

Contemporary Interpretation of Family Law Verses: A Study of the Interpretation of Ibn 'Āshūr and M. Quraish Shihab

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ABSTRACT

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This study explores the evolution of contemporary interpretations of family law verses, focusing on the perspectives of Ibn Āshūr and M. Quraish Shihab, prominent *mufasssir* with deep concerns about family law issues. Employing a qualitative library research approach, the study utilizes descriptive-analytical methods and content analysis, incorporating Hans-Georg Gadamer's philosophical hermeneutic approach. Mansour Fakih's gender analysis is also integrated to discern humanist values and gender equality in the interpretations. The findings highlight the construction of interpretations by both scholars, emphasizing moderate, humanist, and solution approaches. The study identifies factors influencing their interpretations and underscores their contributions to family law discourses, particularly in developing a non-sectarian, moderate method. Importantly, it notes the nuanced and humanist interpretation of gender equality influenced by academic and socio-political factors. Overall, the research supports the relevance of Gadamer's hermeneutic theory in understanding contemporary interpretations.

KEYWORDS:

Family Law
Interpretation;
Contemporary
Mufasssirs; Gender
Equality in
Interpretations

A. INTRODUCTION

The family is the smallest unit or small group of society which is known as the primary group. This group then gives birth to individuals with various forms of personality (Anwar & Adang, 2013, p. 172). The formation of a family in principle begins with a marriage bond or constant sexual relations to carry out something related to parenthood and maintenance and care of children (Khairuddin, 2008, p. 5)

As a fundamental unit in society, as well as an element of the nation's structure, the family's contribution to the nation itself cannot be denied (Hasan, 2011, p. 27). The family also has a significant influence on the formation of the character of the nation's generations. According to Syarbini (2014), if a family can form good character, then this character will influence the environment and ultimately will also influence the character of the nation.

Islamic law pays serious attention to the family not only because the family is the foundation of the formation

of society, but because the family will shape the human personality. This form of attention can be seen, among other things, in various verses which contain matters related to the family. In Surah al-Balad [90]: 3-4, Allah swears by mentioning Abū al-Bashar (Adam) who was the first head of the family, as well as the generations after him.

وَ وَالِدٍ و مَا وَلَدَ (4) لَقَدْ خَلَقْنَا الْإِنْسَانَ فِي كَبَدٍ (3)

And for the sake of (the relationship between) father and child (3) Indeed, We have created humans in hardship (4). (al-Balad [90]: 3-4).

This oath (*qasam*) of Allah shows the significance of parents and children, which logically means it also shows the significance of the family. The oath by mentioning wālid and *walad* in surah al-Balad gives the impression that issues related to the continuity of descendants or generations are important objects that are of great concern.

The naming of surahs that contain family issues is also proof of the seriousness of the Qur'an in paying attention to the institution of the family. These surahs include, surah Āli 'Imrān, surah al-Nisā', surah al-Mā'idah, surah al-Hujurāt, surah al-Mujādilah, surah al-Mumtaḥanah, surah al-Ṭalāq, and others .

The text of the Qur'an was born in line with the developing context of reality. History has recorded the occurrence of dialogue between the text of the Koran, al-

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Hadith and the reality of society. Sharia was not born except for the context of the benefit and welfare of the people, so it is necessary to systematically elaborate on the integration between the text of the Shari'a and its reality context. Sharia principles are built on the foundation of *hikmah*, justice, and the benefit of the world and the hereafter. If the application of Shari'a is far from the principles of justice, mercy, *maslahah* and wisdom then it is not the substance of Shari'a. As emphasized by Ibn al-Qayyim al-Jawziyyah:

فَإِنَّ الشَّرِيْعَةَ مَبْنَاهَا وَأَسَاسُهَا عَلَى الْحِكْمِ وَمَصَالِحِ الْعِبَادِ فِي الْمَعَاشِ وَالْمَعَادِ، وَهِيَ عَدْلٌ كُلُّهَا، وَرَحْمَةٌ كُلُّهَا، وَمَصَالِحُ كُلُّهَا، وَحِكْمَةٌ كُلُّهَا؛ فَكُلُّ مَسْأَلَةٍ خَرَجَتْ عَنِ الْعَدْلِ إِلَى الْجَوْرِ، وَعَنِ الرَّحْمَةِ إِلَى ضِدِّهَا، وَعَنِ الْمَصْلَحَةِ إِلَى الْمَفْسَدَةِ، وَعَنِ الْحِكْمَةِ إِلَى الْعَبَثِ؛ فَلَيْسَتْ مِنَ الشَّرِيْعَةِ...

"Indeed, the construction and foundation of the Shari'a is *hikmah* (wisdom), the benefit of servants in this worldly life and the hereafter; The whole of the Shari'a is justice, compassion, benefit and *hikmah*. Thus, every problem that goes from justice to arbitrariness, from compassion to vice versa, from benefit to prosperity and from *hikmah* to futility, then all of that is not part of the Shari'a..." (al-Jawziyyah, 2015, p. 41)

The Qur'an's attitude towards Arab traditions is not always destructive, but accommodating and even appreciative. This attitude shows that enculturation occurred while the revelation was still ongoing. Enculturation here is not simply understood as an effort to adapt and adjust to the social reality at that time (model of reality), but rather the introduction and implantation of modern values into local Arab culture, thereby producing a new model (model for reality) (Shodiqin, 2008, p. 183)

Islamic family law, which summarizes various aspects of *ahwāl al-shakhsīyyah*, is believed to have its roots in the Qur'anic dialectics of the traditions of that time. The process of substantive change makes Islamic teachings, including the patrilineal kinship system, an integral part of society. One indication that is often quoted is the verse Q.S. al-Nisā' [4]:11, which highlights the differences in inheritance between men and women.

Despite contemporary attempts to reconstruct the inheritance paradigm, some still find the verse convincing, reflecting the dominant status of men in the Islamic inheritance system. Significant changes in the practice of polygamy also occurred, with Islam providing maximum restrictions, although not eliminating them.

The Industrial Revolution 4.0 and technological advances have brought major changes in various fields, including family law. The development of social media has become a trend in itself, making it easier to find a life partner. However, the impact on family structure and living patterns can create family law problems that require serious attention.

Data shows a significant increase in the divorce rate in Indonesia, which is influenced by various factors such as disharmony, economic problems, and others. This is ironic considering that Islam emphasizes the strength of the

marriage bond. This problem demands a re-reading of religious texts, especially in a contemporary context that reflects universal human values.

Four main issues in family law need serious attention, namely the selection of a life partner, implementation of husband and wife rights, handling *nushūz*, and testimony in divorce. The high divorce rate requires an answer through a re-examination of religious texts, especially those produced by contemporary thinkers who accommodate universal values.

Analysis of the thoughts of Ibn 'Āshūr and M. Quraish Shihab is relevant considering that both of them lived in a Muslim-majority society that attempted to implement Islamic family law. Both have special attention to family law, with textual, contextual and *maqāsidī* approaches. Study of the thoughts of both, especially through monumental works such as Tafsīr al-Taḥrīr wa al-Tanwīr and Tafsir al-Mishbah, is essential for responding to current problems in Islamic family law.

B. LITERATURE REVIEW

There has been a lot of research and literature that examines the tafsir thoughts of Ibn 'Āshūr and M. Quraish Shihab from various study focuses, but the focus of the study and the approach taken by the author is different from previous studies. Anshori (2008) reveals M. Quraish Shihab's views on verses with gender nuances in the interpretation of al-Mishbah as well as the instruments he uses to interpret these verses. From the results of his research he found that M. Quraish Shihab views gender as sex. Gender bias means deviations committed by everyone, whether men or women, Muslims or non-Muslims, and scholars or non-clerics, from the past to the present.

Thus, if someone gives other people rights beyond their nature, or someone does not give other people rights according to their nature, it is called gender bias. In interpreting verses related to women's rights, M. Quraish Shihab tends to be the same as classical commentators, namely returning to the text. The difference is that M. Quraish Shihab also pays attention to the current context. This pattern of interpretation makes M. Quraish Shihab's thinking appear to be a moderate scripturalist because it really emphasizes efforts to return the problems faced by Muslim society to the holy book Al-Qur'an by paying attention to its context (Anshori, 2008)

Then, according to Syibromalis (2014), Hamka and Quraish Shihab's interpretations have similarities both in terms of interpretive sources, methods, styles and references. Both were also influenced by the idea of reform in the field of interpretation that was taking hold in the Middle East. With *adabi ijtimā'i*, both of them link their interpretations to various problems that are widespread in their respective regions, especially problems that are problematic for women. The author in this research examines more about the rights

and obligations of husband and wife in household management and raises the issue of the hijab for women. Syibromalis also concluded that both interpretations had strong Indonesian nuances.

Meanwhile, Zenrif (2012) believes that interpretive studies using a critical phenomenological approach require three stages, namely: first, the text interpretation stage includes data collection and text analysis; second, the stage of researching social phenomena on texts so that new meanings can be found; third, a critical phenomenological approach requires a Qur'anic worldview to provide meaning to the religious phenomena of Islamic society. In terms of family leadership, he concluded that the verse *al-rijāl qawwāmūna 'ala al-nisā* refers to male leadership in the nuclear family, not in the extended family.

Subhan (2015) put forward the concept that equal partnerships are quite important studies in this book. Subhan coherently discusses the concept of gender in the Al-Qur'an, then continues with a study of the concept of equal partnerships in the Al-Qur'an. In closing his study, Subhan raised the theme of women in the stories of the Koran. The main message of this theory is to straighten out thinking regarding patriarchal-biased understanding. He believes that understanding the sources of Islamic teachings contextually is very necessary. Interpretation of sacred texts is not only within the framework of justifying the text, but must touch on real problems in society, such as liberation from poverty, education and all forms of oppression.

Overall, this literature describes the diversity of approaches and thoughts in the tafsir of Ibn 'Āshūr and M. Quraish Shihab, with an emphasis on issues of gender, Indonesianness, critical phenomenological approaches, and the concept of equal partnerships.

C. RESEARCH METHOD

This research is library research which uses a qualitative approach. This research explores the construction of Ibn 'Āshūr and Quraish Shihab's interpretation of family law verses using Hans-Georg Gadamer's philosophical hermeneutic approach. Gender analysis is also involved to evaluate the humanistic nuances and equality of the two interpretations, while the *maqāṣidī* approach is used to understand the intent and purpose of the interpreted verses.

Primary and secondary data were used, with research focused on four main issues in family law verses, including choosing a life partner, husband and wife rights, *nushūz* issues, and divorce testimony. Data collection techniques are carried out through documentation, by reviewing written documents such as books and texts, both primary and secondary.

After data collection, a reduction and selection process is carried out to focus the information on the formulation of the research problem. Data descriptions are compiled into narrative text after data selection is complete.

D. DISCUSSION

The development of interpretation of the Qur'an is not only influenced by changes in times and conditions, but also by developments in epistemology. New paradigms and epistemologies are needed so that interpretation of the Qur'an continues to develop and does not experience stagnation. Contemporary intellectuals have carried out critical readings and reinterpretations of the Koranic text by involving study tools from the social sciences and humanities, inspired by thoughts such as critical social science, Western Marxism, and post-structuralism.

Muslims' perceptions of the Koran and its interpretation have developed along with the development of the episteme of modernity. Interpretation of the Qur'an changes from textual to rational-contextual, where meaning is no longer seen as something static-ahistorical, but dynamic-historical. The contemporary exegetical paradigm is based on the assumption that the Qur'an is relevant for every era and place, requiring continuous dialogue with social and humanitarian developments.

The dynamics of tafsir methodology is an inevitable phenomenon, along with the view that the Qur'an must be interpreted in accordance with the demands of the contemporary era. The concept of *qirā'ah mu'āṣirah* (contemporary reading) was introduced as a new way of reading the Qur'an, freeing mufassir from attachment to the interpretations of previous generations to avoid stagnation of thought.

Shahrur and Abū Zayd contributed significantly to the development of contemporary tafsir paradigms. Shahrur proposes the *al-tartīl* method and contemporary reading, while Abū Zayd emphasizes the contextual approach and distinguishes between meaning and significance in understanding the text of the Qur'an.

1. Construction of Ibn 'Āshūr and M. Quraish Shihab's Interpretation of Family Law Verses

In the context of interpreting the Qur'an, interpretive construction refers to the methodology and process carried out by the *mufassir* when interpreting the Qur'an. Methods and patterns of interpreting the Qur'an have developed over time, depending on various aspects such as the method of explanation, scope of explanation, target and sequence of verses, and style of interpretation.

In analyzing the interpretation of family law verses, the author focuses on the construction of the interpretation of Ibn 'Āshūr and Quraish Shihab. Ibn 'Āshūr provides specific context, analyzes the lexical meaning, and highlights the prohibition of marriage between Muslims and polytheists as a protection against the religion. Quraish Shihab inserts a prologue that explains the relationship of the verse to the previous theme, emphasizes the importance of choosing a life partner, and discusses the prohibition of marriage between

Muslims and polytheists by detailing the views of fiqh scholars.

Although there are similarities in the interpretive construction of both, differences in approach are visible, with Ibn 'Āshūr focusing more on lexical and legal analysis, while Quraish Shihab highlights context and values more broadly. In their interpretation of choosing a life partner, both of them emphasize the importance of paying attention to physical beauty, social status, moral cleanliness and character as the main criteria for building a harmonious marriage relationship.

QS verse. al-Baqarah [2]: 228 discusses the rights of wives and the obligations of husbands, including dowry, living, education and good treatment. There are different views as to whether this verse is addressed to husbands or guardians. The term dowry, as explained by Ibn 'Āshūr, includes *al-ṣaduqah* (promise of honesty and sincerity) and *niḥlah* (sincere gift without compensation). The husband can use the dowry with the wife's consent. QS. al-Nisā' [4]: 24 and 25 mentions dowry in the terms *ajr* and *farīdah*, related to the benefits that the husband obtains from the wife.

Quraish Shihab's interpretation emphasizes the meaning of *ṣaduqāt* as proof of the truth of the husband's promise and *niḥlah* as a sincere gift. Dowry is interpreted as a symbol of the husband's ability to provide for his wife's needs. The wife has the freedom to use her dowry and can give the dowry to her husband willingly and sincerely. Ibn 'Āshūr and Quraish Shihab's approach to dowry displays a humanist side, in contrast to the fiqh perspective which tends to view wives as objects. The wife is also entitled to maintenance and Ibn 'Āshūr's interpretation of QS. al-Baqarah [2]: 233 and QS. al-Ṭalāq [65]: 7 uses a lexical approach, discussing maintenance for divorced wives and breastfeeding children.

QS verse. al-Baqarah [2]: 233 emphasizes that mothers have more rights to breastfeed their children because of tenderness, affection and better quality of milk. Ibn 'Āshūr and Quraish Shihab agree that the father is responsible for providing maintenance, with the principle of not burdening him and according to his abilities. Quraish Shihab highlighted the importance of breastfeeding by biological mothers to build emotional relationships and child intelligence.

QS verse. al-Ṭalāq [65]: 7 directs the husband to provide maintenance according to his ability. If the husband is unable, responsibility can be placed on the *bayt al-māl*. Quraish Shihab suggested assistance from Bayt al-Māl or the Department of Social Affairs for heads of families who have difficulty meeting living expenses.

In QS. Ṭaha [20]: 132, Allah commanded the Messenger of Allah and the believers to perform prayers and be patient. In QS. al-Taḥrīm [66]: 6, Allah gives guidance for believers to protect and educate their families to avoid hellfire. Quraish Shihab considers this a guide to an ideal household.

QS verse. al-Nisā' [4]: 19 tells husbands to be kind to their wives without pressuring them. Ibn 'Āshūr and Quraish Shihab interpret *al-ma'rūf* as actions following the Shari'a and reasonable values. They emphasize building a household with noble values and maintenance.

In verse QS. al-Nisā' [4]: 19, Quraish Shihab highlights the importance of governing the household with the values of nobility, maintenance and trust. When discomfort arises for the wife, the husband is ordered to be patient and not rashly give a divorce in a measured decision with common sense.

Lastly, in QS. al-Taḥrīm [66]: 6, Allah gives instructions for believers to protect and educate their families to avoid actions that can lead them to hell. Quraish Shihab emphasized this as a guide for an ideal household and building a harmonious relationship with Allah.

2. Hermeneutical Analysis of the Interpretation of Family Law Verses from the Perspective of Ibn 'Āshūr and M. Quraish Shihab

Verses related to choosing a life partner are found in the QS. al-Baqarah [2]: 221, QS. al-Nūr [24]: 3, and QS. al-Nūr [24]: 26. Selection is based on beliefs and character, not physical or social status, with a prohibition on marrying adulterers or polytheists. Ibn 'Āshūr's interpretation of QS. al-Nūr [24]: 3 states that it is prohibited for male adulterers to marry female adulterers and vice versa. This verse is considered to be part of *siyāsah al-shar'īyah* to strengthen the character of Islam.

Some scholars, including Quraish Shihab, understand this prohibition as marrying someone with dirty or idolatrous behavior. Quraish Shihab discusses the law of marrying a person committing adultery, with some madhhabs considering it valid with *makrūh*, while others state it is invalid. Regarding the marriage of a couple who became pregnant as a result of adultery, Quraish Shihab supports it as legal with the analogy of purchasing fruit from a stolen garden.

The author's analysis highlights the rights of men and women in determining their choice of partner, emphasizing that women have the right to reject men who are deemed not to have a good personality, and vice versa. This shows that mate selection is a shared right without a male monopoly.

The three main points of discussion regarding the rights of husbands and wives are contained in the rights of wives over husbands, husbands' rights over wives, and joint rights. QS. al-Baqarah [2]: 228 is the central verse which emphasizes partnership and equality between husband and wife, correcting the imbalance in the rights of wives during the period of ignorance.

Ibn 'Āshūr's interpretation highlights the reciprocal relationship of rights and obligations between husband and wife. *Al-ma'rūf* is defined as goodness that is by common

sense, correcting the imbalance in the rights of wives during the period of ignorance. Although the rights of wives and husbands are equal, they do not have to be identical.

QS. al-Baqarah [2]: 228 emphasizes the balance of rights and obligations of husband and wife with the word "*mithl*" (balanced). Quraish Shihab interprets "*darajah*" as the husband's leadership which lightens the wife's burden. *Al-ma'rūf* in *mu'āsharah* is interpreted by Ibn 'Āshūr as goodness according to common sense and the Shari'a.

In *mu'āmalah* and *mu'āsharah*, Quraish Shihab states "*mithl*" as balance, not equality. Husband and wife can help each other with basic tasks, creating balance and cooperation according to the principle of *al-ma'rūf*.

The *mu'āsharah* pattern in the Qur'an follows the senior-junior partner or equal partner relationship pattern. The rights and positions of husbands and wives are recognized as equal, although they may differ based on traditional roles or income. Islam emphasizes human equality, with women having privileges and a key role as *al-murabbiyah al-ūlā* in children's education.

Allah provides instructions for resolving household problems through verses such as the QS. al-Nisā' [4]: 34, 128, and 35. *Nushūz*, the wife's disobedience, can originate from the wife or husband. Ibn 'Āshūr said the causes included a response to the husband's behavior. Steps to deal with *nushūz* in QS. al-Nisā' [4]: 34 is to advise, leave bed, and hit. Scholars' views on beatings differ; Ibn 'Āshūr saw it as a signal of concern for societal civilization, not absolute legitimacy.

Ibn 'Āshūr classifies forms of guidance based on the level of *nushūz* and concern, warning against the actions of *al-hajr* and *al-darb* with caution. Quraish Shihab agreed, emphasizing calculation in action and rejecting beatings at the first step. In the modern context, beatings are considered inappropriate by Quraish Shihab, and according to the author, this verse teaches coaching to return to goodness.

For husband's *nushūz*, QS. al-Nisā' [4]: 128 allows peace (*al-sulh*). Ibn 'Ashur and Quraish Shihab saw this as an encouragement for compromise and peace. Unresolved disputes can involve *hakam* (peacemakers) from outside parties, to make peace. The main message is to maintain the integrity of the household and prevent careless divorce.

The construction and characteristics of Ibn 'Āshūr and Quraish Shihab's interpretation above are a valuable methodological contribution of interpretation to the development of interpretation to reveal the *hidā'ī* value of God's Word. By paying attention to the "conventional" and modern-contemporary interpretation tools of the Qur'an, the results of the interpretation of Ibn 'Āshūr and Quraish Shihab appear moderate.

The interpretive paradigm developed by Ibn 'Āshūr and Quraish Shihab also provides color and a contribution that cannot be underestimated to the development of the contemporary interpretive paradigm.

E. CONCLUSION

Based on the results of the research and analysis above, it can be concluded as follows:

1. The construction of Ibn 'Āshūr and M. Quraish Shihab's interpretation of family law verses in the theme of the ideal life partner, the rights of husband and wife, settlement of *nushūz* and divorce testimony is as follows:
 - a. The construction of Ibn 'Āshūr's interpretation is as follows:
 - 1) Interpretation Source: *dirāyah*
 - 2) Interpretation steps: start the interpretation by mentioning the verse, explain the relationship between the verse and the previous verse briefly, explain the traditions of the community that relate to the verse, mention the *nuzūl sabab*, interpret the verse with a linguistic approach, strengthen the interpretation with narrations or Arabic poetry, present the opinions of *ulama* to explain the content of the law and reveal the signs of *maqāṣid shari'ah*
 - 3) Characteristics: humanist nuances, equality, moderation and solutions.
 - b. The construction of M. Quraish Shihab's interpretation is as follows:
 - 1) Interpretation source: *dirāyah*.
 - 2) Interpretation steps: starting the interpretation by mentioning the verse, *munāsabah* while explaining the theme of the verse, interpreting the verse globally, mentioning the *nuzūl sabab*, outlining sentences that are considered important using a linguistic approach, strengthening the interpretation with history and expert opinions from various scientific disciplines, expressing the objectives of the Shari'a, and explains the law by presenting the opinions of scholars.
 - 3) nuances of humanism, equality, moderation and solutions.
2. The construction of Ibn 'Āshūr and Quraish Shihab's interpretation of family law can be understood as moderate, humanist, and emphasizing equality. The main factors that shape their views involve deep academic backgrounds, growing up in a family environment of academics, as well as socio-political experiences involving significant changes in ideology and government regulations. This approach reflects their efforts to align Islamic teachings with the socio-political realities of their time, resulting in an interpretation of family law that recognizes human values and equality.
3. The contribution of Ibn 'Āshūr and M. Quraish Shihab's interpretation of the discourse on family law studies can be summarized as follows:
 - a. Both of them developed moderate interpretive methods by not only using conventional method tools but also incorporating modern theories. Quraish Shihab especially emphasizes harmonization between

permanent (*al-thawābit*) and changing (*al-mutaghayyirāt*) values in interpreting family law verses.

- b. Despite being a Sunni madhhab, the interpretations of Ibn 'Āshūr and Quraish Shihab are not sectarian. They are not limited to defending or supporting a particular *madhhab*, but rather prioritising a more universal and inclusive understanding.
- c. Ibn 'Āshūr developed the paradigm that the purpose of the revelation of the Qur'an was for the benefit of all humans, including personal, social and civilizational benefits. Quraish Shihab also emphasizes the aspect of *hidā'ī* (guidance) in interpreting the Koran, ensuring that the messages of the Koran can be applied and carried out wholeheartedly in personal and social life.

Suggestion

Family cultural issues, especially in the relationship patterns between family members, are an important factor in the emergence of contemporary family law problems. This involves relationships between husband and wife, sons and daughters, and parents and children. Research with a philosophical hermeneutic approach highlights the need for further research with various approaches, especially from a humanities perspective.

The Industrial Revolution 4.0, which is characterized by the concept of automation and the application of smart factories, has the potential to have a serious impact on family life. Therefore, further research is needed from academic circles to find solutions that follow Qur'ānī principles.

The importance of re-examining normative postulates is highlighted, especially in the context of legitimizing inequality between men and women which sometimes arises as a result of interpretations of religious dogma that tend to be textual-literalistic. This emphasizes the need for an in-depth study of normative interpretations to avoid biased understanding and support gender equality.

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