

PERLINDUNGAN HAK ASASI PEREMPUAN DALAM HUKUM ISLAM

PROTECTION OF WOMEN'S RIGHTS IN ISLAMIC LAW

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Abstrak

Kedudukan perempuan dalam hukum Islam sangat mulia dan mendapat perhatian yang cukup besar serta menempati posisi yang sangat penting, yaitu : Pertama, tinjauan hukum Islam tentang hak asasi perempuan dalam masyarakat yaitu perempuan menempati kedudukan penting yang tidak pernah terjadi sebelumnya. Perdebatan mengenai hak-hak dasar perempuan dan batasannya menjadi hal yang sangat krusial sehingga menimbulkan pertanyaan tentang hak asasi perempuan di dalam Islam dan menjadi isu yang masih penting dewasa ini. Metode dalam penelitian ini adalah penelitian hukum dengan pendekatan teologi normatif yakni menelaah isu terhadap hukum Islam dan pendekatan konseptual yakni menelaah isu secara konsep. Islam datang membawa prinsip persamaan diantara seluruh manusia, tidak ada perbedaan kecuali takwa. Hukum Islam menempati hak asasi perempuan dalam bidang agama (meliputi; hak dalam aqidah, hak dalam ibadah), bidang sosial kemasyarakatan (meliputi; hak dalam politik, pengajaran dan pekerjaan), bidang hukum (meliputi; hak dalam ekonomi, kewarisan, perkawinan dan peradilan). Kedua, Hukum Islam memberikan perlindungan terhadap hak asasi perempuan menyangkut kewarisan, kesaksian, menentukan jodoh, menentukan mahar, memperoleh sandang, pangan dan papan.

Kata Kunci: *Perempuan; Hukum Islam; Perlindungan.*

Abstract

The position of women in Islamic law is very noble and receives considerable attention and occupies a very important position, namely: First, the review of Islamic laws on women's rights in society that women occupy an unprecedented position of importance. The debate on women's fundamental rights and their limits has become a crucial issue, raising questions about the rights of women in Islam and remaining an important issue today. The method of this research is the legal research with a normative theological approach that examines the issue of Islamic law and a conceptual approach to examining the issue conceptually. Islam came to bring the principle of equality among all mankind, no difference but fear. Islamic law encompasses women's rights in the fields of religion (including; right in religion, right in worship), social sphere of society (includes; rights in politics, teaching and work), the field of law. (meliputi; hak dalam ekonomi, kewarisan,

perkawinan dan peradilan). Secondly, the Islamic law protects women's human rights with respect to inheritance, testimony, appointment of fiancé, determination of marriage, acquisition of treasury, food and board.

Keywords: *Women; Islamic law; Protection.*

1. INTRODUCTION

The women position in the people vision before Islam is very low and despicable, they do not consider it as a human who has a spirit or only considers it from an insulting spirit. For them, women are the base of evil and a source of disaster. (Albar & Al-Mizan, 1999)

Ikhwan Fauzih, in his book *Women and Power* said that women before Islam did not have any role, they were deprived of their rights, traded like slaves, and bequeathed but did not inherit, so that some nations did that continuously and assumed women did not have spirits, lost with their death and not subject to the Shari'a, in contrast to men, so women are forbidden to seek knowledge and read the scriptures. (Ja'far, 2002)

The same thing was also emphasized by Maisar that during the ignorance, how sad and angry a husband was when he heard the news of his wife giving birth to a daughter (baby). And a wife has to give up her child to be buried alive by her husband because he thinks a daughter is just a jinx and has no use at all. In fact, people used to think that the woman was an evil spirit that had to be insulted and insulted. (Yasin & Tas'adiy, 1997) So it can be said that, *first*, women are considered servants for men and are inherited but do not inherit, *second*, women are under male guardianship and do not have freedom and will, *third*, women are buried alive.

The presence or arrival of Islam as a guide and warning to humans that the view of women changes and becomes a happiness of the people at that time so that the position of women is lifted and eliminated all forms of injustice and abuse.

Islamic law with various dimensions surrounding it has so far been judged as something taken of granted. Efforts to respond to public relations problems often demand a reinterpretation of verses that are only understood textually. By tracing various Islamic laws that have relevance to women's rights, basically it can be seen that the Koran universally does not open such wide social inequalities to make men and women absolute to dichotomize.

If this is viewed from the historical dimension, all women's rights are not heeded, the difference in men's and women's rights is very clear. But in the Qur'an it is explained that between men and women there is no difference from any rights because they come from one origin. (Departemen Agama RI, 2020) There is even in the Qur'an one surah called surah al-Nisa which means female surah, and not to mention verses that explain women's rights in the fields of muamalah, politics, marriage, inheritance, education and social society and the others rights of women. Therefore, in fact Islam came to restore the honor, dignity and rights of women in their lives, from childhood, adolescence, adulthood when becoming a wife to becoming a grandmother. Islam raises a very special degree of womanhood. Islam recommends that men treat women with tenderness and affection.

Islam does not differentiate the rights of men and women namely the fundamental values that underlie Islamic teachings such as peace, liberation and egalitarianism including equality between men and women are widely reflected in verses of the Qur'an, stories about important roles women in the time of the Prophet Muhammad saw, such as Siti Khadijah, Siti Aisyah and others have been widely written. The same was true of the attitude of the Prophet Muhammad who respected women and treated them as partners in the struggle.(Zaini, 1999)

Islam states that women and men have the same position, no more and no less, because both are creatures come from one. Islam comes with the *taklif* of *sharia* imposed on women and men. Islamic law has explained the solution to both of their activities since the beginning of its arrival, Islam has made women equal to men when Allah swt gave orders to Adam and the same orders were given to Hawa. When Allah swt issued a prohibition, it also addressed both.(Ja'far, 2002)

Islam provides an understanding that women have special competence with the commands of Allah swt. Women who have readiness to worship and obey Him. Women are equal to men in humanity and rights in general except in certain cases with specific legal texts. Women have the right to respectability and freedom.(Ja'far, 2002)

Nevertheless, in reality today there is a gap between these noble Islamic teachings and in reality in daily life. Especially for equality between men and women there are still many challenges encountered in realizing the teachings, even in the midst of the Islamic community. Women are still lagging behind in many respects from male partners. By reviewing and examining facts relating to women such as their level of education, health status, their participation in making decisions about violence against women, sexual harassment, rape exploitation of women workers and so on. It can be felt and see how concerned about the status of women.(Zaini, 1999)

In the era of globalization, it is often heard the cry of a woman who demands her rights, those who hear it believe a lot. As a result, what has been donated to the glory of every woman is finally forgotten, and considers Islam as a religion that lacks justice and equality.(Yasin & Tas'adiy, 1997)

The same thing as expressed by Sayid Muhammad Husain Fadhlullah that, the problem of womanhood has indeed become a major concern, both thoughtful and social. This is because he sees through the lens of Islam the social behavior that is associated with women that deviates from the correct Islamic behavior. Besides that, there is still a view of him as a man who smells of no Islam, even from among the women themselves. This reality cannot be hidden and will continue to develop because there is no healthy limit to its role in life and recognition of its rights.(Fadhlullah, 2000)

Although Islam has given the best to a woman to determine her rights, but what happened during the ignorance seems to happen again in the present. One of the injustices experienced by women is acts of violence committed by men. Ironically, it is from within one's own family, like a husband commits an act of violence against his own life partner. Even this has happened to workers and employers, so that various forms of violence, both physical and psychological, are often discussed.

2. METHODS

The research is the study of law using two approaches, a normative theological approach and a conceptual approach. The normative Theological approach is used by exposing or analyzing issues of women's rights to the provisions of Islamic law while the conceptual method is used to examine the views or doctrines of experts relating to women's rights. The main source of law in this research is Islamic law that is supported by additional library sources such as books, dictionaries and others. The major step in this research is the identification of facts in the establishment of issues, the collection of legal materials, the explanation of legal issues based on legal material, and the drawing of a conclusion in the form of arguments (Marzuki, 2015, p. 171).

3. DISCUSSION

3.1. The Position of Women in Islamic Law

Since the arrival of Islam on this earth the fate of women has improved and is felt by women, as if bringing fresh air to women. In Islamic teachings women have occupied a noble position. Talking about the position of women, means that a lot will talk about the origin of human events in one verse in Surah al-Hujurat/ 49:13.

The verse can be understood that women have the same position as men without any difference, except the submission of Allah swt. Despite the fact that Eve was created in the second stage after Adam, women remained in the same position as men because the process of Eve's creation came from Adam's crooked ribs which had to be guarded with love and tenderness. The Messenger of Allah said: *Indeed, a woman is created from a crooked rib, while a crooked part of the rib is at the end, if you straighten it, it will break, if you leave it bent, treat women well* (HR. Al-Bukhari and Muslim). (Hanbal, 2012)

Ribs as the origin of women are responded by some Muslim thinkers such as Quraish Shihab saying that: "Curved ribs must be understood in a figurative sense (majazi), in the sense that the hadith warns men to deal with women wisely. Because there are natures, characters, and their tendencies that are not the same as men, if not realized it will be able to lead men to not be reasonable. They will not be able to change the character and innate nature of women. If they make an effort the consequences will be fatal, just like fatal straightening a crooked rib." (Shihab, 1996)

A woman should not be treated harshly, if that happens she will become damaged in her life which will have a negative effect on her and her family if she has a husband and children so that the future of the household will be destroyed, so will her children grow and develop being an immoral person. This understanding indicates that a woman has an important position in the family, so in general it is said that women are part of the community, women are a grandmother, mother, wife, brother, sister or aunt, if good conditions are good for the whole community.

Islam gives great attention to women by placing it in a noble position so that not a few texts that provide support and position for women as Shaykh 'Ukkasyah Abdul Mannan ath-Thayyibi believes that Islam is very concerned about women from two aspects, that is :

First, in terms of humanity, women have long been neglected, they are only used as tools to provide pleasure or are depicted in the form of disgusting demons, who are aware of treason and deception, therefore the great Islam provides boundaries and regulates biological elements with marriage and explain the procedures for interacting in the household and formalize it with a number of basic methods of interaction in the household and family relationships.

Second, social rights, women before Islam had no right to express their opinions or participate in a responsibility. They are forbidden to play a role in these matters because of male selfishness, ignorance and authoritarianism in everyright while Islam rejects all the mistakes that even give the best. (Al-Thayyibi & Waassaujah, 2002)

Glorifying the degree of women long before humans occupy this earth is evident from the process of Adam's creation along with that of Hawa in the same soul. After humans occupy this earth, Islam came with a noble and perfect teaching elevating the ranks of women from the valley of humiliation to a high degree and putting it on an appropriate place and giving a special path as a boundary that describes her identity in personal and social life. On this basis, Islam puts women before their responsibilities through humanitarian, social, freedom and religious contexts.

3.2. Disparity in Protection of Women's Rights Between Idealism and Reality

All humans on this earth want freedom, freedom without exception. Because of a pleasure felt by a living creature, if you feel calm in finding freedom, human beings are no exception, let alone the name of a woman. Even intelligent animals have a desire to live freely. A bird, for example, that lives in a cage, wants to live freely, so does a scorpion in its habitat not want to be disturbed.

Women who have human-named attributes will shout if their rights are violated, harassed by men. Even though his scream was not heard due to his gentleness, his feelings were subtle, so that sometimes he was always dichotomized by other humans. In connection with that, Fatimah Mernissi revealed that during the gulf war there was the most heartbreaking screaming challenge coming from women all over the world, especially Arab women who for one second were never noticed. But so far, women who are veiled or not veiled take the initiative to demand peace.(Mernissi, 1998) This is because the form of abuse that has been committed is rape which is very painful for women.

The destruction of institutions and symbols of despotism is the work of Western Europeans who, in the eyes of the Arabs, emerge as heroes of democracy who will solve the problems caused by violence in the hope that they will reduce the violence that has occurred. Then the hope was universally raised by the revenge of Europeans about the promise of independence and condemning all the brutal and cruel violence that was destroyed by the gulf war. However, rapes havetaken place, bombings of the city and victims are children and women.(Mernissi, 1998)

All promises are mere dreams, in fact those who violate the resolution, so it is said that what is aspired between idealism is contrary to reality. Even Westerners tend to accuse

noble Islamic law as an ideological enemy and blame Islamic teachings and say that Islam discriminates against women.

Women's inherent discrimination is that injustice starts with the identification of women with certain characteristics that tend to be degrading, harassing as women are identical with a weak, emotional, sentimental figure who in turn women are positioned in the domestic domain, subordinated under male supremacy. Women are marginalized on many occasions such as gaining knowledge, employment, the most pathetic and unfortunate are often targeted by violence both psychological and physical as well as accusations of many criminal acts and other forms of injustice addressed to women.(Lsqunajah, 2001)

3.3. Protection of Women's Rights Versus Independence and Gender Equality

The conception of human rights between the Western and Islamic law is very different. Islamic law places human rights as a consequence of the implementation of obligations towards Allah, while in the Western view is an expression of human freedom that is independent of the provisions of God, religion and morals or metaphysical obligations.

Expression in Islamic law is that human freedom must be placed on the framework of justice, compassion and equality before God Almighty. The Qur'an is very concerned with determining the right to justice and the responsibility for its implementation.(Wahid & Irfan, 2001) Allah Almighty says in Surah al-Maidah/5:8.

Likewise in the case of violence, the Qur'an looks at it using a normative approach. For this reason the perspective of the Qur'an is behavior caused by a hard heart (ghalid al-qalb) as a result of his rejection of Allah's guidance. In al- Qur'an, the sentence ghalid al-qalb is identified as a sick conscience (marid al- qalb)(Al-Baqy, 1987), easily committing evil behavior.

Islam views that violence is synonymous with crime, where the crime committed can be shaped in two models of behavior, namely: *First*, the behavior of crime that does not directly affect others or have a personal impact. Such behavior is kufr in the sense of being ungrateful, in a hurry in making and making decisions, quickly discouraged, disbeliever when in power or using power unfairly, proud and arrogant when in a prosperous state. *Second*, criminal behavior that directly affects other people or the environment, such as arguing, whether it's just arguing or causing social conflict, like taking drugs or gambling, adultery even based on or mutual will.(Zenr, 2001) Both forms of crime or precisely the violence must be shunned by Muslims because even the slightest of the violence carried out is still violence that is considered contrary to the humanitarian values desired by Islam.

According to the Western view, protecting the human rights of women who are able to be aligned namely men's work is the same thing that must be done by a woman in the sense of relying solely on freedom without seeing the equality impact. For example, what happened in Norway, a mother who gave birth after three months of leave, then replace her husband who was chaste for three months to care for children. Seeing the incident

seems to give the impression that the functions, roles and tasks of men are the same as women, even though they are different although some can be done by both.(Zaini, 1999)

Furthermore, regarding violence, the Western sees violence as a social phenomenon, so that it only uses a positivistic approach that is to rely solely on the experience or reality, they do not need normative power. To analyze a right that they should consider to protect as in the case of work in the arts, the right of full freedom is given by a woman even though her work will invite sexual harassment against herself and the surrounding community, so that she no longer pays attention to ethics and morality. They even consider violations of women's human rights if someone forbids women to commit adultery.(Zenr, 2001)

a. Independence

Independence is a freedom to self-determination, so the Islamic principle expressly gives rights to a woman. Women cannot be forced to get married, nor should they be forced to have family planning or use contraception, instead they must be discussed, because women have the independence to determine their life choices.

The ability to think critically, choose correctly, differentiate, judge, build mentality and mentality of resistance desired by Islam for women relies directly on a mentality that is free of attitudes that follow to others. Women will not be able to reject and oppose the tyranny that befell themselves or their society if women themselves are not superior to a free mentality and think within the framework of Islamic globalization and excel in personal freedom within the framework of a correct understanding of the Shari'a verses and texts.(Qazan, 2001)

The independence level of women thinking makes creativity in changing conditions in all actions against women. Islam emphasizes the formation of women personality and mentality who are independent and free from the attitude of tailing. If Islam surrenders assets to women and gives them freedom to use them, then Islam has reconstructed women's personalities by recognizing their ability to manage their assets and economy without control from others and is a very clear acknowledgment that women are not lacking in reason, even very perfect in their minds.(Qazan, 2001)

Evidence of women's independence can be seen from various aspects, namely:

i. independence of Women in Socio-Cultural Aspects.

Self-reliance in this social aspect is already evident in the work of a woman, namely establishing an orphanage and participating in a non- governmental organization to fight for a small community. One woman who had founded an orphanage was the wife of K.H. AhmadDahlan, even founded the Nasyiatul Aisyiah organization in 1971 with recitation activities. In addition, she also established a Muslim school as a special religious school for girls, establishing the first kindergarten in Indonesia. Aisyiah as a rapidly growing women's organization takes care in the fields of da'wah, social welfare, education. Established vocational schools, care colleges, maternity hospitals, integrated service posts, eradicated illiteracy among mothers.(Muhammadiyah, 2003)

ii. Independence of Women in Economic Aspects.

Women have been able to show independence in economic aspects. This is evident in developing countries, many women who hold directorships in companies. According to Islamic community organizations that one of the most important aspects is the women role in the economic field, even though the responsibility in meeting the economic needs of the family is men (husband). Men must be able to be leaders, protectors, responsible and meet the economic needs of women. The consequence of this, it can be understood that the obligation to earn a living is male, it is natural that in inheritance men get twice as much as women (QS al-Nisa / 4: 11). (Ropi, 2003) Seeing this provision, actually does not burden a woman to take part in the economic world, instead it becomes a whip to achieve it, as Allah Almighty says in QS al-Nahl / 16: 97.

Huzaimah T. Yanggo believes that why women can work outside the home, including in the economic field. According to him that the verse must be interpreted broadly, for all good jobs and good careers too. So, it is permissible for women to work outside the home on conditions in accordance with Islamic provisions, such as not being alone with men who are not mahram, thereby giving rise to lust that can lead to adultery or sexual harassment, do not open genitals and able to divide time for the household. (Ropi, 2003) The same was expressed by H. Sayuti Aziz, that due to economic conditions, a woman may work outside the home as long as she maintains her dignity and honor. (Ropi, 2003)

iii. Independence of Women in Political Aspects.

Women are already capable in the political field, this is evident from the representation of women in the House of Representatives, as well as in the People's Consultative Assembly. Even in some countries have been led by a woman like in Indonesia has given birth to women leaders. Seeing the reality that exists, especially in Indonesia, women have been able to actualize their potential to take part and develop in the political world. This is evident among women who have the ability to fight for their rights with the argument that Islam is a dynamic system and even more liberating from western-style feminism, they succeed in gaining the opportunity to take part and be able to become women who are independent in political aspects. (Muhammadiyah, 2003)

Iv. Independence of Women in Legal Aspects.

Seeing the figure of a woman now can show herself in leading a case and is able to solve it with the intelligence of her mind. Even so, women should not be proud, because most women are able to try cases in various courts, but not a few women are abused without being able to protect themselves and even the applicable law has not been able to apply all the articles, such as in cases of sexual harassment both in the environment domestic as well as in the public environment.

The independence of women in various fields there are still not patents, especially in the law field, because women have not been able to protect themselves in the law, and even tend to be blamed by the court and society on the pretext because of the woman herself who gives men the opportunity to commit adultery with not thinking about the

consequences. Women need to be careful, because although in Islamic law and positive law try hard to suppress rape, but still can not restore the honor of women.

b. Gender Equality

Women are weak creatures, unable to protect themselves or their dignity. Even women are creatures that are prone to being raped. While men are not prone to raping and on the other hand it is impossible for women to rape. Various sexual crimes can be obtained by men against women, meaning that women can not force them to have sex with a man who is not detected. The ability to act for a man only exists in the primary condition.

Whether this view is realized or not, men benefit from the pattern of gender relations even though the situation is highly dependent on every condition of society. For people who maintain religious norms, the influence and intensity of this element is not too dominant, but in a society that tends to be free of values, this element will have a big influence. This understanding can be proven by researching the differences between the characteristics of men and women in the following table. (Handayani & Sugiarti, 2002)

Men	Women
- Very free	- Not free
- Not emotional	- Very emotional
- Very objective	- Very subjective
- Not easily influenced	- Very easily influenced
- Very dominant	- Very submissive
- Liked mathematics and science	- Do not like math and science
- Not moved by a small crisis	- Very moved by a small crisis
- Very active	- Very passive
- Very competitive	- Not competitive
- Very use logic	- Do not use logic
- World orientation	- Home orientation
- Very skilled business	- Unskilled business
- Very frankly	- Not frankly
- Very aware of activities in the world	- Not knowing the activities of the world
- Can make decisions	- Hard to make a decision
- Difficult to cry	- Easy cry
- Very confident	- Not confident
- Like aggressive situations	- Do not like aggressive situations
- Very ambitious	- No ambition
- Easy to separate thoughts and feelings	- The relationship between thoughts and feelings
- No dependency	- Really dependency
- Talking about sex freely	- Embarrassed to talk about free sex
- Use harsh words	- Do not use harsh words
- Do not like to talk much	- Like to talk a lot
- Rough	- Gentle
- Not sensitive to other people's feelings	- Sensitive to other people's feelings
- Not religious	- Religious
- Not interested in personal appearance	- Interested in personal appearance

<ul style="list-style-type: none"> - Do not pay attention to the environment - Dislike literature and reading - Not easy to vent feelings - Very boisterous - Need a little security - Can reduce emotions 	<ul style="list-style-type: none"> - Pay attention to the environment - Like literature and reading - Easy to vent feelings - Very calm - Many need security - Does not reduce emotions
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Based on this research, it can be concluded with the theory that a woman does not fully protect herself, because; *first*, women are easily influenced by circumstances, so they tend to do things that are considered their rights, *second*, women are known as weak creatures, so they cannot protect themselves. Thus, the protection of women's human rights, independence and gender equality has been proven by referring to the above research.

However, in Islamic law there is a theory for independence and gender equality that goes hand in hand without any counter-versions and mutual superiority, such as marital relations, both of which are equal partners, but equality does not mean that the function must be the same, for example it is impossible for men pregnant, childbirth and breastfeeding men are out of the context of alignment, because it is a provision from Allah.

The principle of Islamic law, a woman will be able to realize her independence in order to enjoy existing freedoms without any obstacles and fear in realizing her wishes. Basically independence must be emphasized on freedom of self-determination, then the strict principles of Islamic law give rights to women, such as not being forced to get married.

Based on this description, it can be understood that there is no conflict between women's human rights and independence and gender equality, because of the protection of women's human rights, giving birth to independence and gender equality. If a woman can control herself and think logically, act according to Islamic norms or laws, then women can find their own freedom in themselves and their environment.

3.4. Protection of Women's Rights in Islamic Law

Protection of human rights means that it involves a rule or law that regulates and provides legal protection for women's human rights in this case is Islamic law. As for what constitutes women's human rights that can be protected by Islamic law is basically a matter of inheritance, testimony, determining a mate, determining dowry, obtaining boards, food and clothing, these five things are women's human rights that can be protected by Islamic law, because it involves two the side of a coin that cannot be separated in the woman life which will give bias to others.

a. Inheritance

Islamic law has established the protection of women's human rights in the field of inheritance as children, mothers, sisters and even grandmothers will get inheritance. The one who guarantees the rights or part of women in inheritance is the word of Allah in QS al-Nisa/ 4:7.

The verse provides protection for women in inheritance rights, women are given the same rights as men inherit the inheritance. In Islamic inheritance, people who get a definite share (ashab al-furudh) of twelve people, mostly consisting of eight female heirs (wife, daughter, sibling, half-sister, half sister, seibu sister, male granddaughter) men, mothers and grandmothers saheeh, while four of the men (father, saheeh grandfather, siblings and husband). Furthermore, Allah Almighty explained in detail the protection of the inheritance of girls and boys in QS al-Nisa ' / 4: 11.

The verse is very clear about the distribution of each heir, both male and female, but the problem is that women only get half of the assets left behind, even though Islam has said that the status of women and men is the same, but in the inheritance distribution there seems to be a difference.

This problem was once a major issue in Indonesia when Munawir Syazaliput forward the idea of sharing the same inheritance between men and women. The idea arose because seeing the condition or position of women today is not likewhen the Koran was revealed, so it feels as if the division is not in accordance with the times and the demands of human life (Baidan, 1999). However, if we look at the meaning of the above verse, the difference in quantity is actually 2: 1, not based on status, but with the burden carried by both men, which has a heavier burden than the women burden. Thus, it can be understood that what is meant by the male portion twice the female portion is because men's obligations are heavier than women, such as the obligation to pay dowry, provide for living and bear the family, (see QS al-Nisa/ 4:34).

The wisdom that can be obtained from the provisions of the son portion is twice of a daughter because the obligations of a boy are heavier than a woman, namely the obligation to pay dowry and provide for a woman (wife) and child. If a boy marries, he is obliged to give dowry, provide a living, *kiswah* and a place to live. Whereas a daughter when she marries, she has the right to the dowry and livelihood of a man (her husband). Thus, his wealth from dowry, maintenance and inheritance from his father became his full personal rights. If he spends money for his family is voluntary, not an obligation. Based on these provisions, it is very clear that Islam does not annul women in matters of inheritance, it is very concerned and protects women.

b. Testimony

In principle, Islam accepts the testimony of women, that is, Islam makes the testimony of two women equal to the testimony of a man, but that does not mean that women are half of men but the worry of a person forgets, so again reminds him. Allah Almighty says in QS al-Baqarah/2:282.

The word *min al-rijalikum* in the verse is more about the male gender aspect, not the biological aspect of being a male human. The proof, not all men have the same testimony as in minors and men who are not normal mind. (Baidan, 1999)

The ability of women to be witnesses as affirmed in the verse, strengthens women's belief that Allah is consistent in raising the degree of women, so that the problem of transactions that have a high risk even if women are included alongside men, thereby rejecting the notion that women are weak in mind. Even so, it is not permissible for women

to be witnesses in serious cases such as adultery, it is due to the psychological condition of women who are very delicate and sensitive and can cause danger, so the verse explains the comparison between the testimony of a man and two women, because the duties and functions of women at that time were only preoccupied with household matters while men were busy outside the home.

c. Determine dating

Determining mate including women's human rights are respected and protected by Islamic law. Islam gives women the right to accept their choices and reject those they do not love in marriage. Islam forbids guardians from marrying their daughters and sisters by force to people they don't love or don't like. Islam considers coercion in determining the prospective husband as an injustice because in addition to violating the human rights of women, it will also cause hostility and division between the families of the men and the women families if there is a mismatch in marriage. so that one of the marriage conditions for the bride and groom is independence (of her own volition) or may not be forced. Therefore women have the right to determine a mate.

Thus, no one can be married off before being asked for his approval, as the hadith from Abu Hurairah narrated by Bukhari and Muslim, the Rasulullah saw said: *From Abi Hurairah, the Prophet said A widow woman should not be married except after she was consulted and a girl was not allowed to be married before being asked for her approval.*

In another narration, the hadith of the Prophet saw from Aisha said that *one day a girl asked the Prophet, did women have the right to marry? Rasulullah SAW answered; must not marry a widow before asking for her consent and may not marry a girl before asking for her permission. Aisha asked; how about a girl ifshy to answer when asking permission? Rasulullah saw. answered; silence means permission (agree).*(Baidan, 1999)

The history is very clear that women have human rights in matters of marriage, especially in determining a mate. Thus, women in Islamic law have the freedom to accept or reject a man's proposal or the choice of his parents, if the man offered is not in accordance with his wishes.

d. Determine Mahar

One of the privileges of Islamic law in the protection and respect of women in marriage is the dowry provisions that must be met by a man (future husband) before the household, even having a household that is the right of a wife without being disturbed by anyone, including parents and her own husband, except if the woman (wife) surrenders to the man (husband).

Mahar is the name of a form of goods, money or services that must be provided by a man (husband) to a woman (wife) referred to in a marriage contract as a statement of agreement between men and women to live together as husband and wife.

Compilation of Islamic Law Chapter I article 1 paragraph (d) states, *dowry is a gift from male candidates to female candidates in the form of goods, money or services that do not conflict with Islamic law.* Imam Shafi'i said that dowry is something that must be given by a man to a woman to be able to control all members of his body.(Al-Jaziri, 1990)

Islam is very concerned and respects of a woman position by giving her rights including the right to receive dowry. Mahar is only given by the prospective husband to the prospective wife, not to other women or anyone even though it is very close to him. Other people should not touch, let alone use it, even by their own husbands, except with the pleasure and willingness of the wife as the word of God Almighty in QS al-Nisa/4:4.

The verse implies that the dowry given to the wife is a gift and not compensation or purchase, but is the right of women (wife) in marriage. The verse also explains that what is meant by the obligatory gift is not accompanied by the hope of receiving a reward because of that Allah mentions dowry in the Qur'an as this means sincere gift is proof of love and ties of kinship and affection. In addition, the verse gives an understanding that as long as women (wives) give part of the price without coercion, then the man (husband) may take it calmly and comfortably, but if the request is made by the husband with coercion and threat, then what given it is not lawful for men (husband).

How important is the protection of Islamic law on women's human rights in determining dowry, so for husbands who want to divorce their wives must pay dowry even though the dowry has not been determined as the meaning of QS. al-Baqarah/2:236 i.e. if the divorce takes place before Dhulul and you have not yet determined the dowry, the husband can pay *mitsil* dowry (the amount of the dowry is considered on the basis of general eligibility where the woman lives). Likewise the meaning of QS. al-Baqarah/2:237 i.e. if a divorce occurs before Dhulul even though you have already determined the bride price, the husband must pay half the bride price stated in the marriage contract.

e. Receiving Clothing, Food and Shelter

If the bride and groom have legally entered into a marriage contract, at that time each of them has been bound by marriage bond and has lived as husband and wife who have mutual rights, namely the husband is obliged to provide for his wife. The wife's right to receive income is adjusted to the husband's ability. Islam does not require the husband to meet the needs of his wife beyond his abilities. Islam only provides a benchmark that a husband who has the ability and spaciousness, should provide a living according to the circumstances and ability. This is in accordance with the word of Allah in QS al-Thalaq/65:7.

Islam requires women to live happily and have fun with family without thinking about something, whether clothing, food and shelter, except only asked to women to take care of themselves, property, children and their honor. How noble the position of women in Islamic law, so that until pregnancy, childbirth and even breastfeeding is an obligation must be given the same compensation from the husband as the word of Allah Almighty in QS al-Thalaq/65:6.

The purpose of the verse is that a wife is pregnant, giving birth and breastfeeding must get wages from her husband, even a husband is obliged to provide shelter and food for his wife. Legal rights related to further marriages are that Islam gives women the right to demand the cancellation of the marriage contract by way of *khulu'* if the husband does not want to provide for living, mischief, does not associate well or is a drunkard. This is in accordance with the word of Allah swt in QS al-Baqarah /2: 229.

Based on the above discussion, it can be concluded that almost all forms of women's human rights from various dimensions which according to Islamic views can be protected by Islamic law, however a woman must not forget her identity and responsibilities whether as a child, wife, mother, grandmother or as a figure in society.

4. CONCLUSION

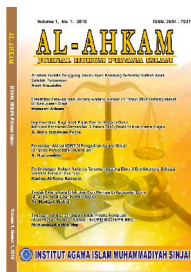
Women have a special position in Islamic view and have privileges that men do not have, the stigma about the limitation of women's rights that is not like men's right raises a debate about the rights that women have. Human rights as fundamental human rights include the rights of men and women without exception, the distinction of rights and duties of women and men when viewed conceptually not in their fundamental rights but in certain matters, and this can be seen in the national legal instruments governing men's and women's rights. Islam comes with the principle of equality among all people, there is no difference except piety. Islamic law occupies women's human rights in the field of religion (including; rights in aqeedah, rights in worship), social fields (including; rights in politics, teaching and work), law fields (includes; rights in the economy, inheritance, marriage and justice). Islamic law provides protection for women's human rights regarding inheritance, testimony, determining a mate, determining dowry, obtaining clothing, food and shelter.

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