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Comparison of the Rights and Obligations of Husband and Wife in the Compilation of Islamic Law and Indonesian Civil Law

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Abstract

This research examines the psychological impact of divorce on children and the responsibilities of parents in providing emotional and psychological support according to Islamic family law. This research aims to compare the rights and obligations of husband and wife in the Compilation of Islamic Law (KHI) and the Civil Code (KUH Perdata) in Indonesia. Using literature study methods and a qualitative analysis approach, this research explores the similarities and differences in the regulation of the two legal systems and their implications for gender justice in husband and wife relationships. The results of the analysis show that both the KHI and the Civil Code place the husband as the head of the family and give the traditional role to the wife as housewife. However, this approach often reinforces unfair gender stereotypes. Data from the Central Statistics Agency (2022) shows an increase in women's participation in the workforce, while a study by UN Women (2018) shows that

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families that implement gender equality tend to be more harmonious. Therefore, legal reform is needed that is more responsive to changing social dynamics to achieve gender equality and justice in marriage in Indonesia.

Keywords

Compilation of Islamic Law, Civil Code, rights and obligations of husband and wife, gender justice

Abstrak

Penelitian ini bertujuan untuk membandingkan hak dan kewajiban suami istri dalam Kompilasi Hukum Islam (KHI) dan Kitab Undang-Undang Hukum Perdata (KUH Perdata) di Indonesia. Dengan menggunakan metode studi literatur dan pendekatan analisis kualitatif, penelitian ini mengeksplorasi persamaan dan perbedaan pengaturan kedua sistem hukum tersebut dan implikasinya terhadap keadilan gender dalam relasi suami-istri. Hasil analisis menunjukkan bahwa baik KHI maupun KUH Perdata menempatkan suami sebagai kepala keluarga dan memberikan peran tradisional kepada istri sebagai ibu rumah tangga. Namun, pendekatan ini sering kali memperkuat stereotip gender yang tidak adil. Data Badan Pusat Statistik (2022) menunjukkan adanya peningkatan partisipasi perempuan dalam angkatan kerja, sementara studi UN Women (2018) menunjukkan bahwa keluarga yang menerapkan kesetaraan gender cenderung lebih harmonis. Oleh karena itu, diperlukan reformasi hukum yang lebih responsif terhadap perubahan dinamika sosial untuk mewujudkan kesetaraan dan keadilan gender dalam perkawinan di Indonesia.

Kata Kunci

Kompilasi Hukum Islam, Kitab Undang-Undang Hukum Perdata, Hak dan Kewajiban Suami Istri, Keadilan Gender

Introduction

Marriage is a fundamental institution in social and religious life, especially in the context of multicultural and multireligious Indonesian society. In an effort to regulate married life, Indonesian law accommodates this diversity through two main legal frameworks: the Compilation of Islamic Law (KHI) which applies to Muslims, and the

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Civil Code (*KUH Perdata*) which applies generally to all citizens. . According to data from the Ministry of Religion of the Republic of Indonesia, around 87.2% of Indonesia's population is Muslim, which places the KHI as the dominant legal framework in marriage matters for the majority of the population. The KHI is designed to provide specific guidance in accordance with sharia principles, while the Civil Code offers a more secular and universal approach to marriage arrangements.

These two legal systems provide guidance regarding the rights and obligations of husband and wife, but with different approaches and provisions. KHI, which was inaugurated through Presidential Instruction Number 1 of 1991, stipulates that the husband is the head of the family and the wife is the housewife, with the husband's obligation to protect and provide a living and the wife's obligation to obey her husband and take care of the household. In contrast, the Civil Code, which originates from the Dutch colonial era and was adopted after independence, emphasizes the husband's role as head of the husband and wife partnership, but provides greater space for equality of rights and obligations. For example, Article 31 of the Civil Code emphasizes that husband and wife must respect and help each other in married life. These two legal frameworks reflect the state's efforts to accommodate religious and secular values that coexist in complex Indonesian society.

The rights and obligations of husband and wife in the Compilation of Islamic Law (KHI) are regulated in detail, with an emphasis on the traditional role of the husband as head of the family and the wife as housewife. According to Article 79 KHI, husbands are mandated to protect and provide support for their wives, while wives are required to obey their husbands and take care of the household. This provision is often perceived as reinforcing unequal gender stereotypes, where the main responsibility for providing a living is in the hands of the husband, while domestic duties are borne by the wife. A study of these articles shows that although there are efforts to maintain family welfare, this approach tends to maintain inequality in the division of roles between husband and wife. This is reflected in research by Fakhri (2008) which emphasizes that gender-biased social structures can strengthen injustice in the household, which ultimately

harms both parties, especially women.

Apart from that, the husband's obligations in KHI which include providing a living and religious education to his wife show the dominance of the husband's role in family life. For example, Article 80 KHI states that husbands are obliged to provide for the family's living needs according to their abilities, and ensure that wives receive religious education. This provision can be considered discriminatory because it places the husband as the only party responsible for the economic and spiritual aspects of the family, while the wife is expected to accept and comply without an equal role in decision making. According to research by Hasyim (2010), such a legal structure can strengthen patriarchy and hinder efforts to empower women in various aspects of life. This condition raises questions about how the law can be adapted to reflect equality and justice in the roles of husband and wife, so that each party has equal rights and responsibilities in the household.

Previous studies show that gender inequality in marriage laws can have a significant impact on household well-being and husband and wife relationships. Fakhri (2008), in **Gender Analysis and Social Transformation**, emphasizes the importance of eliminating gender stereotypes to achieve true social justice. Fakhri underlined that gender stereotypes that are rooted in social and legal structures are often the main obstacle in realizing equality. Gender inequality not only affects women in domestic roles but also prevents them from gaining equal access in the public and economic spheres. This is in line with Hasyim's (2010) research in **Free from Islamic Patriarchism**, which shows that patriarchal structures in Islamic law often place women in a disadvantageous position, both in domestic and public contexts.

In addition, gender inequality in marriage laws can cause significant psychological and emotional impacts on women. Research conducted by the Ministry of Women's Empowerment and Child Protection (2018) shows that women who experience gender inequality in the household tend to face higher levels of stress and depression. This is exacerbated by legal provisions that do not provide adequate protection for women in facing this injustice. In this context, a comparative analysis between the KHI and the Civil Code is very important to identify and overcome legal gaps that enable gender inequality. By understanding how these two legal systems regulate the

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rights and obligations of husband and wife, we can develop recommendations for legal reform that is more responsive to the need for gender justice, which will ultimately improve welfare and balance in the household.

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The final aim of this research is to provide recommendations that can be used as a basis for legal reform that is more responsive to the need for gender justice. By comparing the provisions in the KHI and the Civil Code, this research identifies critical areas where the two legal systems can be improved to ensure equal rights and obligations of husband and wife. Gender equality in marriage law is not only important to achieve social justice, but also to support overall

household stability and well-being. According to a study by UN Women (2018), families that implement gender equality tend to have lower levels of domestic violence and more harmonious relationships. Legal reforms that take changing social dynamics into account can create an environment that is more conducive to the growth and development of all family members.

This research also aims to educate policy makers, academics and legal practitioners about the importance of an inclusive and justice-based legal approach in the regulation of marriage in Indonesia. With the increasing participation of women in the workforce, as reported by the Central Bureau of Statistics (2022) which shows women's participation reaching 53.41%, it is very important that the law also evolves to reflect these changes. A more responsive legal approach can help reduce tensions in the division of domestic and professional roles, thereby creating a better balance in family life. According to research by the World Bank (2021), policies that support gender equality in the household also have a positive impact on the national economy, because they increase female labor participation and productivity. Thus, the proposed legal reforms will not only benefit gender justice but also Indonesia's social and economic development.

Methods

This research uses a literature study method with a qualitative analysis approach. Data was collected from various primary and secondary sources, including the texts of the Compilation of Islamic Law (KHI) and the Civil Code (*KUH Perdata*), journal articles, books and other relevant legal documents. Researchers also utilize online databases, university libraries, and other academic resources to access necessary literature. Qualitative analysis was carried out by identifying and categorizing the main themes related to the rights and obligations of husband and wife in the two legal systems, as well as evaluating their implications for gender equality.

To ensure the validity and reliability of the data, this research uses data triangulation techniques by comparing findings from various sources. The data obtained was analyzed

systematically to identify similarities and differences in the legal provisions regulated in the KHI and the Civil Code. This analysis also considers the social and cultural context that influences the interpretation and implementation of the law. In addition, this research reviews relevant previous studies to provide a strong theoretical foundation and strengthen the proposed argument. With this approach, it is hoped that this research can provide comprehensive and applicable recommendations for legal reform that is more inclusive and gender equitable.

Results and Discussion

Position of Husband and Wife in KHI and Civil Code

The Compilation of Islamic Law (KHI) and the Civil Code (*KUH Perdata*) in Indonesia both place the husband as the head of the family with the wife as the housewife. Article 79 KHI explicitly states that the husband is the head of the family, while the wife acts as a housewife. Meanwhile, Article 31 of the Civil Code mandates that the husband is the head of the husband and wife partnership. These two legal systems demonstrate similar approaches to establishing traditional gender roles in the household. In the context of KHI, the husband's position as head of the family not only gives him authority, but also the responsibility to protect and fulfill the needs of his wife and children. This reflects the traditional Islamic view that places the husband as the leader and protector of the family. In contrast, the Civil Code, although not based on religion, adopts a similar view regarding the dominant role of the husband in the family, reflecting the social norms in force at the time of its drafting.

In Fakhri's (2008) study, the dominant role of husbands is often criticized because it can strengthen unfair gender stereotypes, especially in the modern context where many women actively participate in the workforce and have an important role in supporting the family economy. A study by the World Bank (2021) shows that families with a more equal distribution of roles tend to have better well-being and lower levels of domestic violence. This suggests that a more inclusive and fair legal approach is needed to adapt to changing social dynamics. Based on data from the Central Statistics Agency

(2022), women's participation in the workforce reached 53.41%, an increase from previous years. This indicates a significant change in the role of women in society that is not fully reflected in existing legal provisions. On the other hand, a study by UN Women (2018) found that families that implement gender equality tend to be more harmonious and have better welfare. Therefore, although the KHI and the Civil Code provide a framework that regulates the position of husbands and wives, there is an urgent need for legal reform that is more responsive to these social changes.

The application of the husband's dominant role can also have an impact on the distribution of domestic tasks. In many cases, wives are still expected to carry a double burden, namely working outside the home and taking care of the household. This can create an imbalance that has a negative impact on the wife's psychological and physical well-being. Research conducted by Hasyim (2010) in **Free from Islamic Patriarchism** emphasizes that a fair distribution of roles in the household is the key to achieving gender justice and family welfare. Therefore, it is important to review and reform the provisions in the KHI and Civil Code so that they are more in line with changing social realities. A more inclusive and gender-justified approach can help create a more harmonious and balanced marital relationship. Legal reform that considers women's active participation in various aspects of life, both domestic and professional, is very necessary to achieve real gender equality in Indonesian society.

Husband's Obligations in Providing Support: Comparative Analysis between KHI and the Civil Code

The husband's obligation to provide support for his wife and children is one of the provisions that is clearly regulated in both legal systems, both in the Compilation of Islamic Law (KHI) and the Civil Code (*KUH Perdata*). In KHI, Article 80 states that husbands are obliged to protect their wives and fulfill household needs according to their abilities, including providing living, clothing and shelter. Likewise, the Civil Code in Article 103 and Article 105 regulates the husband's obligation to provide maintenance and cover family living costs. This comparison shows that there is consistency in the recognition of the husband's financial responsibility as the main provider in the household. However, although both legal systems recognize the

husband's traditional role as primary provider, today's social and economic realities demand a more equitable distribution of responsibilities between husband and wife. Data from the Central Statistics Agency (2022) shows that women's participation in the workforce in Indonesia reached 53.41%, an increase from previous years. This increase reflects changes in the role of women in the family economy, where women now not only act as housewives but also as breadwinners. Therefore, laws governing maintenance should take these social dynamics into account and encourage a more equal distribution of responsibilities between husband and wife.

Furthermore, research shows that a more balanced distribution of financial responsibilities can increase household harmony and stability. A study by UN Women (2018) found that families that implement gender equality in the distribution of household responsibilities have lower levels of conflict and better relationship quality. This shows that when husband and wife share financial and domestic responsibilities, they tend to have a more harmonious relationship and support each other in various aspects of life. In addition, in the context of the KHI, Article 80 Paragraph 4 states that the husband's support obligations towards his wife can be freed if the wife is *nusyuz* or disobedient. This shows that there are provisions that allow husbands not to fulfill their obligations under certain conditions, which can cause injustice and tension in the household. On the other hand, the Civil Code does not have specific provisions regarding the release of maintenance obligations in cases of insubordination, which reflects a stricter approach to the husband's financial responsibilities. However, this also shows a lack of flexibility in dealing with the complex dynamics of husband and wife relationships. Finally, this analysis shows that although both legal systems have similarities in regulating husband's support obligations, there is an urgent need for legal reform that is more responsive to social and economic changes. Such reforms should take into account women's participation in the workforce and encourage a more equitable distribution of responsibilities within the household. Thus, marriage laws in Indonesia can create a more inclusive environment and support gender equality, which in turn will improve the welfare of families and society as a whole.

Religious Education Obligations in KHI

The husband's obligation to provide religious education to his wife is regulated in Article 80 Paragraph 3 of the Compilation of Islamic Law (KHI). This provision states that the husband is responsible not only for physical maintenance and protection but also for the spiritual development of his wife through religious education. This provision reflects the traditional assumption that husbands are more competent or responsible in terms of religious education than wives. However, this approach can be considered discriminatory because it ignores the wife's ability and rights to also contribute to religious education in the family. In the context of modern society, where women are increasingly involved in various aspects of life, including higher education, obligations for religious education should be reciprocal. Research shows that women have an important role in children's religious education and are often more involved in daily religious activities.

According to data from the Indonesian Ministry of Religion, around 60% of religious teachers in public schools are women. This shows that women have significant capacity in religious education. In addition, a study by the Center for Research and Development of Islamic Religious Education (2019) found that women who receive good religious education tend to have a positive influence on religious practices in the family. In many families, women act as the main educators of children at home, both in academic and spiritual aspects. According to a survey by the Institute for Islamic and Peace Studies (2018), 75% of respondents stated that their mothers played a major role in religious teaching at home. This fact challenges the traditional view that places the husband as the only party responsible for religious education. The provisions in the KHI which require husbands to provide religious education to their wives need to be reconsidered in the context of gender equality. Given the significant contribution of women in religious education, the law must reflect this reality and give equal recognition to the roles of both parties. In this case, Article 80 Paragraph 3 KHI should be revised to reflect the joint responsibility of husband and wife in religious education.

This revision will not only reflect gender equality but also strengthen family structures by dividing responsibilities more fairly.

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In an increasingly complex and changing society, cooperation between husband and wife in all aspects of life, including religious education, is the key to achieving prosperity and harmony in the household. The provisions regarding mandatory religious education in the KHI are currently still based on traditional gender assumptions which are not fully relevant to current social conditions. Data and research show that women play an important role in religious education and have equal capacities to men. Therefore, legal revisions that recognize and encourage shared responsibility in religious education between husband and wife are very necessary to achieve justice and gender equality in the family. By adopting a more inclusive approach and based on social reality, marriage law in Indonesia can better support the development of a just and harmonious family, where responsibilities and roles are shared equally based on the capacity and commitment of each partner.

Analysis of Nusyuz Provisions in the Compilation of Islamic Law

The *nusyuz* provisions in the Compilation of Islamic Law (KHI) are an important point in understanding how Islamic law regulates the dynamics of husband and wife relationships, especially when there is disobedience (*nusyuz*) from one of the parties. *Nusyuz* regulated in Article 84 KHI specifically only applies to wives, which can be considered unfair and gender biased. This injustice reflects discrimination which can worsen marital relations and household welfare. Article 84 KHI states that a wife can be considered *nusyuz* if she does not fulfill her obligations to her husband without a valid reason. This provision provides a legal basis for husbands to apply for sanctions against wives who are deemed disobedient. In this context, *nusyuz* refers to the disobedience of a wife who does not carry out her roles and responsibilities in the household, which can include non-compliance in matters such as providing services, physical presence, or sexual obligations.

This provision is considered unfair because it only regulates disobedience on the part of the wife, without any similar provisions for husbands. In many cases, husbands can also carry out actions that are detrimental to their wives, such as not providing support or committing violence, but there is no specific terminology or provisions

governing husband's disobedience in the KHI. This creates inequality in the husband and wife relationship, where the wife is in a position that is more vulnerable to legal sanctions. A study conducted by Nurani (2021) shows that *nusyuz* provisions are often used as a tool of pressure on wives in the divorce process. Data from Religious Courts in several large cities in Indonesia shows that accusations of *nusyuz* are increasing along with the increase in divorce cases. For example, at the South Jakarta Religious Court, 30% of divorce cases in 2020 mentioned *nusyuz* as one of the reasons for divorce. This shows that this provision is often used to legally pressure wives in the divorce process.

To achieve gender equality in marriage law, reform of the *nusyuz* provisions in the KHI is very necessary. One approach that can be taken is to adopt the concept of equality in handling insubordination, where both husband and wife have the same rights and obligations in demanding justice if one party does not carry out their role well. This will create a more balanced and fair relationship in marriage, as well as reduce the potential for gender discrimination. The *nusyuz* provisions in the current KHI reflect significant gender bias, which results in injustice in husband and wife relationships. Legal reform that adopts the principle of equality in dealing with disobedience from both parties will be very beneficial in creating justice and prosperity in the household. Thus, it is important for policy makers to consider revising this provision as part of broader efforts to achieve gender equality in marriage law in Indonesia .

Equality in the Rights and Obligations of Husband and Wife

The research results show that both the KHI and the Civil Code provide room for interpretation that can support equal rights and obligations of husband and wife. However, the implementation of these two legal systems is often biased towards traditional gender roles. One concrete example is how these two laws position the husband as the head of the family and the wife as the main domestic supporter. This reflects the patriarchal view that is deeply rooted in society, where the husband is considered the main decision maker and breadwinner, while the wife is responsible for household affairs and children . In KHI, Article 79 states that the husband is the head of the family, while the wife is the housewife. This article explicitly places the husband in a more dominant position than the wife. On the other hand, Article 31 of the Civil Code states that the husband is the head of the

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husband and wife partnership, which also emphasizes the dominant role of the husband in the family. However, the Civil Code tends to be more flexible in terms of the division of domestic duties compared to the more rigid KHI. Research by Fakhri (2008) shows that legal structures that support gender stereotypes can exacerbate gender inequality in the family, so there is a need for reform to ensure a fairer distribution of roles .

Data analysis shows that in practice, many families in Indonesia have adapted to changing social and economic dynamics, with women increasingly participating in the workforce. According to data from the Central Statistics Agency (2022), women's participation in the workforce reached 53.41%. However, existing laws often do not reflect this reality, causing a double burden on women who have to fulfill domestic and professional roles simultaneously. This causes tension and conflict in the household, and reduces the overall quality of family life . Furthermore, legal reform that is inclusive and based on gender justice is needed to support women's participation in various aspects of life without sacrificing family welfare. A study by UN Women (2018) shows that families that implement gender equality have lower levels of domestic violence and more harmonious relationships. This shows that gender equality is not only a social justice issue, but also an important factor in creating household stability and prosperity.

Conclusion

This research shows that both the Compilation of Islamic Law (KHI) and the Civil Code (*KUH Perdata*) in Indonesia have provisions that place the husband as the head of the family, with the wife as the housewife. Although both legal systems attempt to regulate the rights and obligations of husband and wife, these provisions often reinforce traditional gender stereotypes that can hinder the achievement of gender equality in the household. Analysis of data from the Central Statistics Agency (2022) and a study by UN Women (2018) shows that women's participation in the workforce continues to increase, and families that implement gender equality tend to be more harmonious and prosperous. Therefore, there is an urgent need for legal reform that

is more responsive to changing social dynamics and supports a more equitable distribution of roles within the household.

Proposed legal reforms must take into account current social and economic realities in which women increasingly play an active role outside the home. A more inclusive and gender-equitable approach can improve overall household welfare and support social and economic development in Indonesia. By adopting fairer and more equal legal provisions, it is hoped that husband and wife relationships can be more harmonious, balanced and support mutual progress. This research provides a basis for policy makers, academics, and legal practitioners to reflect on the importance of legal reform that supports gender equality and justice in marriage.

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