

THE DOMESTIC RIGHTS OF THE WIFE (Viewed from KH. Husein Muhammad's Thoughts)

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Abstract

*The wife has a role in household harmony who understands every detail of her domestic realm. But in fact, several social traditions and norms under the guise of religion limit the space for wives to move in their palaces. This study aims to reveal Husein Muhammad's thoughts on domestic rights in the household and to analyze his mindset in doing *istinbath*. The method used is literature study in the study of thought. This descriptive qualitative research used the main data sources in the form of two books by Kyai Husein, namely: (1) *Women's Fiqh: Kyai's Reflections on the Interpretation of Religious and Gender Discourses* published by LKiS in 2019; and (2) *Islam, Religion Friendly to Women: Defending Kyai Pesantren*, published by LKiS in 2009. Data collection techniques tend to be qualitative with literature documentation techniques. Therefore, an analysis of Kyai Husein's *istinbath* mindset was carried out using a deductive mindset approach. The results of this study are: (1) The wife has several domestic rights in the household, including the right to support, the right to be the head of the household, the right to express an opinion, the right to *mu'asyarah bi al-ma'ruf*, and the right to get health services; (2) The mindset of Kyai Husein Muhammad in determining legal *istinbath* departs from the postulates of sharia with cultural contextualization which then gave birth to the principles of justice and human equality, the concept of sharia as a cultural reflection, and emancipatory jurisprudence.*

Keywords: *domestic rights, wife, Husein Muhammad's thoughts*

Abstrak

Istri memiliki peranan dalam keharmonisan rumah tangga yang memahami setiap detail ranah domestiknya. Namun faktanya, sejumlah tradisi dan norma sosial yang berkedok agama justru membatasi ruang gerak istri dalam istananya. Penelitian ini bertujuan mengungkap pemikiran Husein Muhammad atas hak-hak domestik istri dalam rumah tangga dan menganalisis pola pikirnya dalam melakukan *istinbath*. Metode yang digunakan adalah studi pustaka dalam kajian pemikiran. Penelitian kualitatif deskriptif ini menggunakan sumber data utama berupa dua buku karangan Kyai Husein, yaitu: (1) *Fiqih Perempuan: Refleksi Kyai atas Tafsir Wacana Agama dan Gender* terbitan LKiS tahun 2019; dan (2) *Islam Agama Ramah Perempuan: Pembelaan Kyai Pesantren* terbitan

LKiS tahun 2009. Teknik pengumpulan data cenderung bersifat kualitatif dengan teknik dokumentasi pustaka. Analisis pola pikir *istinbath* Kyai Husein dilakukan dengan pendekatan pola pikir deduktif. Hasil dari penelitian ini adalah: (1) Istri memiliki sejumlah hak domestik dalam rumah tangga, diantaranya: hak nafkah, hak menjadi kepala rumah tangga, hak menyatakan pendapat, hak *mu'asyarah bi al-ma'ruf*, dan hak mendapat pelayanan kesehatan; (2) Pola pikir Kyai Husein Muhammad dalam menentukan *istinbath* hukum berangkat dari dalil-dalil syariah dengan kontekstualisasi budaya yang kemudian melahirkan prinsip keadilan dan kesetaraan manusia, konsep syariah sebagai refleksi budaya, dan fikih emansipatoris.

Kata Kunci: Hak-hak Domestik, Istri, Pemikiran Husein Muhammad

INTRODUCTION

The limitation of the rights and obligations of husband and wife in household affairs is an elastic matter which sometimes has differences in the inclination between one house and another. In Islam, husband and wife have the same position in the household. The rights they have are equal to the obligations charged in fulfilling household affairs (Bastiar, 2018; Brockopp, Neusner, & Sonn, 2020). But in fact, the domination of one party in the household often appears (Puspitawati & Siswati, 2017), such as the financial manager who is completely in the husband's hands (Ma'ruf, 2015). This domination has often led to controversy over the views of the two. A study even reveals that dominant behavior influences household happiness (Rachmayani & Kumala, 2016). Other research states that marital happiness will be threatened by the husband's attitude of refusing the wife's participation (Gottman, Coan, Carrere, & Swanson, 1998).

The phenomenon of husbands behaving dominantly is not new in domestic matters. Javanese culture, which puts men at the top, speaks out loudly, calling for this domination. Women are seen as *coming king* -who have a role only behind (Muhammad, 2001) as research on couples in the Surakarta area states that the husband plays a bigger role (Putri & Lestari, 2016). Likewise, some people subordinate women because they think that salaf fiqh has strict rules (Bastiar, 2018). The Javanese patriarchal culture formed from the understanding of salaf fiqh is certainly not an artificial dream of the previous scholars. The social rules often formed narrow women's movement in the household to their position as wives. Therefore, it is necessary to study the domestic rights of the wife in the household. Likewise, in religious studies, the controversy over the dominance of men over women is still not over (Siregar, Nurfadhila, & Wargadinata, 2020). The phenomenon of male domination over women also appears in the realm of Arabic, as written by Eva Dewi in her

research Gender Bias in Arabic: Analysis of Jacques Derrida's Deconstruction Theory (Dewi, Wargadinata, Maimunah, & Ibrahim, 2020).

The domestic rights of the wife are the internal rights of a woman who acts as a wife in the household. The domestic domain in question is all activities and affairs in the household, which include the right to health services, the right to support, the right to *mu'asyarah bi al-ma'ruf*, the right to participate in making decisions, the right to defend themselves, and other internal household rights. . Meanwhile, the right to marry, such as the right to dowry is not discussed in this study because the researcher focuses only on household and family matters. These rights still appear to be gray. Some societies, especially traditional societies, tend to be patriarchal in placing the domestic rights of the wife in the household. Men are seen as kings who determine all policies in the household (Ekaningsih, 2016). Several domestic freedoms for a wife and other rights within the scope of the household are human rights that must be protected. This women's right requires the rule of law to create protection. Therefore, the government took a firm stance with the passing of the RI Law no. 23 of 2004 concerning the Elimination of Domestic Violence (UUPKDRT) (Asnawi, 2011).

In Islam, the wife's rights are often discussed in classical fiqh books (Al-Buthi, 1994; Rusyd, 1960; Sabiq, 1987). Some religious communities think that Islam puts the wife's position in the household, as emphasized by the classical books, with the obligation of the wife to obey her husband, which is almost absolute (Fahimah & Aditya, 2019; Nasution, 2015). For example, in Shaykh Nawawi in the book '*Uqud al-Lujjain*' which is very popular in Islamic boarding schools, it is explained that the wife's obligation has a greater composition than her rights. On the other hand, the husband gets more rights than his obligations. Like decision-making rights, a husband has a broad range of powers that his wife must fully obey (Nawawi, 2015). Similar views are also found among commentators, such as Muhammad Thahir bin 'Asyur in the book '*al-Tahrir wa al-Tanwir*', which states the advantages and privileges of men over women. She thought that women need protection and guardianship to exist ('Āshūr, 2000).

However, some scholars and religious figures who are observers of women view the religious arguments put forward to be contextualized. According to Kyai Husein, the Koran conveys the social reality of the condition of the Arab Jahiliah society, which tends to underestimate the position of women. The verses that describe men and women are not normative, which are permanent, eternal, or everywhere. The imperative contained in it is contextual. The Koran does not prohibit a woman from providing income or being a leader (Muhammad, 2004). Even in the domestic aspect of the

household, a woman has no less role than her husband. The Prophet Muhammad SAW even told his friends to learn from Aisyah RA because he had intellectual strengths.

The mindset of the society, which tends to be lame, can be reformulated. Some people still adhere to equality for men and women down to the family realm (Nasution, 2015). The wife's rights in the household have the same urgency as the rights obtained by the husband (Zaw & Omar, 2017), as is the importance of women's rights in their consent to marry. Marriage is a crucial procession with a great purpose that every human being puts in it. A household's future is determined by the success of a married couple's relationship as owner and manager (Irsyadul, Djazari, & Madyan, 2020; Khoiruddin, 2020). Therefore, the balance of rights and obligations of husband and wife must be considered and fulfilled.

In this case, many women observers conveyed the idea of defending women's rights (Azhari, 2020). Like Sayyid Muhammad Alawi, the great Islamic scholar of Mecca, who carries the concept of a balance of rights and obligations based on material and mental aspects of husband and wife in the book *Adabul Islam bi Nidzomil Usrah* (Irsyadul et al., 2020). Likewise, Yusuf Qardhawi, a Muslim scholar from Egypt, even allowed women to participate in politics with certain limits based on the order of *amar ma'ruf nahi munkar*, which was aimed at men and women (Sari, 2020). Asma Barlas, a Pakistani-American academic, also focuses on women's rights as wives and parents. He even suggested that the Qur'an elevates the status of women as mothers beyond that of a father (Barlas, 2016).

Regarding the defense of a woman fighting for her interests, Sayyed Hossein Nasr, an Islamic filmmaker from Iran, stated that women do it themselves (Luthfiyah, 2015). A scholar from Islamic boarding schools who promotes Islamic feminism is a male Muslim feminist. She is KH Husein Muhammad, a defender of women aware of the many oppressions and exploits they experience. Since 1993, he has been actively fighting for gender equality and making religion a friendly friend to women (Muhammad, 2004). Kyai Husein loudly calls for Islamic feminists with representations of several verses of the Koran that explain the position of women (Warits, 2017). The selection of a thought-out study of Kyai Husein Muhammad is based on his clear feminist concept down to the domestic aspects of the household. This idea is rarely obtained from feminist jurists who discuss women in the public sphere (Arsal, 2014; Fauziyah, 2014; Juwita, 2015; Sari, 2020; Warits, 2017).

In line with the study of Kyai Husein's thoughts in this study, several articles were previously reviewed to help research analysis. Some of them are Eni Zulaiha and B Busro's (2020) research entitled *The Principles of Liberalism*

in the Methodology of Feminist Interpretation: Reading in the Works of Husein Muhammad. Research reveals that there are differences in the style of his interpretation which tends to express feminist kyai (Zulaiha & Busro, 2020); Muhammad Ainun Najib's research (2020) entitled Sufism and Women of Sufi-Feminism Thought KH. Husein Muhammad. Najib's research put forward three points of Kyai Husein's sufistic thought, namely: women as holy and honorable beings; to love equality is to love God, and women are not about the body, but the spirit (Najib, 2020); and research by Wardah Nuroniyah, Ilham Bustomi, and Ahmad Nurfadilah (2019) entitled Liability Obligations in the Perspective of Husein Muhammad's Family. According to Kyai Husein, this research states that the obligation to support the family is not burdened on the husband, but who can afford it is obligatory (Nuroniyah, Bustomi, & Nurfadilah, 2019).

Previous studies on the thoughts of Kyai Husein Muhammad revealed thoughts about his interpretation and mysticism, as well as studies that focused on family livelihoods. Unlike the previous one, this research seeks to reveal Kyai Husein's feminist thoughts in an aspect that is not too narrow in certain cases, nor is it too broad to leave details of the concept. Departing from the elasticity that tends to limit the movements of wives in their palace, this study aims to examine how far the role of wives is in the domestic aspect of the household, which is crucial to have. Thus, this research has two objectives: to reveal Husein Muhammad's thoughts on the domestic rights of the wife in the household and to analyze the mindset of Husein Muhammad in doing *istinbath*.

DOMESTIC RIGHTS OF WIVES IN ISLAM

Islam puts women as wives in the household with the real goal of marriage, namely to achieve peace through husband and wife relationships (Jawad, 1998). Therefore, the Islamic Sharia regulates the rights and obligations of husband and wife in detail (Mughtar, 1974). Islam places women in an honorable position (Yafie, 1994). The domestic rights of a wife, as stated by the Islamic Sharia, include the right to good treatment, a living, and protection (Engineer, Wajidi, & Assegaf, 2000; Istibsyaroh, 2004; Muthahhari, 1986). Al-Qur'an explains various problems of women, especially regarding the rights that should be obtained. In terms of a living, a wife has the right to get it both in clothing, food, and shelter. In QS. Al-Baqarah verse 223, according to Tafsir Jalalain, *kiswah* is a synonym for *libas*, namely clothing. Until the cost of breastfeeding, a wife gets the right to it (Al-Baghawi, 2006; Al-Mahalli, Jalaluddin, & As-Suyuti, 2007).

The concept of husband and wife equality in the family is contained in the *mublah* theory proposed by Faqihuddin Abdul Kodir in his progressive interpretation. *Fiqh mub* is trying to straighten the life of contemporary Muslim

society so that there is no inequality and injustice in the family (Ula, 2021). In principle, children and households in the *mublah* perspective are a shared responsibility between husband and wife, each can share roles together, be flexible, understand each other, complement each other, and strengthen each other in carrying out household duties and mandates (Kodir, 2019). Roles in the domestic area such as managing the household and roles in the public domain such as breadwinners can be carried out by husbands and wives and become a shared responsibility to create a *sakinah, mawaddah, and rahmah* household (Santoso, 2019). Muhammad Syahrur also added about the concept of women's leadership in the family sphere. If a wife has the appropriate qualities to lead, then she is worthy (Sa'dan, 2017).

In a husband and wife relationship, a woman has the right to be treated well. In QS. An-Nisa verse 19, the sentence *wa'asyiruhunna bil ma'ruf* emphasizes the command to do good for husband and wife. According to At-Tabari, the word 'asyir, which means association, is a command for the husband to mix with his wife in a good way (Ath-Thabari, Amin, & Mukti, 2007). In verse, the word *Ma'ruf* includes the meaning not to disturb and not force, but to act *ihsan*. According to Al-Sha'rawi, this also applies if the husband no longer loves his wife in the sense that the subject of divorce (Sha'rāwī, 1991; Shihab & Hati, 2015). A wife is also entitled to good protection, instruction, and direction in the household. According to Ibn Abbas, a wife should be well educated, especially regarding Islamic law and high morals (Al-Bukhari, 1987).

KH HUSEIN MUHAMMAD'S THOUGHT

The background of Kyai Husein's thought is based on his specific Islamic boarding school knowledge. As we know, the *pesantren* environment is thick with patriarchal cultures. However, Husein Muhammad, a *kyai*, is a defender of women's rights who helps activists and disseminates ideas and movements to defend women. The thoughts of Kyai Husein tend to have a feminist style in his various ideas, especially regarding gender. According to him, religion never hates and teaches hatred against women, as we often hear in the expression 'religion is not the best friend of women' (Muhammad & el-Qum, 2011). According to Kyai Husein, religion was revealed to uphold human dignity, both men and women. He has strong thoughts primarily on issues of humanity, pluralism, justice, and gender.

Kyai Husein's thought base is democracy and respect for human rights. This principle then wants equality between men and women in all aspects. In this case, religious arguments are not rejected or opposed but are examined through reinterpretation efforts by deconstructing Islamic interpretations and

understanding that do not gender biased (Jannah, 2016). So there are demands that require us to understand the text correctly not to cause contradiction. A process like this considers the context in which the verse was revealed by looking at the culture of the community when the time was and the reasons for the decline of the verse or the emergence of the hadith. In addition, Kyai Husein also initiated that men and women have the same position before Allah and have equal human rights. Therefore, men are not worthy of being placed in power (Nuruzzaman, 2005).

HUSEIN MUHAMMAD'S THOUGHTS ON THE DOMESTIC RIGHTS OF A WIFE IN THE HOUSEHOLD

A wife has no less rights than her husband. Kyai Husein Muhammad stated that women have the same high degree as men (Muhammad, 2016). Likewise a wife, she is not an inch lower than her husband. The following are the domestic rights of the wife owned in the household domain, including the right to live, the right to be the head of the household, the right to express opinions, the right to *Mu'asyarah bil Ma'ruf*, the right to receive health services.

The right to earn a living

The right to earn a living is an initial problem in domestic household affairs. The husband is obliged to fulfill it, as Allah says in QS. An-Nisa verse 34 and QS. At-Thalaq verse 7 explains that the right to support the wife is absolute (Irsyadul et al., 2020: 12). Regarding the level, according to Kyai Husein, it should be given following the traditions and conditions of both. Kyai Husein agrees with Wahbah az-Zuhaili that apart from basic needs (clothing, food, shelter), a wife has the right to support health needs. According to him, the opinion of fiqh is more beneficial to suit the demands of social development because the presence of religion is useful for providing benefit and justice for humans (Muhammad, 2001: 218–219).

A wife is exempted from working and earning a living for her daily needs. All the wife's needs are the husband's obligation; even he has the right to demand or take it without the husband's permission (Muhammad, 2001: 251). The problem often discussed today is when the wife works outside the home, either with the husband's permission or by mutual agreement, because her husband's condition cannot work or is inadequate. In this case, Kyai Husein quoted the views of classical jurisprudence scholars, one of which was Kamal bin Hummam from the Hanafi School, who allowed a wife to leave the house to fulfill collective obligations in *syara* (1992, الواحد, الفاضل)'(fathul qadir: 239). According to Kyai Husein, under certain conditions, a wife is required to work.

Relationships and role division must be accepted as logical and consequences *legitimate*. A holistic understanding of Islam provides space for women. The hope is that it is an effort for both human beings to be harmonious and beneficial for the family, society, and the country (Muhammad, 2001: 267).

The Right to Become Head of Household It

It is common for people to make a father the head of the family and become a leader because they consider men to be superior. The phrase that we often hear is found in QS. An-Nisa verse 34 means that men are leaders for women (Warits, 2017: 492). However, Kyai Husein stated that the male leadership was not absolute, only functional. He offered a concept that he thought was fair to both parties.

Kyai Husein often stated that what is more important than power politics is humanity. Both men and women have an equal position; that is, both are subject to the law. However, according to him, the provisions where the husband is the head of the family, while the wife is the housewife, do not consider the capacity and credibility of the wife as the head of the family (Arifin, 1996: 59). This means that these social rules are sufficient to become the view of some people who cannot be subordinated to women, especially wives in their domestic aspects.

It is not uncommon for Kyai Husein to emphasize that a woman is also a mother in her family as a wife. Not a few commands from Allah SWT, both in Al-Qur'an and the hadith of the Prophet, warn to be devoted to mothers. Kyai Husein stated that orders to be good were more emphasized on the mother. The fact is that mothers bear a much heavier burden of suffering than fathers.

Regarding household leadership, Kyai Husein stated that a wife still has the capacity and credibility to lead. Both in terms of reason, assertiveness, strong determination, physical strength, courage, and various demands that a leader must have in general. In this case, Kyai Husein initiated a leadership opportunity for a woman, not only in the domestic aspect, even in the public sphere (Muhammad, 2001: 287).

The Right to Express an Opinion

Regarding decision-making in the household, Kyai Husein talked about the equal rights of husband and wife in expressing their opinion. As in the divorce case, he believes that the right to divorce does not necessarily belong to a husband. According to him, the right to divorce is given to men because the majority is the household leader and the breadwinner. Meanwhile, it is women who receive the income. However, the current reality turns away from that, and many women leave to make a living for their families. So, it would be nice if the

one who has the right to impose divorce is the Religious Court. However, divorce imposed by men without a decision from the Religious Court does not have any legal consequences and does not affect the marriage (Jannah, 2016: 64).

In expressing his opinion, Kyai Husein fights for the spaciousness of a wife's space in her domestic sphere. A husband is not supported to be arbitrary towards his wife, including divorce matters. As stated in the classical Jurisprudence books, divorce can be dropped by a man wherever and whenever he wants. That way, the integrity of the household does not depend on the words of the husband's divorce, which can come at any time. According to him, Islam has also given the wife the right to divorce her husband through the *khulu'* (Jannah, 2016: 65).

The right of Mu'asyarah bil Ma'ruf

Kyai Husein emphasizes that marriage is a human effort to channel sexual desires legally and responsibly so that it involves various physical, psychological, spiritual, mental, and social aspects. Verses of the Koran relating to marriage, such as living, breastfeeding, sexual relations, divorce, and husband and wife relations, are always associated with the word '*al-ma'ruf*.' Kyai Husein formulated the word *ma'ruf* with traditions and customs and norms that developed in society (Muhammad, 2001: 224).

Regarding the rights and obligations of husband and wife, Kyai Husein emphasized the principles of equality, justice, and balance as the main foundation. Both in economic aspects such as dowry and income and non-economics, namely sexual and human relations. Both must give and receive, love and cherish, not ignore rights and obligations, not show mutual hatred, and not hurt. Sexual relations must be carried out naturally; that is, the husband has intercourse through the front road, not the back. In human relations, one must respect and appreciate each other, be polite and pleasant. This guideline refers to several hadiths, one of which is the history of At-Tirmidhi no. 3895, which means "The best you are is the best to your wife" (Muhammad, 2001: 235–236).

The Right to Get Health Services

Kyai Husein relates a woman's health problems to her reproductive organs, both in their function and in the process of carrying out these functions. Reproductive health is the most crucial thing for women's problems, including physical and spiritual conditions. A wife has the right to health services in the domestic sphere, including the pre-reproductive period, during reproduction, pregnancy and breastfeeding, and post-reproduction or menopause. He has the

right to regulate birth, determine the number of children, the right to abort and receive good and correct information and health services. In addition, a wife has the right to pay attention to her sexual life; that is, it should be done satisfactorily, safely, and without coercion (Muhammad, 2001: 203). The view of Kyai Husein regarding a wife's right to get health services refers to the Islamic law, where there is a prohibition on adultery and the suggestion to immediately marry when it is already *thaiqah* (Muhammad, 2001: 205).

ANALYSIS OF HUSEIN MUHAMMAD'S THOUGHTS

Patterns of thought and direction of thinking greatly influence a person's thinking, both in principles, reasons, and arguments. The following is an analysis of KH Husein Muhammad's mindset in the issue of the domestic rights of the wife in the household:

Principles of Justice and Human Equality The

Teachings of Islam have the essence of monotheism, which implies that Allah SWT. Tawhid affirms that there is no absolute power and ownership for humans. According to Kyai Husein, monotheism in Islam directs people to the path of truth, justice, and a balance between personal interests and the needs of society and the natural environment (Muhammad, 2004: 8).

Departing from the principle of justice in Islam, Kyai Husein emphasized that the doctrine of justice must be upheld seriously and seriously. In various Islamic literature, the term justice has the meaning of placing everything proportionately, giving rights to the owner instead of tyranny, injustice, and oppression. Likewise, with the principle of equality, the essence of individual, social, public, and human relations. Justice applies universally, for believers, as well as those who do not commit injustice. This principle must be upheld in the social relations of men and women according to the context. Women have human rights as men (Muhammad, 2004: 20-21). This is the background for Kyai Husein's thoughts to give a wife space in her household. Not only that but even so many of his ideas support women's autonomy rights outside of men's autonomy.

Kyai Husein's background in receiving religious education in pesantren. Since childhood, he received education at madrasah diniyah and learned to read the Koran with Kyai Mahmud Toha, his grandfather. He continued his education at the Lirboyo Islamic boarding school, Kediri, then to PTIQ, Jakarta, and continued at Al-Azhar University, Egypt (Nuruzzaman, 2005: 113). From there, he realized the reality of many social inequalities, especially gender bias. The study of classical religious texts, which is the basis of his knowledge, is the

source of answers to society's problems. He strives to find fiqh that is more relevant and benefits contemporary situations (Muhammad, 2001: 28).

He brought this principle of justice in the method of contextual interpretation of religious arguments. Kyai Husein tries to read texts in fiqh books by thinking about what the Koran aspires to be. He pays attention to the past and present conditions so that understanding the substance of the text is not just thinking about formality. Until now, Kyai Husein continues to call for upholding the principles of justice and human equality as taught by the religion of monotheism and human values.

Sharia as a Cultural Reflection

Kyai Husein's attention to culture and sharia is motivated by various factors of awareness of several social problems. First, the problems of the Muslim community are alleged to be much bigger than the partisan issue of sharia, such as the relationship between religion and politics, religion and secularization, religion and state, religion and democracy, and plural society. This prompted Kyai Husein to initiate the concept of sharia and social culture, especially regarding women's issues (Muhammad, 2004: 26).

Kyai Husein experienced a transition from a traditionalist who rejects a gender movement to become an activist for gender equality finally. Starting in 1989, he has been active in various meetings discussing Islamic sciences in Islamic boarding schools. Gradually, her mind opened up to accept gender thinking until the formation of an NGO, which she co-founded with several gender figures, one of which was named Rahima.

The term sharia brings various views in society. It is not uncommon for mistakes to create a bad image for Islamic Sharia in society, especially on women's issues. Moreover, the application of sharia varies and changes from time to time. Therefore, Kyai Husein thinks that the fixed and universal nature of sharia is not entirely correct (Muhammad, 2004: 30). Sharia has undergone a process of becoming fiqh. The views of the scholars are not standard and eternal. Kyai Husein argues that the sharia that we now know is fiqh, while fiqh is the result of reflection on culture and civilization. For example, Shafi'i fiqh is a law produced by Imam Shafi'i, so it becomes the result of his reflection on the culture and tradition in which he lives and thinks on legal issues under the principles of sharia (Muhammad, 2004: 38).

Kyai Husein realizes that the Koran was revealed in a discriminatory culture against women, often *misogynists*. This effort to approach the Scriptures transforms culture *traditionally* and evolutionarily (Muhammad, 2004: 16). Therefore, religious texts that contain discriminatory norms cannot be

interpreted in a scripturalistic manner. It takes a process of understanding the context and logic of social development.

For example, Kyai Husein's view of female leadership, he interpreted QS. An-Nisa verse 34 with contextual sociological character. Regarding men's *qawwam* over women, it is a statement of the real conditions when the verse was revealed. Current social reality has undermined the doctrine of sheer greatness. So there are wide opportunities for women to occupy leadership positions, both in the domestic and public sphere.

Emancipatory

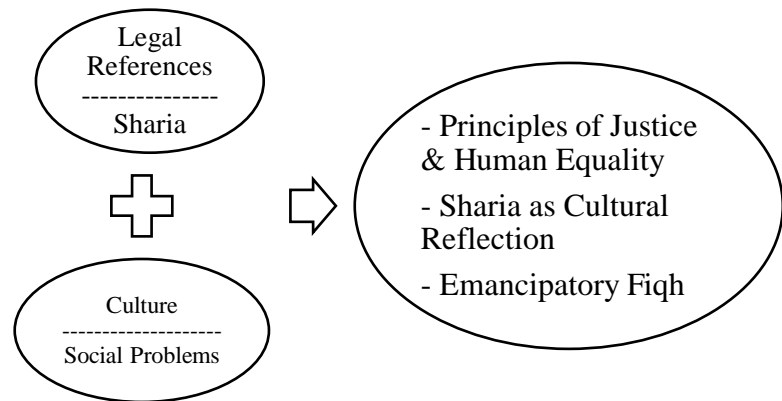
Jurisprudence Jurisprudence in the view of Kyai Husein is the result of a sociological dialogical process. Fiqh is a product of understanding dynamically authoritative texts. Dialectics in fiqh are always related to text and social reality because jurisprudence answers human problems and not just an authoritative responsibility (Muhammad, 2004: 330). However, the historical facts of Islamic civilization reveal that the contextual analysis of fiqh is no longer running as it should. The fiqh approach is often only carried out on ready-made texts to strengthen and defend, without critical analysis. In the end, fiqh became so conservative that it entered the doctrinal discourse, jurisprudence was considered final. Jurisprudence, which is no longer seen as an individual fatwa, is ultimately unable to answer the problems of the Muslim community (Muhammad, 2004: 332).

Kyai Husein initiated the concept of emancipatory jurisprudence based on the need to realize a more just human relationship. Therefore, this concept is an effort to give birth to fiqh, which is oriented towards liberating humans from the shackles of tradition. Jurisprudence with the emancipation principle places humans as legal subjects without discrimination, subordination, and marginalization from one another. It is directed at creating a just, civilized, and humane social structure (Muhammad, 2004: 338).

Regarding the world of pesantren, Kyai Husein explained his position as a pesantren kyai who should maintain the pesantren tradition. But besides that, he highly emphasizes his attention to gender inequality in traditional Indonesian Islamic boarding schools. She seeks to protect and defend women from subordination and oppression, which is caused by religious, cultural, and patriarchal ideology. He also advocated and carried out his actions to eliminate this subordination in various ways (Rahman, 2017: 298). Kyai Husein and other Indonesian Muslim scholars who come from pesantren backgrounds have highlighted several issues related to women's issues in Islamic literature in some of the yellow books taught in pesantren. He also criticized the book '*Uqud al-Lujjain*' with Gus Dur and Mrs. Sinta Nuriah (Wahid, Nuriyah, & Muhammad,

2001). In addition, he explicitly conveyed his ideas about women and Islamic boarding schools in his book entitled *Women, Islam & the State: The Struggle for Identity and Entity* (Muhammad, 2016).

That is the mindset of Kyai Husein, as a male Muslim feminist, to approach and respond to the Islamic intellectual tradition, which is the main basis of the pesantren. For more summary, the researcher summarizes the following chart:



CONCLUSION

This research reveals the thoughts of KH Husein Muhammad regarding the domestic rights of the wife in the household, namely: the right to support, the right to be the head of the household, the right to express an opinion, the right to mu'asyarah bi al-ma'ruf, and the right to get health services. In addition, this study also analyzes the mindset of Kyai Husein in performing legal istinbath, which departs from sharia postulates with cultural contextualization, which then gives birth to the principles of human justice and equality concept of sharia as a cultural reflection, and emancipatory jurisprudence.

KH Husein Muhammad's thought is a concrete manifestation of the support for gender equality for women. The method of contextual interpretation that he applies is very inspiring to the mindset, with his religious principles that link social logic and culture. The author hopes that the reflection of the feminist Kyai on his extraordinary thoughts will continue to be studied and reviewed to increase benefit and realize religious ideals.

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