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# Redefining Equality in Marriage Laws: An Analysis of Husband-Wife Relations Through Qira`ah Mubādalah

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## Abstract

Husband and wife, as two pairs of lovers are actually built on a partnership relationship, without dominance between the two. However, the practice of domination and subordination of husbands in the institution of marriage is still fertile, and domestic violence often appears. This gap between idealist-normative and historical-empirical is reflected in marriage regulations in Indonesia, such as Law No. 1 of 1974 and Presidential Instruction No. 1 of 1999 on the Compilation of Islamic Law. In this context, the existence of Qira`ah mubādalah is important to study the reinterpretation of marital relations



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based on justice, equality, and reciprocity. This research method uses a qualitative approach that relies on literature studies. The results of the study explain that this *mubādalah* method is built on three basic premises: first, the presence of Islam is directed to men and women and the texts allude to both. Second, the principle of the relationship between the two is a relationship of cooperation and reciprocity, not a totalitarian and hegemonic relationship. Third, Islamic texts are open to reinterpretation. In relation to the existing marriage law in Indonesia, both the UUP and the Compilation of Islamic Law which is now still legitimizing the superiority of husbands over women, *Qira'ah mubādalah* is a critical offer in studying the provisions of the marriage law that are built on reciprocal relationships or complementary and needy relationships.

### **Keywords**

Reciprocal Relations, Husband and Wife, *Qira'ah Mubādalah*

### **Abstract**

Suami dan istri sebagai dua pasang kekasih sejatinya dibangun di atas relasi kemitraan, tanpa ada dominasi di antara keduanya. Namun, praktik dominasi dan subordinasi suami dalam institusi perkawinan masih subur terjadi, dan kekerasan dalam rumah tangga pun kerap muncul. Kesenjangan antara idealis-normatif dan historis-empiris ini tercermin dalam regulasi perkawinan di Indonesia, seperti UU No. 1 Tahun 1974 dan Inpres No. 1 Tahun 1999 tentang Kompilasi Hukum Islam. Dalam konteks ini, keberadaan *qira'ah mubādalah* menjadi penting untuk mengkaji reinterpretasi relasi perkawinan yang berlandaskan keadilan, kesetaraan, dan timbal balik. Metode penelitian ini menggunakan pendekatan kualitatif yang bertumpu pada studi literatur. Hasil penelitian menjelaskan bahwa metode *mubādalah* ini dibangun di atas 3 premis dasar: pertama, kehadiran Islam ditujukan untuk laki-laki dan perempuan dan teks-teksnya menyinggung keduanya. Kedua, prinsip hubungan antara keduanya adalah hubungan kerjasama dan timbal balik, bukan hubungan yang bersifat totaliter dan hegemonik. Ketiga, teks-teks Islam terbuka untuk ditafsirkan ulang. Dalam kaitannya dengan hukum perkawinan yang ada di Indonesia, baik UUP maupun Kompilasi Hukum Islam yang kini masih melegitimasi superioritas suami atas perempuan, *qira'ah mubādalah* menjadi

tawaran kritis dalam mengkaji ketentuan-ketentuan hukum perkawinan yang dibangun di atas relasi resiprokal atau relasi saling mengisi dan saling membutuhkan.

### **Keywords**

Reciprocal Relations, Husband and Wife, Qira`ah Mubādalah

## **Introduction**

The position of women in Islam to build a household is in a significant position, it cannot be used as a second line or runner-up position, let alone eliminated. In the Qur'an, it is found that proclaims the tuga and responsibility of women in efforts to build a household (Fadhilah & Yusdani, 2019). In the normative-idealistic aspect, every human difference between one another in Islam must be negated and not justified, only the differences that are justified in the aspects of policy and the quality of devotion. The rest of the position of men and women before God is equal, cannot be positioned as a complement to the first (Mernissi & Hassan, 1996).

In the Islamic tradition, women are not portrayed as passively accepting (Kodir, 2017). Here, the inevitability of justice between human beings and regardless of gender is necessary, as well as eliminating a life system that is discriminatory, subordinative, marginalizing humans, and always prioritizing equality.

Equality (al-musawah) in Ibn Ashur's view occupies a fundamental position, namely as a foundation in Islamic sharia, in practice according to this contemporary maqashid figure does not need any special evidence to affirm its legality. Ibn 'Ashur gave an example in the Qur'an where there is often a call to use the form of the word muzdhakkar (Nufus, 2013), however, the call is also aimed at women. According to him, this is proof that Islamic shari'a sources contain equality (al-musawah), equality in question is equality in the context of gender (Ashur, 2010).

As the foundation of Islamic sharia, this equality certainly applies in all aspects, one of which is the relationship between husband and wife which must be built on the foundation of equality. The problem that is interesting to study is that in the aspect of reality, there is still often a gap or contradiction with what should be, namely a gap between idealistic-normative and historical-empirical. The equality of husband and wife in the marriage stage is still more dominant for

husbands than wives. This is evident in marriage regulations in Indonesia, both in Law No. 1 of 1974 concerning Marriage, especially in Presidential Instruction No. 1 of 1991 or known as the Compilation of Islamic Law (Rahmanto & Vahyoyo, 2022).

The 1974 Marriage Law has passed the age of almost half a century, more precisely it is already 49 years old. It is appropriate that this Law be revised and re-dismantled in articles that are less relevant to the current situation, at least those that still do not show equality between husband and wife (Subeki, 2010). This is important to note because husband and wife are the main actors in marriage. How is the pattern of the relationship between husband and wife formed if the relationship between the two is not a relationship of reciprocity but a relationship of domination.

Moreover, the KHI, which was designed in the era of the new order government, instead of describing articles that have not placed husband and wife in an equal position, the presence of this KHI reaffirms the subordination of the relationship between husband and wife. These two marriage regulations, both the marriage law -- especially the KHI -- allegedly adopt the provisions contained in the construction of classical fiqh without considering wisely with the local wisdom living in Indonesia, so that the existence of the two marriage regulations is still conservative by placing men first and women first. The judge as the mouthpiece of the law must be progressive, so that the marriage law can cover the rights and obligations of both, because the regulations are made for humans (Fauzan, 2020). With this progressive step, it is hoped that marital equality can be realized.

Because, in today's reality, the role of women is not seen as a limitation of their movement space in the domestica area. They indirectly feel that there is a demand to adapt to the pace of the times and all the changes surrounding it. As is well understood, the existence of tafsir is a reaction and reflection of the socio-cultural background that rotates at the time the tafsir is present. Coupled with the adage that Islam is shalihun fi kulli in the age of eating, it is felt that interpretations are necessary in accordance with the current socio-cultural situation (Azizy et al., 2005).

In this context, the relationship between husband and wife as the result of the reasoning of classical books needs an interpretation that is not rigid and contextual to the current situation.

It is undeniable that marriage is a relationship between a woman and a man that is initiated to obtain peace in life. This purpose is described by the Qur'an in Surah Rum: 21. Because of that ideal, the relationship between husband and wife, which is a form of responsibility, should be built on the principle of reciprocity, this principle is the fundamental principle in the relationship between men and women (Murata, 1992). From this context, the study of the relationship between husband and wife in marriage law in Indonesia (Study of Qira`ah Mubādalah Faqihuddin Abdul Kodir) is important for study.

## **Methods**

The research method used in the study "Reciprocal Relations of Husband and Wife in Marriage Law in Indonesia" with the approach of the Qira`ah Mubādalah Study is qualitative (Rukin, 2019), aiming to explore a deep understanding of the topic. This research will use literature studies as a type of research, analyzing texts as well as various relevant legal and literature sources. Data analysis was carried out thematically by identifying the key themes of the collected data, as well as through comparative analysis to compare marriage legal arrangements in Indonesia with other approaches, including Qira`ah Mubādalah (Qodir, 2019). Ensure the accuracy of information from various sources and methods. With this method, it is hoped that the research can make a significant contribution to the understanding of the relationship between husband and wife within the framework of Indonesian marriage law and enrich the discourse of legal and social thought.

## **Result and Discussion**

### **The Position of Husband and Wife: A Study of Indonesian Marriage Regulations**

Law No. 1 of 1974 is a marriage regulation that discusses national marriage, this applies to all people, especially those in Indonesia. This UUP is one of the legal unifications in the marriage law that has been

in force since October 1, 1975 and its Implementing Regulation, namely Government Regulation No. 9/1975 related to the Implementation of Law No. 1/1974 (Hermanto, 2018).

The study of husband and wife in marriage regulations in Indonesia is regulated at least in the first two regulations, the first is regulated in the marriage law that applies generally to Indonesian citizens and specifically regulated in the Compilation of Islamic Law for Muslims. The Indonesian Marriage Regulation as stated in Law Number 1 of 1974 concerning marriage contains 14 chapters and 67 articles. The law, which was passed on January 2, 1974, contains marriage rules ranging from the basis of marriage, marriage conditions, annulment of marriage, marriage agreement to the rights and obligations of husband and wife (Nahdiyanti et al., 2021).

Regarding the rights and obligations of a wife and husband in the Marriage Law, they are found in chapter VI: 30, 31 which consists of 3 paragraphs, namely paragraphs 1, 2, and 3 while Article 32 consists of (1), (2), article 33 and article 34 consists of paragraphs 1, 2, 3, and 4. Article after article is quite clear, this can be seen in the explanation of the marriage law, there is no explanation because it is considered quite clear. In general, in these articles, the rights and position of wives are balanced with the rights and positions of husbands, both in fostering the household and their roles and contributions in social relations, so that everything that has a relationship with the two in relation to the household can be negotiated and decided by both (Kahyani, 2020).

Like article 30, for example, husband and wife both have noble obligations and responsibilities as an effort to establish the household as the basic foundation of society's anatomy. This article clearly states without selective cutting that the upright or not of the household that is the source of the upright society is found in both, namely husband and wife. This is emphasized in the next article, article 31 stipulates that the position and rights owned by the wife and the husband are the same, this applies in the association of the household or in the social sphere. Article 31 shows that between husband and wife is comparable, neither of the two is superior to each other, let alone dominating and exploiting is certainly increasingly unjustified. The implication is that both the husband and the husband can perform legal acts as stipulated in article 31 paragraph 2 (Anwar, 2023).

Furthermore, still in article 31, if the two paragraphs in article 31 as described above place the rights and position of husband and wife in balance, presumably in article 31 paragraph 3 the position of husband and wife is diametrically different. In paragraph 3 of article 31 it is stated that the husband is the head of the household and the wife is the housewife. The pinning of the 'head' to the husband has the potential to be interpreted as a leader or sole ruler so that it has the probability of dominance of the husband. Meanwhile, the embedding of 'mother' for wives is interpreted as only taking care of the household without having other roles. Even though this is not the case, in the author's observation the diction of the head of the household is more precisely as the person in charge, like the person in charge in general, of course, it is not singular and requires other components, namely the existence of the wife. Because the wife also has the same position as the person in charge of the household, the meaning of a housewife should not be interpreted as taking care of the an-sich, but she is also an individual who plays an important role in the household like a husband (Kahyani, 2020).

Meanwhile, the KHI in chapter XII regulates the obligations and rights of wives and husbands. In general, it is mentioned in article 77 precisely paragraph 1 then paragraphs 2, 3, 4, 5. Continuing in article 78, precisely paragraph 1, then paragraphs 2 and 3. Also in article 79, precisely in paragraph 1, then verses 2 and 3. Article 80 is precisely in paragraphs 1 then 2 to 7. Article 81 is precisely in paragraphs 1 to 4. Article 82 is precisely in paragraphs 1 to 2. Article 83 is precisely in paragraphs 1 to 2. Article 84 is precisely in paragraphs 1 to 3. In this KHI, there seem to be many articles that place the husband in a higher hierarchical position. Although there is the same article as the article in the marriage law, in the KHI there is a very obvious article that puts the husband more dominative. (Asnawi & SHI, 2022).

Thus, marriage regulations specify the existence of a husband as an imam in the family, as well as women as wives who become housewives, as well as the role of husband and wife in the domestic realm of the family. Meanwhile, for social problems, the wife or husband has a balanced position (Siregar & Kelana, 2021).

## **Husband and wife relationship in agitan Mubādalah**

As husband and wife, of course, the relationship between the two contains their respective rights and obligations. This husband and wife relationship is not only a horizontal relationship in general like the relationship between individuals and other individuals, but a relationship that is built on the fulfillment of rights and the implementation of obligations. Both the position as a wife and as a husband must have these provisions. Islam expressly formulates the duties of a husband as well as the duties of a wife. In Islamic family law, for example, it has been clearly described that the main duty of a husband is to provide for his wife, be it in the form of clothing to cover and protect the wife's body, the availability of food to meet the wife's nutrition, energy and health, and the existence of a board for shelter and rest. In addition, the husband's obligation must provide *ma'ruf* treatment (Arifin, 2015).

As for the wife's obligations to her husband, there are at least two obligations, namely the obligation to obey and protect herself and her family institution from all bad potentials (Arifin, 2015). The husband has the right to his wife's obedience, the wife has an obligation to obey her husband, whether it is in a closed matter or something open, the implication as a result of obeying the husband creates a harmonious family. On the other hand, disobedience for the husband will have the potential to cause disappointment and lead to a rift in family relationships (Bisri, 2008).

Islam recognizes the concept of the relationship between wife and husband as mentioned above is an element that has been regulated, this aims for the husband or wife to complete their personal obligations and rights in order to create a fostered in their family which will then give birth to happiness in accordance with the sharia itself. Thus, the birth of the household rule in Islam is tried to be used as a basis and a way to regulate the relationship model in individual families. In a sense, husbands and wives and children are obliged to follow the applicable laws as a daily basis and responsibility for the realization of marriage ideals (Sanjaya, 2017).

However, the relationship between husband and wife that stands upright with the above provisions is not positioned with the relationship of power and domination. Normatively, as described above, it seems -- as if -- the position of the husband is in a higher



dominance, when in fact this is not the case. The existence of the mapping of rights and obligations is a guide and foothold in building a relationship pattern between the two, without reducing the role and contribution of the wife in the public sphere in the slightest. This means that the dominance of the husband's power over the wife is not justified by the pretext of the rights and obligations above, and vice versa, because the relationship between husband and wife is a relationship of reciprocity or a relationship that complements and needs each other.

Regarding the relationship between wife and husband, this reciprocal relationship is called the term *mubādalāh*. A principle in Islam that alludes to the reciprocity between husband and wife in exercising and realizing gender roles both in the domestic sphere and social (public) roles is derived from equivalence, equality and equality between them, based on the value of justice and benefit for both. With this mutability, no one is favored and feels that they have more authority than the other party. This is a principle with patron relations that support and strengthen each other, contain cooperation and contribute to each other. In principle, the concept of *mubādalāh* emerged and formed from the religion of Islam by itself, based on several postulates contained in the Qur'an and as-sunnah as the reference authority of the Islamic religion.

Relations in a family are not just like the relationship between subordinates and superiors (Khartarya et al., 2024). But the relationship in question is a relationship that upholds fair values in functions and roles as well as equality in placing their obligations and rights. Therefore, in order to achieve the true meaning of marriage, there must be positive mutuality, mutual understanding, mutual understanding between one and the other. This is the concept of the relationship between husband and wife in the family that is expected to achieve a happy home life both physically and mentally.

### **Intellectual biography of Faqihuddin Abdul Kodir and the idea of Qira'ah Mubādalāh**

Intellectual biography of Faqihuddin Abdul Kodir is familiarly called Kang Faqih. From childhood to family, he lived and settled in Cirebon. Wandering in the world of academia from 1983 to 1989, he began as a student at Darul Tauhid Arjawinangun Cirebon, under the

guidance of KH. Ibn Ubaidillah Syathori -- familiarly known as Abah Anom -- and KH. Husein Muhammad who is familiarly called Buya Husein. Pursued a bachelor's degree in Damascus, Syria, by taking two academic glasses at once or double degree, at the University of Damascus faculty of da'wah and the faculty of sharia. After undergoing a journey of knowledge in this largest capital city, he studied with Sheikh Ramadhan al-Buthi, studied with Sheikh Wahbah and Muhammad Zuhaili. It doesn't stop here, Kang Faqih also studied at Khorotoum University - Damascus branch in order to delve into fiqh, ushul fiqh at the master stata. However, the man born in Cirebon moved to the International Islamic University Malaysia and had not had time to complete his thesis. At the International Islamic University Malaysia, Kang Faqih studied at the faculty of KnowledgeHuman Sciences and Islamic Revealed until he completed his S2 degree in the field of Fiqh Zakat Development from 1996 to 1999 (MZ et al., 2022).

After nine years of completing his Master's degree, Faqih pursued his doctoral degree at ICRS, Gajah Mada University Yogyakarta which was completed in 2009, the title of his dissertation is Interpretation of Hadith for Equality between Women and Men: Reading Tahrir al-Mar'ah fi Ash al-Risalah by; Abd al-Halim Muhammad Abu Shuqqa (1924-1995). Currently a lecturer of hadith Interpretation at IAIN Syekh Nurjati Cirebon and an activist of Gender and Religion, Women's Rights in Islamic Perspective Hadith Interpretation and Gender Equality. The idea of gender and justice has been widely expressed in books, research, scientific journals, and scientific papers. One of them is entitled Qira`ah Mubādalāh: Progressive Interpretation for Gender Justice in Islam.

The idea of Qira`ah Mubādalāh as a progressive interpretation for gender justice was initiated by Kang Faqih, familiarly known as Faqihuddin Abdul Kodir through his magnum opus released in 2019, namely through his main work on mubādalāh entitled "Qira`ah Mubādalāh: Progressive Interpretation for Gender Justice in Islam". As he acknowledges in the preface to the book, the book Qira`ah Mubādalāh contains a record of the dynamics of the text that is believed and experienced regarding the reciprocal relationship between men and women. This book has received a lot of appreciation from various circles, including academics, scholars, women activists,

organization administrators, scholars, Islamic boarding school leaders, etc. Husen Muhammad -- a charismatic scholar and female fiqh activist -- the teacher of Faqihuddin Abdul Kodir said that the book was the first book that comprehensively explained the theory of mubādalah (Muna, 2023).

As Faqihuddin described, this qiroaah mubādalah is motivated by the attitude of women who are dissatisfied with the editorial of the Qur'an which only mentions men and forgets the roles played by women. Among the women were um Salamah, the wife of the Prophet and um Amarah al Anshoriyah the hero of the uhud war, who came and asked the Prophet Muhammad (peace and blessings of Allaah be upon him) about it, they questioned why women's work was not appreciated by the Qur'an as the Qur'an appreciated men. It is possible that anything is only for men, women are not seriously mentioned in the Qur'an at all. Even more than that, asma bin umais considers women to be at a loss if the Qur'an does not offend women at all. From the background above, there is a revelation in an explicit way that mentions several roles of women, such as in verse 35 al-Ahzab verse 195 al-Imron and several other verses (Muna, 2023).

As a Progressive Interpretation for Gender Justice, especially in Islam, Qira`ah mubādalah is built on the basis of al-hadith and the Qur'an. The idea of mubudalah is very common in the Qur'an, this is clearly described by Kang Faqih (the nickname of Faqhiduddin Abdur Qodir) in Qira`ah mubādalah when discussing the design or idea of mubādalah in the Qur'an. In his view of the cosmology of the Qur'an, humans are described as the caliphs on earth. Humans who hold the caliph, both men and women, have the duty to protect, explore and preserve everything in it. So that between the two -- men and women -- must build cooperation partners, relationships of help-help and support each other to contribute and produce goodness, for the prosperity of the earth, of course also for the good of both. Verses of al-Qu'an that inspire the mutuality of men and women as contained in surah Q.S al-Hujurat 49:13, this verse contains the encouragement to know each other between men and women. It is clear that the word ta'arafu in this verse is a form of musharakah or cooperation that everyone knows each other. Not only men are required to know women, but vice versa.

A more emphatic verse is found in Surah QS.at-Taubah 9: 71, "Those who believe, men and women are guardians of others". Kata *awliya'* (*wali*) here means helper, protector, forgiver, and person in charge. With the phrase *ba'dhuhum awliya' ba'dhi* indicates that there is an alignment with each other. Or verses that appreciate the kindness, achievements and contributions made by men and women are clearly found in QS. Ali-Imran 3: 195, QS. an-Nisaa' 4: 124, QS. an-Nahl 16: 97, QS. al-Mu'min 16:97, QS. al-Mu'min 40:40, QS. al-Ahzab 33:35 (Kodir, 2021). In the surah Allah does not discriminate between men and women at all, whoever does good and believes, they will receive a reward from heaven. The meaning of heaven is certainly not only connotation on the issue of the hereafter but also the world, in the sense that they have the right to appreciation, reward, appreciation, prestige for their good contributions, without discrimination.

Meanwhile, the Hadith that advocates the relationship between husband and wife was revealed by Faqihudin in several of his activities. One example of a hadith that clearly advocates the relationship between husband and wife is narrated from Aisyah r.a that the Prophet *aw* said: "Women grew as hard as men" "Verily, a woman is a brother (equal partner) of a man" (Sunan Abu Dawud no. 236, Sunan al-Tirmidzi No. 163, Musnad Ahmad No. 26836). The hadith narrated by Ummul Mu'minin contains provisions regarding the principle of partnership and equality between men and women, in turn entrusting the mutual relationship between the two. This hadith is the most obvious source of inspiration to see equality, reciprocity and cooperation (KODIR et al., 2015).

Practically, *Qira`ah mumabadalh*, can be described in two interpretations. The first is a text in which a man (husband) is asked to behave wisely towards his wife, this is drawn from the meaning of reciprocating, that the wife must also do the same, even though the provision is not literally mentioned in the text. Second, the text so that the wife always gives thanks or appreciates the good behavior of the husband, and vice versa, the husband must be grateful for his wife's good performance. The meaning of reciprocal comes from the teachings of Islam, as the provisions in Islam to act wisely and raise gratitude are commandments that have a general circumstance without exception, regardless of gender, gender and certain reasons.

Thus, if you find a text that pronounces what gender or gender status you are doing, you can do something by automatically eliminating the same behavior in a reciprocal way. This reciprocal meaning is applied to gender-speaking texts, for example regarding rights related to women in social politics, including those related to the obligation for wives and husbands to the framework of domestic life.

The premise of this mubādalāh method is that Islamic revelation descends for both men and women. That is why the texts in the revelation greet men and women. Likewise, several laws arise in providing benefits for both, not in one of them and the benefits that are tangible in this world and in the hereafter. Thus. If there is a text or legal provision that is explicitly intended for a certain gender, for example a man, then the meaning must be removed, even if the text is implicit for the benefit of women. On the contrary, if it is only explicit for women, then it -- which is implicit in the text -- must be excluded for men

This method of interpretation of mubādalāh is built on the basis of 3 main premises, namely: 1) that Islam exists for women and men, so that some texts also target women and men. 2) that the principle of the relationship between women and men is mutual and cooperation. 3) that how many Islamic texts are open in the sense that it can be interpreted again, this is to reflect the two premises before this premise at the time of interpretation (Kodir, 2021).

Based on the 3 premises above, the work of the procedure or method of meaning mubādalāh is an effort to get the first ideas from several texts so that they are always linear with some principles of Islamic universality and are intended for all people who are skilled, whether as men or women. Some texts that specifically speak of men or women are contextual and partial texts, the substantial meaning of these texts must be explored and aligned with Islamic principles.

Therefore, Faqihuddin offered the way Qira'ah mubādalāh works which is built on three steps. First, determine and ascertain some principles in Islam from the common text for the basis of interpretation. This principle is general in nature, exceeding the entire theme called al-mabadi or on a special scale for themes that are also special or al-qawa'id. This principle is used as the basis for inspiration in the elimination of all from a series of mubdalāh methods.

The second next step is to find the main idea contained in the text through interpretation. In relation to this step, several relational texts that mention the roles of women and men, the majority have the nature of implementation, persilality, practicality and their presence which are used to describe a certain time and space for several Islamic principles. Because this relational text is a preparatory and implementable text, it is necessary to find the main meaning or main idea behind the text which can be adjusted to several principles that are emphasized through the verse that has been found in the first step.

The third step is to derive the main idea found from the text obtained from step number 2 on the gender that has not been mentioned in the text. In this step, the text is not only the territory of one gender, but includes several genders. Thus, the *mubādalah* method is intended, issuing that the text for women is intended or also intended for men, this is the opposite, after discovering the meaning of the main idea. So the main meaning must still be related to some of the main principles in the text encountered in the first step.

### **The construction of Qira`ah Mubādalah is in building a relationship between husband and wife**

In householding, there are basic principles that are the guidelines for husband and wife, according to Khoirudin Nasution, there are five principles of marriage, namely the first, the principle of creating a sense of comfort and security in the family, the second, the principle of democracy. Third, the principle of the absence of violent elements, fourth, the principle of cooperative relations that are partnerships, and the fifth, the principle of fairness (Nasution, 2016). Everyone who has a family certainly has goals in the social, spiritual or material fields. However, unfortunately not everyone is aware of that goal and keeps it for their life handles. Here marriage regulations are needed to be a guideline in the household, in this connection in Indonesia Law No. 1 of 1974 was born.

This Marriage Law is an effort to unify or uniformize the law regarding marriage in Indonesia which is still religious. As previously described, although this UUP has changed in 2019, the changes are not so significant. Ideally, as one of the legal products, the Marriage Law needs to be recognized again to what extent it is effective and not to

provide direction or rules of human behavior regarding marriage. However, almost half a century in force in Indonesia, there is still no serious effort to improve the law as a product of legislation – especially marriage-- . How about human reactions to the UUP and whether this UUP is still equivalent and linear to be used in the current situation and conditions (Hermanto, 2018).

There is a gap in the UUP with the current situation and conditions. The gap can be observed in the pattern of life and culture that continues to develop in society, but nevertheless it is not comparable to the existing legal system in Indonesia. a provision that has become public attention related to this UUP is about several articles about the rights and obligations of wives and husbands (Suma, 2004).

There are several articles in this UUP if observed with the current situation regarding the obligations and rights of husband and wife which still seem ambiguous ambivalent, especially since these articles are monitored by the study of gender equality or gender justice which is considered to have no nuances of gender justice at all and is not women-friendly. Although not all articles and there are several articles that accommodate gender justice, it is undeniable that there are also articles that need to be reconstructed. In articles 30 and 32 in paragraphs 1, 2, then article 32 paragraphs 1, 2, and 33, the Marriage Law, if observed explicitly, has affirmed the principle of equality of husband and wife.

The principle of equality between husband and wife has actually been reflected in these articles, it's just that these articles are not strengthened by the articles of the same name, instead of supporting these articles to strengthen the relationship of husband and wife partnership, it is actually counterproductive to the principles of justice and the spirit of gender equality. The article that is considered not to support the relationship of husband and wife partnership, for example in psl 31 paragraph 3, is more or less as follows: the husband is the head and the wife is the mother in the household. Psl 34 paragraph 1 the husband has the obligation to protect his wife and provide everything related to the needs of a good household. If you observe some of these articles, it seems that these articles not only strengthen the subordination of the position of women (wives), women are also

placed in a passive position because all needs are the responsibility of the husband. Women are positioned as nothing but consumptive only.

This provision tends to legalize male superiority, by placing the husband in a position to have the obligation to provide for his wife, then inevitably the husband with all the potential he has works hard to fulfill these provisions. When the husband is able to fulfill these provisions, the husband considers it superior to the wife who is only passive-minded and consumptive. More than that, it contradicts the basic value of equality between women and men written in several other articles.

In Qira`ah mubādalāh, the provisions of the article are not so, because husband and wife must both play an active and productive role. In the study of mubādalāh both are obliged to earn sustenance and livelihood, this is based on the verses of the Qur'an – such as QS. al-Baqarah 2:233 and an-Nisaa' 4:34 -- talking about who is obliged to earn sustenance and livelihood, the verse is directed at men, but the dictum should be shown to both men and women (read: husband and wife). This means that regardless of his status, both as a husband and as a wife, Islam is encouraged to be active and work as an effort to earn a living to meet the needs of both them and their families. Although grammatically Arabic, some of these verses are intended for men, those found in other verses -- such as QS, al-Jumuah 62:10, QS al-Baqarah verse 3, QS al-Baqarah verse 267, and ath-Thalaaq 65:7 -- which show the involvement of men and women. Thus there is no longer any reason to treat some verses of sustenance and sustenance only for an-sich men (Kodir, 2021).

Furthermore, article 31 paragraph 1 states that the husband is the head of the household and the wife is the housewife. The pinning of the 'head' to the husband has the potential to be interpreted as a leader or sole ruler so that it has the probability of dominance of the husband. Meanwhile, the embedding of 'mother' for wives is interpreted as only taking care of the household without having other roles. Even though this is not the case, in the author's observation the diction of the head of the household is more precisely as the person in charge, like the person in charge in general, of course, it is not singular and requires other components, namely the existence of the wife. Because the wife also has the same position as the person in charge of the household,



the meaning of a housewife should not be interpreted as taking care of the an-sich, but she is also an individual who plays an important role in the household like a husband.

If it is not interpreted as such, this article will become the legitimacy of the dominance of the husband which is legalized and formalized by the state. The placement of the husband as a leader over women (wives) is used as a postulate for argument, usually QS an-Nisaa' verse 34, in the interpretation of the mubādalāh of the fourth surah of the Qur'an, the main idea is not talking about leadership or responsibility of men towards women. If interpreted in this way, it cannot be mung at all and is not in harmony with the basic values of Islam. In Islam, a dependent life is not monopolized only by gender differences, but there are reasons for the qualifications, potentiality, and qualities that a person has.

The study of the mubādalāh is about the verse which discusses the context of demands for those who have virtue or fadhil and property in terms of helping anyone who is still unable and does not have a mal as a responsibility. This is the main idea in the related verse. A comprehensive and conceivable basic idea. Men are explicitly mentioned because of the real situation when the verse is present, and looking at the broad situation until this moment, they have a mall and can provide a living. But essentially, this verse alludes to anyone who has property and meets the needs of family members who do not have property.

A husband and wife relationship that does not represent the value of justice regarding the wife's obligations as stated in the sixth part of KHI article 84 paragraphs 1 to 4. In this article 84 (1) a wife is categorized as nusyuz if she is reluctant to carry out her obligations as a wife, the obligation is as stated in article 83 where a wife must be devoted to her husband in accordance with Islamic law and a wife must be able to manage the household well every day.

Of course, these provisions certainly do not stop at the text that appears in the article. Because this provision is indicated to still accommodate the disagreement of the relationship, or not at all. If the meaning of this provision stops at the provisions contained in the text only, then the position of the wife is only the satisfaction of lust, nothing more. Meanwhile, there is no demand for the husband to play a role in providing the satisfaction of the wife's (or other) sexual needs.

This situation will certainly cause inequality and even violence. Considering that context, the deepening of the meaning of the text requires a perspective and a *mubādalah* method. With this meaning of *mubādalah* sex will take the form of a fun part for both parties, and it will actually strengthen the marriage bond, not hurt it.

The relationship between husband and wife that very clearly describes the relationship of husband domination over *itri* is contained in KHI article 84 concerning *nusyuz*. In article 84, starting from paragraph 1 to paragraph 4, it only regulates the *nusyuznya* of the wife to the husband. That the wife is considered *nusyuz* if she does not carry out her obligations as stipulated in *Padal* 83 where the wife is not devoted to her husband and cannot manage a good household, she is not entitled to receive obligations from her husband as stipulated in article 80 of the KHI. The provisions of *nusyuz* in the KHI seem to be only one-way, he explained that it only restricts women.

*Nusyuz* in KHI emphasizes the wife's disobedience to her husband. This meaning is impressive in one direction, the wife who is only bought rebels against her husband, but not against her husband. In fact, in practice, not only wives who always give to their husbands but husbands can also deny their wives, meaning that this disobedience can occur in both directions. However, in the KHI, there is no mention of the husband's *nusyuz* at all. There is no provision for what if the husband does not carry out his obligations as a husband as the wife does not carry out her obligations. Is it if the husband *nusyuz* causes the wife to be the same as the loss of the husband's obligation to the wife if the wife does not carry out her obligations. This provision is very obvious showing an unbalanced regulation and only leads to the wife, and this regulation is certainly not effective. So, this regulation needs to be reunderstood so that it contains more mutuality (*mubādalah*).

Furthermore, *Faqih* in *Qira`ah Mubādalah* emphasized that the *Qur'an* speaks *nusyuz* in two directions. *Nusyuz* wife to husband seen in *QS. an-Nisaa' 4 : 34* and *nusyuz* husband to wife is found in *QS. an-Nisaa' 4 : 128*. In the perspective of *muabdalah*, *nusyuz* is conceived as the opposite of obedience. In *mum's* perspective, this sentence occurs and is directed at two sides. *Nusyuz* can happen from anyone, not only wives, husbands can also be *nusyuz*. In this condition, Allah *swt*, gives

encouragement to husband and wife to establish a joint commitment as two lovers who love each other and strengthen each other.

The purpose of such marriage can only be realized if the relationship established in the relationship between husband and wife is a fair relationship, namely an equal relationship, not a totalitarian and hegemonic relationship, both have the same skills to control, and are built with mutual trust, mutual understanding, mutual reminder and mutual giving. This model of relationship contains the probability that a married couple can achieve the noble goals of marriage.

## **Conclusion**

Qira`ah mubādalah initiated by Faqihuddin Abdul Kodir is a new method of reading related to relational verses in the Nash Qur'an and Hadith. As a progressive reading for gender justice in Islam with the concept of equality and reciprocity relations, it tries to re-qiro'ah regarding verses or relational texts between wives and husbands or between men and women by using women-friendly and accommodating methods, women like men are positioned as complete subjects. This method of mubādalah is built on 3 basic premises: first, the presence of Islam is addressed to both men and women and the texts allude to both. Second, the principle of the relationship between the two is a relationship of cooperation and reciprocity, not a totalitarian and hegemonic relationship. Third, Islamic texts are open to reinterpretation. In relation to the existing marriage law in Indonesia, both the UUP and the Compilation of Islamic Law which is now still legitimizing the superiority of husbands over women, Qira`ah mubādalah is a critical offer in studying the provisions of the marriage law that are built on reciprocal relationships or complementary and needy relationships.

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