultural circumstances. The forgetfulness of women is identified as the cause of this by several orthodox jurists, including Tabari, Baidawi, and Shawkhani.⁷⁸

There are nine places in the Qur'an where testimony is mentioned, including 5:106, 107 (testimony related to a death certificate), 65:1, 2, 4:15, 24:4, and 13 (witness to prove adultery), and 24:6-7 (witness related to *li'an*). In other words, if a husband or woman examines the morality of their spouses, swears four times that what they have said is real, and then asks that what they have said is a lie, then may the punishment of Allah be upon him. None of the other verses, with the exception of verse al-Baqarah 282, consider gender equality. A woman does not offer twice as much testimony as a male, not even in situations like loan giving and receiving, as was mentioned in al-Baqarah: 282, divorce, crimes, and death certificates. These verses are one verse after verse 282 of al-Baqarah. The rule that two women are equal to one male in testifying should therefore have been implicit in all eight verses if it had remained in effect. As a result, under Islamic law, women now have the same rights to testify in court as males have.⁷⁹

Most Islamic scholars agree that the Qur'an makes no differentiation or distinction between men and women regarding testimony. In his book *al-Mugni*, Ibn Qudama noted that women's testimony is admissible in cases involving feeding, childbirth, the monthly cycle, and *'iddah*, all of which can only be observed by women. Further, he notes that there do not appear to be any differences of opinion, and that the testimony of an honest woman is fully

⁷⁷ S. M. M. Mazahir, *Pen Khalihal Niyamanamum Ilankayil Adan Amulakkathitkana Parinthurayum*, ed. S. M. M. Ayoob (Pennyamum Moliyum, Sri Lanka: Puthi Jeevithuva Urayadalhal, 2020).

⁷⁸ S. M. M. Mazahir, "Parapatcham Kaattiyulladha? [Is It Biased?]," *Islamiya Sinthanai (Islamic Thought)*, 2013.

⁷⁹ Firdous, Suheera, and Shadifa, "Islathil Palatharathirumanam Oru Panmuha Nokku."

accepted in such matters. As evidence, he cited the hadith that follows: 'Uqba ibn al-Hārith came to the Prophet (pbuh) and said, "I married a woman, and a black slave girl came and said that she nursed us." The Prophet commanded him to divorce his wife. The Prophet instructed her to depart once she realized she had been lying.⁸⁰ According to Ibn Qudama, the Prophet in this hadith made a decision based solely on the testimony of a woman. According to Iman Ahamad ibn Hanbal, a man's testimony is equal to that of two women when the man has more extensive knowledge and experience. In cases where she has deeper knowledge and experience, a woman's testimony is regarded as equal to that of a man. Men and women are not treated differently in this situation; instead, the importance of education, experience, and sincerity is highlighted. In some instances, the evidence of the female witnesses will be heard first after the testimony of the male witnesses. According to Fask law, both the husband and the wife may reveal the flaws of the other. If there is debate on the woman's defects, she will speak with dependable ladies and make a decision.⁸¹

Muhammad Quraish Shihab on behalf of Muḥammad Husayn al-Ṭabaṭaba' (n.d.) explains verse 2: 282 of the Qur'an as follows: "The passage explains and puts down the points in regard to the laws of witnessing that the addition of one witness to the other to make them two is more in conformity with justice, giving testimony, and removing doubt. According to Islam, individual members of society are the foundational elements of society. This category includes women, and they are allowed the same rights to testify as witnesses as males. Additionally, it has been determined that the civilization it creates would be found on facts rather than emotions. The passage above tells us that the testimony of two women is comparable to a man, since women are emotional creatures who have half the rights and weight of males, "so that should one of the two forget, the other of the two may remind the other."⁸²

Mumtaz Ali Khan presents the following three types of reasoning in his book, it is in no way proven that women are less valued than male by a verse in the Qur'an concerning the testimony of a woman. Verse 2:282 of the Qur'an states that two women should testify in place of one male. One needs to remind

⁸⁰ Ibnu Qudama, "Testimony: Female Testimony Alone," *Jusu* 10 (2010): 137.

⁸¹ Mazahir, "Parapatcham Kaattiyulladha? [Is It Biased?]"

⁸² Anshori Anshori, "Kesaksian Wanita dalam Pandangan Ulama Tafsir," *Ahkam: Jurnal Ilmu Syariah* 13, no. 2 (2013): 295-302, <https://doi.org/10.15408/ajis.v13i2.942>.

the other when the other makes a mistake. Men with these abilities could remember more data than women.⁸³ He makes it quite obvious that this Quranic requirement is optional and does not apply to all Muslims. Second, the Qur'an makes no further mention of the need for two women's testimony in situations like marriage, with the exception of financial transactions. However, Parvez disputed Khan's claim that women are unable. He supports the two women's evidence in the manner described below. However, the Qur'an requires a second man to support the first man's testimony for any holes in the first witness's testimony to be filled by the second witness. The Qur'an does not accept one man's testimony as proof of the veracity of a written document. In fact, the testimony is being confirmed. Men being judged as capable or incapable would be counterproductive. Similarly, Parvez asserted that the Qur'an only required two women to vouch for the veracity of the evidence, not to establish the woman's inability.⁸⁴ The trend to totally exclude women's testimony during trials on significant problems has its roots in religious philosophy, such as *Qisās* (retaliation) and *Hudud* (limited punishments), according to al-Ghazālī.⁸⁵ It is necessary to put the topic to rest with this limitation. Women are not allowed to testify in cases involving blood and honor. In the Prophet's (pbuh) Sunnah, women's testimony should not be disregarded in certain cases, according to Ibn Hazm's research.

Umar Ahamed Usmani⁸⁶ also said in his work *Fiqh al-Qur'ān* that a woman's testimony frequently suffices as proof without a man's. Pervez claims that the Qur'an never distinguishes between male and female witnesses. The Qur'an does not explicitly mention or make it apparent that the sexual orientation of the witness is required. Only a man and two ladies are mentioned as witnesses once in the Qur'an. According to Parvez's peculiar reading of the verse, the Qur'an does not demand that the statements of two women be heard to equal those of one male. A woman may be corrected by other women if she becomes lost

⁸³ Sayyid Mumtaz Ali, *Huqūq al-Niswan* (Lahore: Dār al-Isha'iat, 1898); Gail Minault, "Sayyid Mumtaz Ali and 'Huqūq un-Niswan': An Advocate of Women's Rights in Islam in the Late Nineteenth Century," *Modern Asian Studies* 24, no. 1 (1990): 147–72, <https://doi.org/10.1017/S0026749X00001190>.

⁸⁴ Engineer, *The Qur'an Women and Modern Society*.

⁸⁵ M. A. Ghazālī, *Fiqh Thurayinarukukum Hadeeth Thurayinarukukum Mathiyil Nabihalarin Sunnah [Sunnah of Prophet among the Scholars of Fiqh and Hadith]*, ed. M. F. Z. Hussain (Puttalam: Knowledge Seeker, 2011).

⁸⁶ Umar Ahmad 'Utmāni, *Fiqh al-Qur'ān* (Karachi: Idārah al-Fikr al-Islāmī, 1981).

because of fear or anxiety, according to the Qur'an. It demonstrates unequivocally that one would not need the other to remind her of who she is if she does not get lost or forget who she is; rather, her testimony will be adequate on its own.⁸⁷

In the Qur'an, the word '*tudillu*', which is used to indicate amnesia, really refers to bewilderment or perplexity, he explains. As a result, the Quranic rule does not intend to reduce the weight of women's testimony generally but rather to strengthen and protect women in their roles as witnesses while simultaneously making sure that debtors are given the best possible protection, especially in patriarchal societal institutions. It must also be made clear that, at the time such agreements are formed, the Holy Qur'an only permits female dual witness. If a disagreement later arises, any number of male or female testimonials is deemed suitable to be presented before the court.⁸⁸

Inheritance: Justice on Different Scales

The Inheritance law is one of the most significant issues that require the attention. Since the 7th century, inheritance law has remained unchanged.⁸⁹ To ensure that the heirs have a fair share of the deceased's estate, Islam encourages the practice of systematic property planning.⁹⁰ According to Quranic verse 4:11, there have recently been allegations that Islam has unfairly distributed money among women. Allah says: "*The share of the male is like those two females.*" The reason, according to Imam Nawawi, was the wisdom of giving males preference in inheritance over women: "*His wisdom is that men are entitled to a lot of supplies in caring for dependents, guests, slaves, intended people, consoling those who ask for bearing fines, and so on.*"⁹¹ The verse al-Nisā' 11 is, in the words of

⁸⁷ Osmani, "Ghulam Ahmad Parvez on Issues Concerning Women: A Critical Analysis."

⁸⁸ Engineer, *The Qur'an Women and Modern Society*.

⁸⁹ Harnides Harnides, Syahrizal Abbas, and Khairuddin Hasballah, "Gender Justice in Inheritance Distribution Practices in South Aceh, Indonesia," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 7, no. 2 (2023): 1293, <https://doi.org/10.22373/sjhk.v7i2.16688>.

⁹⁰ Amylia Fuziana Azmi, Nik Salida Suhaila Nik Saleh, and Mohamad Zaharuddin Zakaria, "Hibah as Alternative to Resolve Inheritance Issue among New Muslim Converts (Muallaf) in Malaysia: An Analysis," *Islamiyyat* 44, no. 1 (2022): 81-87, <https://doi.org/10.17576/islamiyyat-2022-4401-7>.

⁹¹ Sameh Abdel Salam Mohamed, "Mauqif al-Sharī'ah al-Islāmiyyah min Qaḍiyyah al-Musāwāh bayn 'l-Rajul wa 'l-Mar'ah [the Position of Islamic Law on the Issue of Equality between Men and Women]," 2012, <https://www.alukah.net/sharia/0/37371/-موقف-الشرعية-الإسلامية-من-قضية-المساواة-بين-الرجل-والمرأة>.

Yūsuf al-Qarḏāwī, “clearly a result of the disparity between them in the financial burden and cost that imposed on each of them by law.”⁹²

A male inherits twice as much as a woman does in the Islamic family structure. Islam has been accused of reducing women’s numbers to that of males, which has led to criticism of this separation.⁹³ A guy is required to provide his portion to his wife, daughter, mother, and sister, according to Jamal Badawi, who does so in a very subtle manner. There is no legal prohibition on a wife using her inheritance to support her husband; she is free to retain it in savings. Islam, then, allows a daughter or sister to spend and preserve their portion whatever they see fit.⁹⁴ Inherent deficiency she had, but rather in consideration of her financial possibilities and her place within the larger societal structure, of which she is an essential part. According to Muslim Law, a daughter is also considered to own her dower money, which may be urgent or different depending on her own preferences, and under its terms, she retains possession of all of her husband’s property until payment is made.⁹⁵ He goes on to say that while a daughter is considered to be the full owner of the assets given to her by both her dad and her husband during the time of marriage, as per Muslim Law, she is also considered to own other assets. According to Muhammed Emara,⁹⁶ the genuine rule of Islamic philosophy on inheritance shows that the disparity in the shares that male and female heirs get is not the result of a differentiation based on gender. In the same way, Ali Gomaa claims that the following three variables, not gender, influence differences in inheritance share.⁹⁷

The degree of kinship between the heir and the bequeath: the closer the relationship, the greater the share in the inheritance without regard to gender.

⁹² Yūsuf al-Qarḏāwī, “Ḥikmah al-Tafāḍul fi 'l-Mirāth bayn al-Rajul wa 'l-Mar'at [the Wisdom of Inheritance Differentiation between Men and Women],” n.d., <https://fiqh.islamonline.net/كلمةتفاضل-الميراثبين-الرجل-والمرأة/>.

⁹³ Jinat Hossain and Ishtiaq Jamil, “Equality in Contention: Exploring the Debates of Gender-Equal Inheritance Rights in Bangladesh,” *Public Administration and Policy* 25, no. 3 (2022): 323–35, <https://doi.org/10.1108/PAP-08-2021-0049>.

⁹⁴ A. S. Jabir, “Islathil Pennukkulla Porulathara Urimaihal,” in *Islamiya Noukkil Paalnilai Samathuvam Matrum Samaneedthi*, ed. M. C. Rasmin and H. S. Issadeen, 2015, 90–96.

⁹⁵ Doi, *Women in Shari'ah (Islamic Law)*.

⁹⁶ ‘Abdullāh Muḥlis, “Dr. Emmārah: Hādhihi Hiya Falsafat al-Islām fi 'l-Irthi lā kamā Yaddaī al-Ladhīna lā Ya'lamūna [This is the Philosophy of Islam Regarding Inheritance, Not as Those who Do Not Know Claim],” *Howiyapress.Com*, May 11, 2017, <https://howiyapress.com/د-عمار-هذه-هي-فلسفة-الإسلام-في-الإرث/>.

⁹⁷ Abdulrahman Mohammed, “Ali Gomaa Responds to the Suspicion of Women’s Injustice in Inheritance,” 2023.

Thereby, we find that the girl inherits half, and her father inherits one sixth while he is male; this is because the daughter is closer than the husband. As a result, her inheritance increases. Secondly, location of inherited generations: Usually, the generations that are given life and are ready to take on their responsibilities receive a larger inheritance than other generations. As a result, the daughter receives half of the inheritance, while the deceased father receives the remaining inheritance (the sixth). Thirdly, the financial load: this is the single factor that separates men and women since the male is responsible for his relatives, on whom he must spend money, while the female is not responsible for anything.⁹⁸

The identical issue that Gomaa emphasized was expressed by Emara, who offers the following justifications for the first and second. He seems to be saying that both male and female heirs are affected by this. The deceased daughter receives more than his mother though both were female. The daughter inherited more than the father, despite the fact that she was still a new-born and had no knowledge of his looks. Even if the son inherited the father's wealth, the daughter would be the only one to receive half of it. Both the father and the son are males, and the son also inherits more money than the father. This criterion of the Islamic philosophy of inheritance contains profound divine commands and spectacular divine purposes that are unclear to most people.

The gender of the applicant makes no difference in these qualifications. The only difference between men and women according to Islamic law is that the successor must assume and bear the financial responsibility with regard to others. The woman's impartiality is not diminished or harmed by this disparity, though. The exact reverse, however, may be true. If the heirs agree and are equal in their degree of kinship and their position as the inheriting generation from the succession of generations, such as the offspring of the dead, male and female, the variance in the financial burden is the source of the disparity in inheritance shares. Therefore, the Qur'an does not generally distinguish between male and female inheritors. Therefore, the Qur'an did not generalize the distinction between male and female inheritors; rather, it applied it just to this specific situation.⁹⁹

⁹⁸ Khālid bin Maḥmūd bin 'Abd al-'Azīz al-Juhānī, "Musāwatu al-Mar'ah al-Rajul fi 'l-Mirāth [Equality of Women and Men Inheritance]," *alukah.net*, February 5, 2022, <https://www.alukah.net/sharia/0/152676/مسألوأةالمرأةالرجلفيالميراث/>.

⁹⁹ Muḥlis, "Dr. Emmārah: Hādhihi hiya Falsafat al-Islām fi 'l-Irthi lā kamā Yaddaī al-Ladhīna lā Ya'lamūna [This is the Philosophy of Islam Regarding Inheritance, Not as Those who Do Not Know Claim]."

Gomma believes that the financial burden is the cause of the disparity between men and women in general but just in this specific situation. And in this case, even though the female heir is his sister, who is more fortunate and privileged than him in terms of inheritance due to the difference in her inheritance from her brother, who received twice as much, the male is still required to support a female, who is also his wife, and their children. Simultaneously, we observe that the man is held responsible and burdened with financial obligations, such as the requirement that he pays dowry to the person he wishes to marry and that, after the marriage, he must spend on the woman, even if she has money that he does not own, as Islam distinguished the woman and preserved her wealth without requiring her to spend any of it. Islam consequently gave women access to 50% of men's money. In Gomma's opinion, the difference between male and female heirs generally is due to the financial load, but it is only relevant in this specific instance. The man in this situation is given the responsibility of supporting a female—who is a wife—and their children, while the female heir is given the responsibility of being supported by the male's sister and her offspring. She is more fortunate and privileged than him in terms of inheritance, thus the guy who has this deficit in her inheritance has an obligation to him in comparison to her brother, who received twice as much as she did. Risk and punctuation, and this is divine wisdom that may be obscure to many, and at the same time, we find the man responsible and burdened with financial obligations, such as: he must pay dowry to whomever he wants to marry; after marriage, he must spend on the woman, even if she owns money that he does not own, because Islam distinguished her and preserved her money and did not require her to spend part of it. As a result, Islam distributed to women 50% of the revenue earned by males.¹⁰⁰

Salah Sultan, explains the rationale for why men and women get different inheritances. Men and women get different inheritance shares under Islamic law, as is clear from a proper Islamic knowledge of the subject. The reason for this variety, though, is not gender differences but rather divine wisdom and purposes that many people are blind to. They even see the unequal inheritance distribution between men and women as proof that women lack the necessary Islamic skills.¹⁰¹ He makes the same arguments in this context as Emara did before. Additionally, he says that it's important to understand the following four

¹⁰⁰ Mohammed, "Ali Gomma Responds to the Suspicion of Women's Injustice in Inheritance."

¹⁰¹ Admin of Islam Online, "Wisdom behind the Differences in Inheritance between Men and Women," Islam Online, n.d., <https://fiqh.islamonline.net/en/wisdom-behind-the-difference-in-inheritance-between-men-and-women/>.

things: In four instances, women inherit half of what men inherit; in many instances, women inherit the same share as men; in ten or more instances, women inherit more; and in some instances, women inherit inheritance shares while corresponding men do not. In other words, women typically take the same amount as men do, or even more; or they may take a share while men do not. Women only receive half of what males do in four instances.¹⁰²

In the interpretation of al-Manar, Muhammad Abduhu notes that the man has to spend on him and his wife, therefore he had two shares, which is why it was wise to make his portion equal to the shares of the two females.¹⁰³ The female spends money on herself. If she marries, her spouse will be in charge of taking care of her.

Conclusion

The aforementioned arguments plainly demonstrate that, in Islam, women's rights and obligations are comparable to, but not necessarily the same as, those of males. In some circumstances, women are granted privileges that males are not. Her gender, however, does not affect her human status or autonomous personality, and therefore does not excuse discrimination or unfair treatment of her. Women are given obligations and rights that are fair and consistent with their place in society. However, there is still a difference between the sexes despite the fact that women and men share similar social position, are treated equally, and have equal access to rights and advantages. Her sex cannot be changed by argument, discussion, physical activity, or demanding manual labor. Because she serves a distinct purpose in life than a male, women are born with different physical, physiological, biochemical, and even psychological components. Islam differentiates responsibilities and assigns functions to each based on these biological differences between the sexes. As a result, claims of complete equality between men and women are absurd.

Because men and women are two distinct, but complementary elements of humanity descended from the same parents, their overall equality as human

¹⁰² A Kareem, "Sevappankeettin Niyayangalum Pennin Varisurimay Neediyum," *Islamiya Sinthanai (Islamic Thought)*, 2011.

¹⁰³ al-Khaleej Admin, "al-Mirāth fī 'l-Islām lā-Yahkumuhu Mi'yāru al-Dhukūrah wa 'l-Unūthah [Inheritance in Islam Is Not Governed by the Criterion of Masculinity and Femininity]," *www.alkhaleej.ae*, May 29, 2008, <https://www.alkhaleej.ae/الإسلام-في-كلمة-معيار-الذكورة-ملاقي-الميراث-في-والأثوة>.

beings is entirely natural and fair. However, to assign them equal or comparable functions in life is absurd because it is physically impossible to swap out their roles. When viewed objectively, it can be observed that all principles of Islam centre on justice. The primary sources of Islam, the Qur'an and Sunna, as well as the opinions of the *'ulamā'* after them, reveal this. This research includes many modern and contemporary *'ulamā'*s view on gender equity in Islamic family law and the justice behind the Islamic teaching. Gender discrimination has persisted globally, despite feminist theories succeeding in maintaining equal rights. The expected level of success has not yet been achieved. Therefore, equitable equality can be achieved in the world through a comprehensive knowledge of Islamic doctrine and practice.[a]

Author Contribution Statement

Mohamed Sulthan Ismiya Begum: Conceptualization; Methodology; Resources; Writing original draft preparation; Review and Editing

Indriaty Ismail: Review and Editing.

Zul 'Azmi Yaakob: Conceptualization; Methodology.

Ahamed Sarjoon Razick: Review and Editing

Mohamed Mahroof Ali Abdullah: Review and Editing.

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