

Analysis of The Wisdom of *Tasyri'*-Legal Verses Claimed to Be Gender Biased In Indonesia's Official Tafsir Literature

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Abstract. The issues of gender and women's rights have permeated into the Quran. Some advocates for gender equality argue that the Quran is a source of perpetuating the oppression of women. This is due to their perception of certain Quranic verses that are claimed to have a gender bias. However, it is widely understood in the Islamic worldview that the Quran is a sacred book and contains principles of justice for all His creations, regardless of gender. Therefore, this article aims to examine the wisdom of *tasyri'* in the verses that are alleged to have a gender bias from the perspective of the Ministry of Religious Affairs of the Republic of Indonesia's Tafsir named *Al-Qur'an dan Tafsirnya; Edisi yang Disempurnakan*. The focus will be on four main topics: polygamy, interfaith marriage, inheritance distribution, and the testimony of women. This work is a literature review that explores the explanation of the Ministry of Religious Affairs of the Republic of Indonesia. This research demonstrates that the interpretation provided by the Ministry of Religious Affairs of the Republic of Indonesia contains logical and argumentative explanations regarding the wisdom of *tasyri'* from the verses related to the four gender-biased topics claimed. Various *tasyri'* wisdoms further confirm that there is a benefit for both Muslim men and women behind the establishment of these four *sharia* rules. Therefore, the claims made by feminist followers that these verses discredit and degrade the dignity of women are not accurate.

Keywords: Wisdom of *tasyri'*, Law verses, Gender bias, Exegesis book of the Ministry of Religious Affairs

Introduction

One of the perspectives that has received a lot of attention in the realm of the study of Qur'anic thought in the modern era is wrong, which is the gender perspective on the verses of the Quran. The rise of the wave of feminism in the West since the 1970s, which also flowed rapidly to Indonesia, has implications for criticism of verses that they claim are gender-biased.¹ These verses are seen as responsible for the birth of thought and practice in Islam that treats women as discriminatory. They perceive, among others, that the provisions of the Sharia do not reflect justice and gender equality. Teaching is also outdated, so it is no longer suitable for use in this modern era.²

In response to the above problems, humans need to know the wisdom or secret behind the sharia of these laws to achieve a good understanding and practice of the legal verses in the Quran. The wisdom of *tasyri'* or *falsafat al-abkām* (philosophy of law), which Addahlawi calls the most

¹ Abdul Qadir Handuh Saiman, "Sharia Wisdom on Gender Equality Reviewed from an Islamic Perspective, Jurnal al-Mursalah, Vol. 1, No.2, December 2015, p. 65

² Hendri Shalahuddin, *The Beauty of Gender Harmony in Islam*, (Jakarta: Insist, 2020) p. 55

prestigious science because this science discusses the secrets of religion and explains the wisdom of the law.³ Although *the legal law* is difficult to know, it is necessary to try to uncover it. Allah SWT himself has stated that the secrets of Islamic law can be identified by the clever or those desired by Allah SWT.⁴

Studying the wisdom of *tasyri'* in gender verses has produced many kinds of writings. The article focuses on the issue of women's leadership roles in the domestic and public spheres.⁵ Furthermore, research on three gender-related themes: human creation, inheritance sharing, and leadership in the household.⁶ Then, an article on the Position and Role of Women.⁷ Additionally, studies on gender equality from the perspective of the Quran.⁸

In this study, the author seeks to describe the wisdom of *tasyri'* in verses that are claimed to be gender-biased from the perspective of the interpretation of the Ministry of Religion of the Republic of Indonesia. This article will focus on several important issues: How is the interpretation of legal verses that are claimed to be gender-biased from the perspective of the book of the Quran and its Tafsir (Enhanced Edition)? What is the review of *the wisdom of tasyri'* on verses that are claimed to be gender-biased in the perspective of the book of al-Quran and its Tafsir (Enhanced Edition)?

Discussion

Hikmah Tasyri'

Etymologically, the word "wisdom" comes from the root word (حَكْمٌ - يَحْكُمُ - حُكْمًا وَحِكْمَةً), which in the *Oral al-'Arabic* dictionary has several meanings. Still, if explored further, all of these definitions boil down to the meaning of "to the truth". As for understanding the meaning of the wisdom of *tasyri'* well terminologically, the views of the *Uşūliyyūn* need to be scrutinised because wisdom is discussed a lot in their studies, especially in the discussion of *qiyās* (analogy), *'illah* and *maqaşid*. The scholars of *Usul* put forward several definitions related to wisdom, including: a) The benefit intended by the Shari'ah Maker (Allah) from the sharia of a law.⁹ b) Maslahat (benefit) or *mafsadat* (damage) itself;¹⁰ c) Achieving or perfecting a benefit and preventing or reducing harm (*mafsadat*).¹¹

The common thread of the definitions above is that wisdom is a benefit intended by the Shari'ah Maker, namely Allah SWT, either in the form of achieving a benefit or preventing damage. The word *tasyri'* comes from the word (شَرَعَ - يَشْرَعُ), which is etymological: to enter the source

³ Teungku Hasbi Ash-Shiddieqy, *Philosophy of Islamic Law* (Semarang: Pustaka Rizki Putra, 1975), p. 380

⁴ See the words of Allah: Q.S al-Baqarah: 269

⁵ Achmad Zayyadi, "Indonesian Muftis' Perspective on Gender Equality", *Journal of Indonesian Insightful Tafsir* Vol. 1, No. 2, 2021

⁶ Eko Zulfikar and Ahmad Zainal Abidin, "Textual Interpretation of Gender Verses; An Analysis of the Interpretation of Wabbah Zubaili in the book Tafsir al-Mumir". *Journal of Qur'an and Hadith Studies "Al-Quds"* Vol. 3, No. 2, 2019

⁷ Purwanto, *Gender Equality and Power Relations in the Thematic Tafsir of the Quran of the Ministry of Religious Affairs*, Palastren Journal, Vol. 12, No.1, June 2019

⁸ Atik Wartini, "Feminist Interpretation of M. Quraish Shibab; An Analysis of Gender Verses in Tafsir al-Misbab", in *Palastren Journal*, Vol. 6, No. 2, December 2013

⁹ Abdul Wahab Khalaf, *Maşadir at-Tasyri' Al-Islamiy fima la Naşsa fih*, (Kuwait: Dar al-Kalam, 1993), set. 6, Hallam. 49

¹⁰ Is-Salami named Eid bin, *Usul al-Fiqh.....*, Hallam. 179

¹¹ Eid bin Named Is-Salami, *Usul al-Fiqh allazi la yasa' al-Faqih Jablhubu*, (Riyad: Dar at-Tadmoria, 2005), set. 1, Hallam. 179

(water).¹² If it is associated with religion, the word شَرَعَ means to establish or explain.¹³ From here, the word *tasyri'* is interpreted as the determination of a rule or sharia.¹⁴ From the above description, it can be concluded that the wisdom of *tasyri'* is a benefit intended by Allah SWT when establishing certain laws/sharia for humans. The benefit can be realising a benefit (jalb al-manfa'ah) or avoiding harm (daf' al-maḍarrab).

The Wisdom of *Tasyri'* and Its Relation to 'Illah and Maqasid *Tasyri'*

There are two other closely related words in the study of the wisdom of *tasyri'*, namely 'illah and *maqasid tasyri'*. 'Illah is something whose existence affects the law, like a disease that affects the condition of one's body.¹⁵ In contrast, the definition of 'illah that Usūl scholars widely accept is "A condition (wasf) on which a shari'a law is enforced. The condition in question is known (zābir), fixed (tsabit), and consistent (mundaḅit)."¹⁶

The connection between these two terms is that 'illah is the way to find wisdom.¹⁷ In other words, 'illah is like the foundation for a law with which the law comes into existence; on the other hand, if it does not exist, the law does not exist. Wisdom is the result or fruit from the law built on the 'illah.¹⁸ Thus, if 'illah a law can be known, then its wisdom can be known and vice versa.

Apart from 'illah, another word closely related to wisdom is *maqṣad* (plural: *maqāṣid*) which means direction or place to go. Meanwhile, in terms of terminology, Ibn' Assyria, as quoted by the Caliph Babakr Hasan, defines it as: "The whole or majority of the meanings, objectives, and wisdom that can be observed in the laws established by the Creator of Shari'a, or the secrets that He places in these laws."¹⁹

Based on the content of the definition above, some scholars state that wisdom is synonymous (*murādīf*) with *maqṣad*. For example, scholars say that the wisdom of the prohibition of khamar is to preserve reason and property. Even so, *maqṣad* sharia is forbidden to khamar for the maintenance of reason and property. Thus, these two terms are used to designate the impact or fruit of applying law in the form of benefits that can be achieved or harm that can be prevented.¹⁹

Furthermore, in terms of scope, the two terms above are equally divided into two, namely hikmah/ *maqṣad juz'iy* or *tafsiliy* (partial/detailed) and hikmah and *maqṣad kulliy* or *ijmaliy*

¹² Muhammad bin Makram bin Manzbur, *Lisān al-'Arab*, jilid 8, hlm 175, kata entri: *Shir*

¹³ This meaning, for example, can be observed from the words of Allah SWT:

The law of the religion is the law of the religion of Noah, and the Messenger of Allah, and the Messenger of Allah (peace and blessings of Allaah be upon him) and the Messenger of Allaah (peace and blessings of Allaah be upon him

"He has made known to you what religion He has bequeathed to Noah and what We have revealed to you and what We have bequeathed to Abraham, Moses and Isa..." Ash-Shura: 13)

¹⁴ Ibrahim Anis, dkk, *al-Mu'jam al-Wasṭ*, (Kairo: Majma al-Lughah al-'Arabiyyah, t.th), Jilid 1, hlm. 479

¹⁵ Muhammad bin Makram bin Manzbur, *Lisān al-'Arab*, jilid 11, hlm 467, kata entri: Al

¹⁶ The apparent and disciplined description on which the legal ruling was based Abdurrahman bin Nasir as-Sa'di, *Risalah Latifah Jami'ah fi Usul al-Fiqh al-Muhimmah*, (Beirut: Dar Ibn Hazm, 1997), Jilid 1, hlm. 109

¹⁷ Nur-ud-Din bin Mukhtar al-Hadami, *Al-Maqāṣid Asī-Siyar'Yeh wa Ṣilatubā b.al-Adeella Aasi-Siyar'Yeh wa Bi Ba'h Alat al-Usuliyah*, (Riyad: Dar Asbelia, 2003), set. 1, Halam. 70-71.

¹⁸ Nur-ud-Din bin Mukhtar al-Hadami, *al-Maqāṣid asi-siyar'this and Ṣilatubā b al-adeella isi-siyar'it wa bi ba'd al-Mustalahat al-Usuliyah...*, p. 69

¹⁹ The scholars divide sharia law into two maca. *First*, Sharia law whose meaning can be reasoned (*ma'qul al-ma'na*). *Second*, Sharia law whose meaning cannot be reasoned with (*ghair ma'qul al-ma'na*) or also known as *al-abkam at-ta'abbudiyah*.

(general/global). The first form is wisdom and *maqṣad*, which are related to each detail of the sharia, such as wisdom or *maqṣad* for prayer, fasting, zakat, buying and selling, debts and receivables, and others. The second form is wisdom or *maqṣad* from a group or group of shari'a, such as wisdom or *maqṣad* for worship, *muamalah*, and so on. The scholars emphasised that understanding and knowledge of *the wisdom of tasyri'* is very important in explaining or clarifying misunderstandings (*syubuhāt*) of Islamic law.²⁰ Understanding the wisdom of *tasyri'* is also very useful in deflecting accusations and attacks made by the enemies of Islam against the majesty of Islamic law.²¹

An Overview of Gender and Gender Theories

Regarding terminology, gender is an English word that is absorption-based. When examining this word's place in the linguistic structure (grammatical sense), you can see that it is a noun form that describes the meaning of gender and sex,²² which in Arabic is called *al-jins*.²³ As for terminology, the definition of gender is widely put forward by feminists and women observers. For example, Suke Silveris defines gender as a pattern of relationships between men and women that is used to show social tools in the context of validating and preserving the set of relationships in the social order.²⁴ Meanwhile, Julia Cleves Musse, in her book *Half the World, Half a Chance*, defines gender as a role device that can be likened to a costume and mask at a performance with the intention that others can identify that we are feminine or masculine.²⁵ Nasaruddin Umar conveyed a more concrete definition. He said gender is a cultural concept used to identify differences in roles, behaviours, and other characteristics between men and women. The concept in question develops in society based on social engineering.²⁶

Based on some of the explanations above, it can be understood that gender is a concept that is used as a parameter in identifying the roles of men and women, which is based on the socio-cultural construction of society by not looking at the biological type as *equality* and not making it a tool of discrimination for one party only due to the biological consideration. In various gender discourses, there is sometimes a misunderstanding of the difference between sex, gender and feminism. Sex, in general, is the division or classification of two sexes based

²⁰ Husamuddin Khalil, *al-Hikmah wa at-Ta'lim fi al-Kitab wa as-Sunnah baina al-Bu'di al-'Aqā'idi wa al-Bu'di al-Maqāsidī*, Artikel dimuat di Contemporary Islamic Studies- Qatar Foundation Journals (*open access journal*), 2012, Vol. 3, hlm. 2

²¹ For example, God said:

They want to extinguish the light of God with their mouths, and God refuses except to fulfill His light, even if the disbelievers hate it

"They want to extinguish the light of Allah with their mouths, and Allah does not want anything but to perfect His light, even if the disbelievers do not like it." (QS. at-Taubah: 32)

²² Peter Salim, *Advance English-Indonesia Dictionary* (Third Edition, Jakarta: Modern English Press, 1991), p. 384. See also John M. Echols and Hassan Shadily, *The English Dictionary of Indonesia* (Cet. XX; Jakarta: Gramedia Pustaka Utama, 1992), p. 263

²³ Hans Wehr, *a Dictionary of Modern Written Arabic* (Cet. III; London: Mcdonald & Evans Ltd., 1980), h. 141. Lihat pula Munḍabā' al-bakiy, al-Mauri>d: *Qaḍā' Injilīziyy Arabiy* (Beirut: Dī'rat- 'Ilm li al-Mala'yīn, 1985), hlm. 383

²⁴Suke Silverius, "Gender in the Dehumanization Culture of the Humanization Process," *Education and Culture Review*, No. 013, Year IV, June 1998, <http://www.gender.or.id>.

²⁵Julia Cleves Mosse, *Half the World, Half a Chance: an Introduction to Gender and Development*, penerj. Hartian Silawati "Gender dan Pembangunan" (Cet. I; Yogyakarta: Pustaka Pelajar, 1996) hlm. 3

²⁶Nasaruddin Umar, "Gender Perspective in Islam," in *Paramadina Journal*, Vol. I, No. 1, July-December 1998, p. 99

on biological anatomy, for example, physical anatomy, reproductive organs such as the uterus and egg production (ovum) in women, the chemical composition of a person's body, and others.²⁷ Meanwhile, gender is an analysis that places equal positions between men and women to realise an egalitarian social order.²⁸ Feminism is a movement that proceeds from the assumption or awareness that women are a people in a position of oppression, marginalisation, and exploitation.²⁹ Furthermore, in analysing this gender problem, experts have initiated various social theories. Some of the theories that have a great influence on the discourse of gender studies can be briefly described as follows:

a. Structural Functional Theory

This theory emphasises the aspect of order and steps to avoid conflict. In this theory, society is understood as a system consisting of related and integrated parts. That structure will disappear if the social system is not functional.³⁰ Harmonisation and integration in society are urgently needed so that the *status quo* can still be maintained. Thus, this theory rejects any attempt to deconstruct *the status quo* because it will cause societal conflicts.

b. Social Conflict Theory

This theory assumes that there is a *class struggle* between groups due to differences in interests.³¹ This theory also sees the family not as a harmonious and balanced bond but as part of a system full of conflicts because there are several assumptions about the dualism of functions used in forming gender roles. The parties that are considered the main actors in gender inheritance, according to this theory, are religion and family.³² According to this theory, social conflict must be applied to eliminate the existence of family institutions that have provided a way and justification for unfair treatment.

c. Nature and Nurture Theory

This theory is based on his belief that the difference in roles between men and women is born from natural/natural factors.³³ Adherents of this theory believe that the role between these two sexes comes from the specificity of *body chemistry* in each of them, such as menstruation, pregnancy, breastfeeding, menopause in women and so on. Meanwhile, *the Nurture* theory is a theory that sees that biological factors do not determine the social roles carried out by men and women in society but rather determined by the cultural construction that has been inherent in

²⁷Mansour Fakh, *Gender Analysis and Social Transformation* (Yogyakarta: Pustaka Siswa, 1999), Cet. III, p. 8

²⁸Zaitunah Subhan, *Tafsir Kehatean: A Study of Gender Bias in Tafsir Qur'an* (Yogyakarta: LKiS, 1999), Cet. I, p. 5; Elga Sarapung, et al (Ed.), *Religion and Reproductive Health* (Jakarta: Pustaka Sinar Harapan, 1999), Cet. I, p. x

²⁹Mansour Fakh, *Gender Analysis and Social Transformation*, p. 79

³⁰George Ritzer, *Sociology: a Multiple Paradigm Science*, penerj. Alimandan "*Sociology of Science with Dual Paradigms*" (Jakarta: RajaGrafindo Persada, 1992), Cet. II, p. 25.

³¹Mas'ud al-Nadwi, *al-Isytirakiyyah wa al-Islam*, err. Shuhaib Hasan and Abdul Gaffar Hasan "*Socialism and Islam*" (Bandung: Risalah, 1983), Cet. I, pp. 49-50; Jhon Rex, *Social Conflict*, penerj. Sahad Simamora "*Social System Analysis*" (Jakarta: Bina Aksara, 1985), Cet. I; pp. 150-155

³²Ratna Megawangi, *Letting Be Different: A New Perspective on Gender Relations* (Bandung: Mizan, 1999), Cet. I; p. 91

³³Komaruddin Hidayat, "Introduction to Publishers," in Nasaruddin Umar, *Arguments for Gender Equality in the Perspective of the Qur'an* (Jakarta: Paramadina, 1999), Cet. I; h. xxi; also Syu'bah Asa, "Women Inside and Outside the Home," in Mansour Fakh, "The Position of Women in Islam: A Review of Gender Analysis," in Mansour Fakh, et al. *Discussing Feminism: Islamic Perspective Gender Discourse* (Surabaya: Risalah Gusti, 1996), Cet. I; pp. 101-102

society and *the power relations* that have occurred from generation to generation and continue to be maintained without any effort to shift this understanding. This reality is considered completely irreversible. From this, it can be seen that *the determinant factor* in society's social role is more determined by the cultural environment.³⁴

d. Feminist Theories

In fighting for the rights of their people, since the time of the early feminists, their efforts have not run smoothly. Many stumbling blocks come not only from men but also from their people. Among the main obstacles was that most of the American population at that time were immigrants from Britain. That way, the British traditions that they brought to America are traditions that exist in their home country, such as Victorian values, which are values initiated by Queen Victoria that require women to always maintain their holiness and purity, diligently take care of the family and maintain the household, be passive and resigned to fate.³⁵ These traditional values further cause an attitude of inferiority among women and hinder women's development. Therefore, feminist activists view that these things must be broken. The feminist movement considers that traditional and cultural values that are the cause of women's oppression must be fought against so that women can get their rights equal to men.³⁶

Profile of Tafsir of the Ministry of Religion of the Republic of Indonesia (Al-Quran and its Tafsir; Enhanced Edition)

Along with the development of the times and the great attention of the Muslim community to the studies of the interpretation of the Quran, it encourages Muslim intellectuals to be more concerned and serious in striving for the results of the interpretation of the Quran in perfect Indonesian, which can be used by all Indonesian Muslims from any region. From here, the Government of the Republic of Indonesia, with an institution under the auspices of the Ministry of Religion of the Republic of Indonesia, recommended forming a team tasked with working on the translation and interpretation program of the Quran using Indonesian. This team was then formed for the first time under the auspices of the Ministry of Religion, which at that time was still called the Department of Religion in 1972 and chaired by Prof. R.H.A. Soenarji, S.H. with KMA No. 90. In the next stage, it was perfected with KMA No. 8 of 1973.

In 2003, under the Minister of Religious Affairs Thalchah Hasan, with Decree No. 280 of 2003, the Ministry of Religious Affairs recommended forming a team to improve the Tafsir of the Ministry of Religion as a whole. This effort is motivated by the demands of the development of the times and culture. The team for improving the Interpretation of the Ministry of Religion

³⁴Nasaruddin Umar, "Women's Nature in the Perspective of the Qur'an," in Lily Zakiyah Munir (ed.), *Positioning Women's Nature and Change in Islamic Perspective* (Bandung: Mizan, 1999), Cet. I; p. 93

³⁵Adapted from Soenarti Djajanegara, *Feminist Literary Criticism: An Introduction* (Jakarta: Gramedia Pustaka Utama, 2000), p.1

³⁶The theories of feminism are categorized into several forms. a) Liberal Feminism, this theory has the logical basis that all human beings are equal and created in a balanced manner. Opportunities and rights between men and women have no distance because they are both rational beings. b) Socialist Feminism, this theory has the basic ideology that women's emancipation can be realized if women are directly involved in production affairs and household affairs that are transformed into social industries. c) Radical Feminism, this theory sees that the institution of marriage is a formalized institution to oppress women. More extremely, this theory holds that women do not have to depend on men, because men are a big problem for women who exploit women's reproductive functions under various pretexts.

as a whole is chaired by H. Ahsin Sakho Muhammad, under the coordination of the Center for Research and Development of Religious Literature and since 2007, has been coordinated by the Agency for Research and Development and Training of the Ministry of Religion of the Republic of Indonesia.³⁷ This improvement effort is the Government's hard work to provide the best interpretation results for the community. One of the efforts is to hold a deliberation with Ulama, who are engaged in the field of tafsir al-Quran and al-Hadith, from which all inputs, opinions and constructive suggestions are accommodated to improve the Tafsir of the Ministry of Religion of the Republic of Indonesia for the next edition.

The systematics of writing the Tafsir of the Ministry of Religion of the Republic of Indonesia in the improved edition is not much different from the previous version's systematics. The previous version of the Tafsir of the Ministry of Religion of the Republic of Indonesia began with a preamble which contained several points, namely the name of the surah, the place where the surah was revealed, the number of verses and the description of the main contents. In the enhanced edition, the tafsir is arranged in an order that begins with the title. The conclusions are the writing of the sentence group, the translation, the vocabulary, the reasonable sentence, the nuzul sabab, the new interpretation, and the last.

Based on the interpretation source, it can be deduced that the Republic of Indonesia's Ministry of Religion's Tafsir, or *tafsir bil-ma'tsur*, is the most influential. However, the interpretation description does not include the concept of *ra'yi* or thought; the interpretation of the Ministry of Religion of the Republic of Indonesia based on its source can be categorised as *Iqtirani*.³⁸

The method of interpretation of the Tafsir of the Ministry of Religion of the Republic of Indonesia, if viewed in terms of the breadth of explanation between *ijmali* and *tablili*, then the interpretation of the Ministry of Religion of the Republic of Indonesia is in the category of *tafsir tablili (tafshili)*. This is evident from the breadth of elaboration and description in the tafsir.³⁹ Meanwhile, if you look at the method of explanation, the method of explanation in tafsir al-Manar is not in a *way* that explains the verse globally, but rather *muqarin*, where *mufassir* explains by conveying comparisons of several opinions and views.

Meanwhile, when viewed from the method of writing in terms of the order of verses, the interpretation of the Ministry of Religion of the Republic of Indonesia follows the order and arrangement of *the Ottoman mushaf*. From this, it can be concluded that the method of writing tafsir of the Ministry of Religion of the Republic of Indonesia uses *the method of tartib mushafi*, which is continuous according to the order of *mushaf*, as well as *maudhu'i* even though it is only simple, namely by giving certain themes to the group of verses that are interpreted.⁴⁰ The interpretation pattern of the Ministry of Religion of the Republic of Indonesia has multi-pattern nuances. The

³⁷ Department of Religious Affairs of the Republic of Indonesia, Al-Qur'an and its Tafsir (Jakarta: Widya Cahaya : 2011), p. xxix

³⁸ Muhammad Esa Prasastia Amnesty, *Characteristics of Interpretation of the Quran and Its Interpretation by the Team of the Ministry of Religion of the Republic of Indonesia* (Surabaya: Jurnal Ascarya: 2021), Vol. 1 No. 2, p. 109

³⁹ For example, for example in the interpretation of Surah al-Baqarah [2]: 90-91, which is described in length and breadth until it takes up several pages. See *the Qur'an and its Tafsir*, pp. 322-326

⁴⁰ Muhammad Esa Prasastia Amnesti, Loc. Cit

many patterns describe how this interpretation tries to meet the community's needs in the field of Qur'anic science or in solving general problems.

The Wisdom of *Tasyri'* in Legal Verses Claimed to be Gender Biased Perspective of Interpretation of the Ministry of Religion of the Republic of Indonesia

1. Polygamy Abilities for Men, Not Women

Islam adheres to the monogamous system by providing leniency by allowing polygamy limited to the principle a man only has one wife and vice versa.⁴¹ As interpreted from the Tafsir of the Ministry of Religion of the Republic of Indonesia in Q.S. An-Nisa: 3 as follows:

وَإِنْ خِفْتُمْ أَلَّا تُقْسِطُوا فِي الْيَتَامَىٰ فَانكِحُوا مَا طَابَ لَكُمْ مِنَ النِّسَاءِ مَنَّىٰ وَثَلَاثَ وَرُبْعَ ۚ فَإِنْ خِفْتُمْ أَلَّا تَعْدِلُوا فَوَاحِدَةً أَوْ مَا مَلَكَتْ أَيْمَانُكُمْ ۚ ذَٰلِكَ أَدْنَىٰ أَلَّا تَعُولُوا ۗ

"If you are worried that you will not be able to do justice to an orphan woman, marry the woman you like: two, three, or four. However, if you are worried that you will not be able to act fairly (marry), you may only marry one person or a female servant that you have. That is closer not to committing wrongdoing".

Where it is stated that *"Islam allows polygamy with certain conditions, but one wife is better, as in the continuation of that verse. This⁴² is in line with the opinion of Quraish Shihab, who said that the Qur'an does not require and does not advocate polygamy; the Qur'an only talks about the permissibility of polygamy, and it is also an emergency door that can only be passed by those who are in great need and with conditions that are not light.⁴³*

One of the conditions that must be met in polygamy is fairness. This verse applies fairly to material matters, as explained in the Tafsir of the Ministry of Religion, which states, *"The consequence of you treating your wives fairly in the division of overnight time (turns), maintenance, housing and other material matters".⁴⁴ As for being fair regarding immaterial (feelings/tendencies) towards his wives, this tendency must occur and cannot be abolished. In Sayyid Qutb's opinion, Islam does not take into account anything beyond human ability, and it does not consider it a sin that will be sanctioned in the future. Even the Qur'an expressly says that a man will not be able to be fair in his feelings towards his wives, even though he is very eager for it because such justice is beyond the will of man.⁴⁵*

The above conditions show that the practice of polygamy should not be based on the impulse of lust alone, or in At-Thabari's view that, practising polygamy is because he wants to have the property of an orphan under the care of his guardian.⁴⁶ However, it must be based on the desire to seek wider benefits. Therefore, in the Tafsir of the Ministry of Religion, it is stated that things are factors for a person to commit polygamy.

⁴¹ Sahrani, *Fiqh Munakabat A Complete Study of Marriage Fiqh*, (Jakarta: PT Raja Grafindo Persada, 2013), p. 357.

⁴² Tafsir of the Ministry of Religion of the Republic of Indonesia, volume 2, p. 118.

⁴³ M. Quraish Shihab, *Tafsir Al-Misbab: The Message, Impression and Harmony of the Qur'an*, (Jakarta: Lentera Hati, 2002), p. 341.

⁴⁴ Tafsir of the Ministry of Religion of the Republic of Indonesia, volume 2, page 118.

⁴⁵ Sayyid Qutb, *Tafsir fi Zhalalil Qur'an, Di Bawah Naungan Al-Qur'an*, (Jakarta: Gema Insani Pers, 2002), hlm. 92.

⁴⁶ Abū Ja'far Muhammad b. J. Awarir b. Yazd, *Tafsar al-Tabar*, Vol. Ew, (Kiro: Hajar, 2001), Hallam 358.

“The reasons that make a person polygamous are as follows: a) If in one household there is no child and the wife, according to the doctor’s examination, is infertile, even though from marriage it is expected to have offspring, then polygamy is the best way out. b) For women, the period of menopause (menopause) comes faster; on the other hand, for a man, even though he has reached old age and his physical condition is healthy, he still needs to fulfil his sexual desires. In this situation, is it permissible for a man to commit adultery? So, this is where the wisdom of allowing polygamy is felt. c) Due to wars, for example, women outnumber men. This atmosphere is easier to cause negative things in people’s lives if the door of polygamy is not opened. The tendency of women outnumbering men today has become a reality, even though there is no war.”⁴⁷

Thus, the interpretation of Q.S. An-Nisa: 3 has strict requirements and must be met if polygamy is desired. The wisdom of *tasyri'* in this verse focuses on social benefits, not just because of wishes. In addition, it must be understood that the Qur’an is revealed as universally valid in every age and place. No one can be sure of the world’s development in the future, so it could be that this verse of polygamy or its guiding spirit can be used as a reference in the future.⁴⁸

2. The Ability to Marry Different Religions for Muslim Men

The majority of scholars agree on the permissible ability to eat the slaughter of the scribes and also the ability of Muslim men to marry women scribes based on Q.S. Al-Maidah: 5.⁴⁹ In the Tafsir of the Ministry of Religion, it is stated that:⁵⁰

This verse explains three kinds of things that are halal for believers, namely:

- a. Good food, as referred to in the fourth verse. Then, it is mentioned again in this verse to reinforce the meaning of good and explain that it is permissible to eat good food that does not change.
- b. Book Expert Food. The food here, according to the majority of scholars, is the slaughter of Jews and Christians because they, at that time, had the belief that it was haram to eat animals slaughtered by mentioning names other than Allah. As long as they still have such a belief, then their slaughter is still halal. Meanwhile, other foods such as fruits and so on are simply returned to the first type, namely, if they belong to the good food group, they can be eaten; they (*khabitsat*) are haram to eat. As for the slaughter of the disbelievers who are not the Scribes, it is haram to eat. Marrying free women (not slaves) and women believers and women of the Book of Law is halal. According to some *mufasir*, what *al-mukminat* means are women who maintain their honour. Men may marry these women with the obligation to provide for themselves as long as there are no other intentions contained in the heart, such as taking them to commit adultery and not being used as concubines. In short, a believer may marry a woman of the Book with the conditions mentioned above. But Muslim women should not marry a man of the Book Scholar, let alone a suspicious man who is not an Expert of the Book. Then, at the end of this fifth verse, he warns that whoever disbelievers after believing will all the good deeds he has done will be wiped out, and in the hereafter, he will be among the losers.”

In the explanation above, the meaning of the scholar of the book can be found by referring to the second point; it is stated that “*The food here, according to the majority of scholars, is the slaughter of Jews and Christians because they at that time had the belief that it was haram to eat animals slaughtered by mentioning names other than Allah. As long as they still have such a belief, then their slaughter is still halal.*” The scholars of the book in question are those who were Jews and Christians in the past, where they still have the belief that it is illegal to eat animals that are slaughtered by mentioning names other than Allah.

This is per the historical record of marriages with women experts in the book *of mubah*, where several companions and *tabi'in* have been married to our expert women. According to Quraish Shihab, Caliph Uthman once married a Christian woman, although later, his wife converted to Islam. Talhah and Zubair were two prominent companions of the Prophet who were also married to Jewish women. The marriage of the Companions with the women of the Book shows that this marriage is permissible because the Companions and the *tabi'in* are known as the best generation who will not do any legal act that the Qur'an prohibits.⁵¹

The wisdom of *tasyri'* in the ability of men to marry women is found in social structure, where men have rights and positions as *qawwam' ala nisa* means husband and protector of wives.⁵² So that the marriage that occurs can be realised based on Islamic values that uphold the problems and goals of marriage, as well as the fulfilment of a husband's obligations and rights to his wife and people of different religions, this will certainly be reversed if the one with a dominant position in the family is a man from the book master.

3. The Boys' Two-to-One Share of Girls on Inheritance

The issue of inheritance in the Qur'an and its division can be found in Q.S. An-Nisa: 11, which is His words:

يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثَيَيْنِ ۚ فَإِن كُنَّ نِسَاءً فَوْقَ اثْنَتَيْنِ فَلَهُنَّ ثُلُثَا مَا تَرَكَ ۚ وَإِن كَانَتْ وَاحِدَةً فَلَهَا النِّصْفُ ۚ وَلِأَبَوَيْهِ لِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ مِمَّا تَرَكَ إِن كَانَ لَهُ وَلَدٌ ۚ فَإِن لَّمْ يَكُنْ لَهُ وَلَدٌ وَوَرِثَتْهُ أَبَوُهُ فَلِأُمِّهِ الثُّلُثُ ۚ فَإِن كَانَ لَهُ إِخْوَةٌ فَلِأُمِّهِ السُّدُسُ ۚ مِن بَعْدِ وَصِيَّةٍ يُوصِي بِهَا أَوْ دَيْنٍ ۚ وَأَبَاؤُكُمْ وَأَبْنَاؤُكُمْ لَا تَدْرُونَ أَيُّهُمْ أَقْرَبُ لَكُمْ نَفَعًا ۚ فَرِيضَةٌ مِّنَ اللَّهِ ۚ إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا .

“Allah has commanded you to (oblige) to (distribute the inheritance to) your children (i.e., the share of one boy is the same as the share of two daughters). And if the children are women over two, then their share is two-thirds of the wealth left behind. If she (the daughter) is alone, she will get half (the treasure left behind). For both mothers and fathers, each part of the property is left behind if he (the deceased) has children. If he (the deceased) has no children and his parents inherit him, then his mother gets a third. If he (the deceased) had several brothers, then his mother got a sixth. (The divisions mentioned above) after (fulfilled) the will he makes or (and after the payment of) his debt. (About) your parents and your children do not know which of them is of the greatest benefit to you. This is God's decree. Truly, Allah is All-Knowing, All-Wise.”⁵³

In this case, the Tafsir of the Ministry of Religious Affairs mentions the reason for this verse's descent according to the Prophet's hadith, which relates to the story of Sa'ad bin Rabi's wife who said, "O Messenger of Allah! These are the two daughters of Sa'ad bin Rabi'. He was killed in the Battle of Uhud, his uncle had taken away all his possessions, and nothing was left for them, whereas they could not marry if they did not have property." The Prophet (saw) said, "Allah will give his law," so the verse of inheritance came down. Then the Messenger of Allah (peace and blessings of Allaah be upon him) went to the uncle of the two sons and said, "Give two-thirds of Sa'ad's wealth to his son and his mother one-eighth of it, and take the rest for you."⁵⁴

This verse has become a target of criticism from feminist groups, which criticise the concept of the balance of inheritance distribution of 2:1 to 1:1; they argue that the balance of 2:1 for men and women is an unfair balance of parts. This criticism is not a new problem, as classical and contemporary scholars have long sought to provide answers about the secret behind this policy of Allah.

In the Tafsir of the Ministry of Religion, an explanation is that between parents and children, you do not know which is closer or which is more beneficial to you. Therefore, do not divide the inheritance as ignorant people do. Those who give inheritance rights only to those who are considered to be able to participate in the war will defend their families, and they will not give inheritance rights at all to children and women. Follow what Allah has determined because He knows better what benefits you both in this world and the hereafter. The law of inheritance is a provision from Allah that Muslims must carry out. Know that Allah knows all things, and what He has determined must contain benefits for the benefit of mankind."

This rejection of inheritance based on the Qur'an may be due to the view that the mind can solve all problems. According to this view, there are also no complicated problems that contain secrets not accessible to the intellect, including the unequal distribution of inheritance rights in the inheritance system. The Islamic inheritance system is regulated directly by Allah with the regulation and determination of clear, firm, straightforward laws that can even be said to be complete. This can be observed in the description of the determination of each heir, the share of each heir, the time of inheritance distribution, and the mechanism of its arrangement. This shows that Allah SWT has the prerogative to determine the law of this matter and has established Islamic law based on *muhkamat* verses, more than the number of legal verses that regulate the distribution of *zakat*.⁵⁵

Concerning the discussion above, scholars have mentioned some *tasyri' wisdom* regarding the folding of the male part compared to the female. According to Al-Syanqithi, this verse does not provide an explicit explanation related to what the wisdom of *tasyri'* is from the division of 2:1 for male heirs and female heirs, even though both have the same position in the sense of being

⁵¹ M. Quraish Shihab, *Tafsir Al-Misbab: Message, Impression and Harmony of the Qur'an...*, p. 443.

⁵² Imelda Wahyuni, *Arabic Knowledge in Understanding Gender Bias in the Translation of the Qur'an Version of the Ministry of Religious Affairs*, Al-Maiyyah Journal, Vol. 9, No. 1, January – June 2016, p. 95.

⁵³ Tafsir of the Ministry of Religion Volume 2 p.124

⁵⁴ Tafsir of the Ministry of Religious Affairs Volume 2 p. 124

⁵⁵ Muhammad Amin Suma, *Measuring the Justice of Islamic Inheritance Through the Text and Context Approach of Al-Nusbush*, Ahkam, Vol. XII, No. 2, July, 2012, p. 54.

equal/equal in terms of kinship. However, Allah hinted at the reason/wisdom of the balance of the different distribution of inheritance in Q.S. An-Nisa: 34.⁵⁶ This verse, according to Al-Syinqithi, positions men (husbands/fathers) as *al-qaim' ala ghayrib* (enforcers and protectors for others, in this case the family) over women (wives/mothers) who are positioned as *al-ma'qum' alaih* in the sense of being protected, i.e. those who have the right to receive protection and protection.⁵⁷

4. Women's Testimony in Civil Cases Two to One Man

The verse of the testimony of women with men in civil matters is a verse that some feminist groups claim as gender-biased. Whether or not a testimony is valid is determined by the 2:1 division between women and men. Thus, it raises several debates about this distinction. The testimony of the encounter in the Qur'an can be found in Q.S. Al-Baqarah: 282, which is His words:

يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا تَدَايَنْتُمْ بِدَيْنٍ إِلَىٰ آجَلٍ مَّسْمًى فَآكْتُبُوهُ ۖ وَلْيَكْتُب بَيْنَكُمْ كَاتِبٌ بِالْعَدْلِ وَلَا يَأْب كَاتِبٌ أَنْ يَكْتُبَ كَمَا عَلَّمَهُ اللَّهُ فَلْيَكْتُبْ وَلْيَمْلِكِ الَّذِي عَلَيْهِ الْحَقُّ وَلْيَتَّقِ اللَّهَ رَبَّهُ وَلَا يَبْخَسْ مِنْهُ شَيْئًا فَإِنْ كَانَ الَّذِي عَلَيْهِ الْحَقُّ سَفِيهًا أَوْ ضَعِيفًا أَوْ لَا يَسْتَطِيعُ أَنْ يُمَلِّمَ هُوَ فَلْيَمْلِكْ وَلِيَّهُ بِالْعَدْلِ ۚ وَاسْتَشْهِدُوا شَهِيدَيْنِ مِنْ رِجَالِكُمْ فَإِنْ لَمْ يَكُونَا رَجُلَيْنِ فَرَجُلٌ وَامْرَأَتَانِ مِمَّنْ تَرْضَوْنَ مِنَ الشُّهَدَاءِ أَنْ تَضِلَّ إِحْدَاهُمَا فَتُذَكِّرَ إِحْدَاهُمَا الْأُخْرَىٰ ۚ

“O you who believe, if you pray not in cash for a specified time, write it down. And let a writer among you write it right. Let the writer not refuse to write it as Allah taught him; let him write, let the debtor dictate (what shall be written), let him fear Allah his Lord, and let him not reduce any of his debts. If the one who owes is a person who is weak in mind or weak (in his condition) or unable to pronounce, then his guardian should dictate honestly. And witness with two witnesses from the men (among you). If there are no two men, then one man and two women from the witnesses whom you are pleased with so that if one forgets, the other remembers him. Let the witnesses not refuse to testify when they are called[.]”

In the Tafsir of the Ministry of Religion, it is explained about the provisions of this difference in testimony that according to this verse, the testimony in *muamalah* is at least carried out by two men, or if there are no two men, it can be done by one man and two women. Furthermore, this verse distinguishes men's testimony from women's. Two female witnesses can replace a male witness. Scholars differ on why Allah distinguishes the number of male witnesses from the number of female witnesses. This is because men and women were created by God, each with advantages and disadvantages. Each has a greater ability in a matter than the ability of the other. In the field of *muamalah*, men have more abilities than women. In general, more men do it. Because women's attention is somewhat less than men's in the *muamalah* field, their thoughts and memories in this field are also somewhat less. If a woman bears witness, she may forget, so there should be another woman who can remind her. According to Shaykh Al-Jurjani, men use their minds more when considering a problem, while women use their feelings more. Therefore, women are weaker in their image and use their minds in complicated matters, especially if they are in a state of hatred and anger; they will be happy or sad because of a small thing. It is different with a man; he can be

⁵⁶ *الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَىٰ بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ* It means, "The men are the leaders of the women, because Allah has exceeded some of them (men) over others, and because they (men) have provided for a part of their possessions."

⁵⁷ Muhammad Amin Suma, *Measuring the Justice of Islamic Inheritance Through the Text and Context Approach of Al-Nusbush...*, p. 57.

steadfast and patiently endure difficulties; he does not set a business, except after thinking about it carefully.”⁵⁸

Textually, verse 282 explains that the testimony of two women is equivalent to the testimony of these two men with a record that no more two men have been found. Most scholars then interpreted this verse by using a hadith that mentions intellectual differences between men and women as a basis for giving more authority to male testimony. However, contemporary views differ from most scholars of the past, and they point out that differences in intellect do not necessarily mean that women are incapable of reaching or even exceeding male creativity and intellect. The hadith describes the daily situation at the time of the Prophet, where men had a more dominant role in the public sphere. In other words, if women’s public roles are equivalent to men’s public roles, then women’s testimonies should have the same value as men’s.⁵⁹ Maulana Muhammad Ali’s view said that the stipulation was meant because it had a great relationship with the traditions of the past society that did not involve women in business affairs. As a result, women are generally less able to understand transactions.⁶⁰

In line with that, Al-Aqqad added that this division is proportional because the job of being a witness is usually done by people who are physically and mentally strong. If there is only one witness, then it may be that the mental burden will be more than two or more people. The number of witnesses in the debt and receivables engagement problem is two men, so mentally, both are ready and not too burdened. The need for two women as witnesses in this context also helps reduce the burden on women who are witnesses. It is hoped that in giving their testimony later, female witnesses will not be influenced by the atmosphere of the court, both those that lead to emotions and hatred, as well as sympathy and pity.⁶¹

In the above verse, it is also not mentioned that the value of 1 male witness is the same as two female witnesses, as misunderstood by feminists. Because the content of the verse does not explain that a case cannot be decided with two male witnesses or one man and two women, but it is a special warning to the right holder in protecting his rights, where Allah gives instructions most strongly, he should take an alternative way, and this instruction is not to be used in court because the ways of determining the law (*turuq al-bukm*) are broader and different than the ways to protect rights.⁶²

From the explanation above, it can be found that there is a wisdom of *tasyri'* from the determination of women’s testimony in Islam. This opinion is also supported by the opinion of Muhammad Abduh in his book *Tafsir Al-Manar*; he mentions that the reason why Allah positions women as half of the men is that it is not the main duty of women to be busy taking care of property transactions (*mu'amalah maliyah*). Therefore, their memory and understanding of the transaction are considered weak; of course, it will be different if it is related to household tasks, which are their main tasks. If the affairs in the household are stronger, the memory is stronger than that of the

⁵⁸ Tafsir of the Ministry of Religious Affairs Volume 1 p. 433.

⁵⁹ Moh. Ulumuddin, *Women's Testimony: An Analysis of the Status and Position of Women in Islamic Law*, Jurnal Egalita, Vol. 10, No. 2, 2015, p. 8.

⁶⁰ Maulana Muhammad Ali, *Holy Quran*, (Lahore: t.p. 1973), hlm. 123.

⁶¹ Samsul Bahri, *Women's Testimony According to the Qur'an: Gender-Biased Teachings?*, Islam Futura, Vol. VII, No. 1, 2008, p. 120.

⁶² Henri Shalahuddin, *The Concept of Equality in Women's Testimony: Between Revelation Perspectives and Gender Perspectives*, Tsafafah, Vol. 12, No. 2, 2016, pp. 379-380.

man. This means that it has become a human habit for both men and women to have a strong memory of their daily concerns and duties.⁶³

1. Conclusion

From the various explanations above, it can be concluded that the verses claimed to be gender-biased have many dimensions. Still, in this paper, they have four main focuses, namely: *first*, the ability to be polygamous for men and not for women (Q.S. An-Nisa: 3); *second*, the share of boys two to one from girls in terms of inheritance (Q.S. An-Nisa: 11); *third*, the ability to marry in different religions for Muslim men and not for Muslim women (Q.S. Al-Maidah: 5); *fourth*, the testimony of two women to one man in civil matters (Q.S. Al-Baqarah: 282). These four problems are the target of criticism because they are considered not to comply with the principle of equality. From the analysis of the Tafsir of the Ministry of Religion and several supporting books of interpretation, it can be concluded that all verses claimed to be gender biased have benefits or *wisdom tasyri'* for implementing Allah's law. The benefit is sometimes in the form of achieving a benefit (*jalb al-manfa'ah*) or preventing harm (*daf' al-madarrab*).

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⁶³ Muhammad Abduh, *Tafsir Al-Manar*, Jilid 3, (Mesir: Dar al-Manar, 1367 H), hlm. 124-125.

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