

## Reconstructing Gender Equality in Islamic Law From a Human Rights Perspective

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### ABSTRACT

This study aims to analyze the concept of gender equality within the framework of Islamic law and its relation to Human Rights. The issue of gender equality has become a significant debate due to the differences between normative values in Islamic teachings and their implementation in various Muslim countries. This research employs a normative juridical method with conceptual, statutory, and comparative approaches. The data sources consist of primary, secondary, and tertiary legal materials, which are analyzed qualitatively. The results indicate that, normatively, Islamic law upholds the principles of justice (al-'adl), equality (al-musawah), and public interest (maslahah), which are in line with human rights values. However, in practice, there are still gaps caused by textual interpretations, patriarchal cultural influences, and state policies that are not yet fully responsive to gender issues. Comparative studies in several Muslim countries reveal variations in the implementation of gender equality, where more contextual and progressive approaches tend to produce more inclusive policies. The maqashid sharia approach can serve as a solution in bridging Islamic law and human rights through adaptive reinterpretation in accordance with contemporary developments. Therefore, gender equality can be realized through the comprehensive and just integration of Islamic values and human rights.

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## Introduction

Gender equality has become a fundamental issue in the global development of Human Rights (HR). It affirms that every individual, regardless of sex, is entitled to equal rights, opportunities, and treatment in legal, social, economic, and political spheres (Arifin & Rifai, 2025). The international recognition of gender equality is reflected in various human rights instruments, particularly the *Universal Declaration of Human Rights* (UDHR), which guarantees equality before the law without discrimination, including discrimination based on sex. Furthermore, the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) provides a comprehensive legal framework for eliminating discrimination against women in all aspects of life (Putu et al., 2022).

Within Muslim-majority countries, gender equality remains a complex issue because of its close relationship with the interpretation and implementation of Islamic law. Normatively, Islamic law embodies universal values of justice (*al-'adl*), equality (*al-musawah*), and public welfare (*maslahah*). The Qur'an emphasizes that all human beings are created equal, with distinction based solely on piety rather than gender, indicating that Islam does not inherently place women in a subordinate position to men (Sidiq & Erihadiana, 2022). Nevertheless, the implementation of Islamic law varies considerably across Muslim countries. Indonesia has made notable progress in incorporating gender equality into its legal system, although patriarchal cultural practices continue to present challenges. In contrast, Saudi Arabia has traditionally adopted a more conservative interpretation of Islamic law, despite recent reforms that have expanded women's participation in public life. Pakistan, meanwhile, continues to face substantial gender disparities influenced by legal, social, and cultural factors (Khoiroh et al., 2024).

The disparity between the normative principles of Islamic law and their practical application raises an important question: do existing gender inequalities originate from Islamic teachings themselves or from their interpretation and implementation within particular socio-cultural contexts? Many scholars argue that these inequalities are primarily the result of textual and conservative interpretations of the Qur'an and Hadith rather than the essential values of Islam (Saleh, 2024). Contextual and progressive interpretations seek to harmonize Islamic teachings with contemporary social realities and universal human rights principles. In addition, deeply rooted patriarchal traditions continue to shape legal practices and public policies, often limiting women's rights and opportunities.

The relationship between Islamic law and human rights is frequently portrayed as contradictory, particularly concerning gender issues. This perception stems from the assumption that human rights are based on universal secular values,

whereas Islamic law derives from divine revelation. However, a closer examination reveals significant convergence between the two systems, especially regarding human dignity, justice, and the protection of fundamental rights. Consequently, a more integrative approach is needed to understand Islamic law and human rights as complementary rather than conflicting frameworks (Fikri, 2025).

One promising approach is the application of *maqashid al-shariah*, which emphasizes the overarching objectives of Islamic law, namely the protection of religion, life, intellect, lineage, and property (Yusuf & Harun, 2024). Within this framework, gender equality is understood as part of the broader objective of promoting public welfare and social justice. Accordingly, contextual reinterpretation of religious texts is essential to ensure that Islamic law remains responsive to contemporary societal developments while preserving its fundamental principles.

Despite the growing body of scholarship, several research gaps remain. First, previous studies generally examine Islamic law and human rights separately, with limited efforts to integrate both perspectives into a comprehensive analytical framework. Second, existing research tends to focus on doctrinal analysis of religious texts while giving insufficient attention to the practical implementation of gender equality across Muslim-majority countries, resulting in an incomplete understanding of the gap between normative principles and social realities (Faizin & Alif, 2023). Third, relatively few studies explore the structural factors underlying this gap, particularly the roles of patriarchal culture, legal politics, and socio-political institutions. Finally, many scholars continue to portray Islamic law and human rights as opposing systems, leaving limited room for identifying their shared principles and complementary objectives (Widiawan, 2025).

Based on these research gaps, this study seeks to examine gender equality within the framework of Islamic law from an integrated perspective that encompasses normative principles, comparative practices in Muslim-majority countries, and international human rights standards. This research is expected to contribute to the advancement of Islamic legal scholarship by proposing a more inclusive, justice-oriented, and context-sensitive understanding of gender equality. Furthermore, it aims to provide practical insights for legal reform and public policymaking in Muslim countries, enabling Islamic law and human rights principles to function as complementary foundations for promoting gender justice.

## Method

This study employs a normative juridical research design, focusing on the analysis of legal norms derived from Islamic law and international human rights instruments to examine the concept of gender equality. Three complementary

approaches are adopted. The conceptual approach is used to explore the theoretical foundations of gender equality, Islamic law, and human rights. The statutory approach examines legislation and international legal instruments concerning the protection of women's rights, while the comparative approach compares the implementation of gender equality within Islamic law across selected Muslim-majority countries, namely Indonesia, Saudi Arabia, and Pakistan.

The research relies exclusively on secondary data, consisting of primary, secondary, and tertiary legal materials. Primary sources include the Qur'an, Hadith, the *Universal Declaration of Human Rights* (UDHR), the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW), and other relevant legal regulations. Secondary sources comprise scholarly books, peer-reviewed journal articles, and previous studies related to gender equality and Islamic law. Tertiary materials include legal dictionaries, encyclopedias, and other reference works that support conceptual clarification.

Data were collected through library research by reviewing academic publications and legal documents concerning gender equality from the perspectives of Islamic law and human rights (Cahyaningrum et al., 2023). The collected materials were analyzed qualitatively using data reduction, classification, interpretation, and conclusion drawing (Jailani & Saksitha, 2024). The analysis focused on three major themes: Islamic legal principles, human rights principles, and the implementation of gender equality within Muslim-majority countries. The object of this study is a normative and comparative analysis of gender equality in Indonesia, Saudi Arabia, and Pakistan. These countries were selected because they represent different legal systems, approaches to the implementation of Islamic law, and levels of women's rights protection. Their comparison provides a comprehensive understanding of the relationship between Islamic legal norms, international human rights principles, and the practical implementation of gender equality in Muslim societies.

## Results and Discussion

### Gender Equality from the Perspective of Islamic Law (Normative Perspective)

Gender equality within the framework of Islamic law has become an important subject in contemporary legal and socio-religious scholarship. Normatively, Islamic law regulates not only the relationship between humans and God but also social interactions among individuals. Justice and respect for human dignity constitute the fundamental principles governing these relationships, including those between men and women (Pratama et al., 2023). The Qur'an emphasizes that all human beings originate from the same source and possess equal human dignity. Differences between men and women are intended to complement

one another rather than establish hierarchical relationships, indicating that Islam provides no theological basis for discrimination against women (Yanti & Illy, 2025).

Justice (*al-'adl*) is one of the core principles of Islamic law. Rather than promoting absolute equality, Islamic justice emphasizes proportional rights and responsibilities based on individual circumstances. Consequently, gender equality in Islam is better understood as substantive justice rather than formal equality. Historically, Islamic law introduced significant reforms by granting women legal rights to own property, pursue education, participate in social life, and manage economic affairs independently (Lulu'Aniqurrohman, 2023).

Spiritually, Islam recognizes equal religious obligations and rewards for both men and women. Nevertheless, classical Islamic jurisprudence contains legal distinctions concerning inheritance, leadership, and testimony. These provisions should be interpreted within their historical and socio-cultural context rather than viewed as universally immutable (Alak et al., 2025). During the formative period of Islam, Arabian society was predominantly patriarchal, where men held primary economic and protective responsibilities. Therefore, several legal provisions reflected prevailing social realities rather than permanent gender hierarchies (Murtadho et al., 2024).

The *maqashid al-shariah* approach provides an important framework for understanding gender equality in Islamic law. By emphasizing the objectives of Islamic law—promoting public welfare (*maslahah*) and preventing harm—this approach allows legal interpretations to adapt to changing social conditions while preserving Islamic values. Accordingly, legal provisions should be evaluated based on their capacity to achieve justice and social benefit in contemporary society. Furthermore, it is essential to distinguish normative Islamic teachings from cultural practices. Many discriminatory practices commonly associated with Islam are largely rooted in patriarchal traditions rather than religious doctrine. A contextual and progressive interpretation is therefore necessary to ensure that Islamic law remains responsive to contemporary challenges and compatible with universal human rights principles (Ridwan & Andaryuni, 2025). Through responsible reinterpretation supported by scholars, governments, and civil society, Islamic law can continue promoting justice and gender equality.

### **Gender Equality from the Human Rights Perspective**

Gender equality is a fundamental principle of human rights that affirms equal dignity, rights, and opportunities for all individuals regardless of sex (Audina, 2022). This principle derives from the universal recognition that every person possesses inherent rights that cannot be denied. Consequently, gender equality extends beyond a social issue and constitutes a central component of

international human rights law. International recognition of gender equality is reflected in the Universal Declaration of Human Rights (UDHR), which guarantees equality before the law and prohibits discrimination based on sex. Additional legal protection is provided through the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which obliges states to eliminate discrimination in education, employment, healthcare, political participation, and public policy.

Within the human rights framework, gender equality encompasses both formal equality and substantive justice. Formal equality ensures equal legal treatment, whereas substantive justice requires governments to eliminate structural barriers that prevent women from fully exercising their rights. Therefore, states are expected not only to prohibit discrimination but also to adopt affirmative measures that promote genuine equality (Sidiki & Damayanti, 2025). Despite these legal commitments, many societies continue to face challenges arising from patriarchal norms and gender stereotypes that restrict women's participation in public life. Governments therefore have a responsibility to respect, protect, and fulfill women's rights through effective legislation, law enforcement, and gender-responsive public services (Purba, 2024).

Globalization has further strengthened international efforts to advance gender equality. Organizations such as the United Nations actively encourage member states to implement gender-inclusive policies, while Sustainable Development Goal (SDG) 5 identifies gender equality as a global development priority. Empirical evidence also demonstrates that countries with higher levels of gender equality generally experience stronger economic growth, improved social welfare, and greater political stability (Lehri et al., 2025). Consequently, integrating human rights principles into national legal systems, including religious legal frameworks, remains essential for achieving inclusive and sustainable development.

### **Gender Equality Practices in Muslim Countries**

Gender equality practices across Muslim-majority countries vary considerably due to differences in religious interpretation, political systems, cultural traditions, and state commitment to human rights (Mohiuddin, 2024). Although Islamic teachings emphasize justice and human dignity, their implementation differs substantially across jurisdictions. Indonesia represents a relatively progressive model through its pluralistic legal system that combines national, customary, and Islamic law. Government initiatives such as gender mainstreaming policies and legal protection against violence have expanded women's participation in education, politics, and economic activities (Suryani &

Wardana, 2024). Nevertheless, patriarchal traditions, gender stereotypes, and violence against women remain significant challenges.

Saudi Arabia historically adopted a conservative interpretation of Islamic law that restricted women's public participation. However, recent reforms under the country's modernization agenda have expanded women's rights, including the right to drive, work in various sectors, and participate more actively in public life. Despite these advances, implementation continues to encounter social resistance rooted in traditional cultural values. Pakistan presents a different experience. Although legal reforms have strengthened women's protection against domestic violence and discrimination, enforcement remains inconsistent due to entrenched patriarchal norms, weak legal institutions, and limited public awareness. Women in several regions continue to experience unequal access to education, healthcare, inheritance, and legal protection.

Other Muslim-majority countries also demonstrate varying approaches. Morocco has introduced progressive reforms through the revision of the *Moudawana* (Family Code), significantly strengthening women's rights in marriage, divorce, and child custody. Türkiye, operating under a secular legal framework, provides broader legal guarantees for women's rights, although political developments continue to influence gender equality policies (Tabak et al., 2022). Overall, comparative evidence indicates that differences in gender equality outcomes are primarily influenced by legal interpretation, patriarchal culture, state policies, and international engagement. Countries adopting contextual interpretations of Islamic law generally achieve more inclusive gender policies than those relying exclusively on conservative textual approaches. Consequently, promoting gender equality in Muslim societies requires comprehensive legal reform, educational advancement, cultural transformation, and collaboration among governments, religious scholars, academics, and civil society. Such efforts demonstrate that Islamic law and human rights principles can function as complementary frameworks for establishing more just, inclusive, and equitable societies.

### **Analysis of the Relationship Between Islamic Law and Human Rights in Gender Issues**

The relationship between Islamic law and human rights (HR) in addressing gender issues has become a central topic in contemporary legal scholarship, particularly within Muslim-majority societies (Ibrahim et al., 2024). This debate arises from the perceived differences between Islamic legal principles, which are rooted in divine revelation, and the modern human rights framework, which evolved primarily from Western legal and philosophical traditions. Despite these

differing foundations, both systems share a common objective: safeguarding human dignity and promoting social justice, including equality between men and women.

From the human rights perspective, gender equality is a fundamental principle requiring equal rights and freedoms without discrimination based on sex. This principle is firmly established in the Universal Declaration of Human Rights (UDHR), which affirms that all individuals are born free and equal in dignity and rights. Consequently, any form of discrimination against women is regarded as a violation of human rights that must be addressed through legal reform and effective state intervention. Islamic law, however, approaches gender relations through the principles of justice (*al-'adl*) and public welfare (*maslahah*). Although classical Islamic jurisprudence does not explicitly employ the modern terminology of "gender equality," it recognizes the equal spiritual status of men and women before God. Differences found in certain legal provisions, including inheritance, testimony, and leadership, have generally been interpreted as reflecting functional responsibilities within particular historical and social contexts rather than institutionalized discrimination. Accordingly, Islamic justice emphasizes proportionality and contextual fairness rather than identical treatment in every circumstance.

These conceptual differences should not be interpreted as evidence of an inherent conflict between Islamic law and human rights. At their core, both systems seek to protect fundamental human rights and establish a just social order. Therefore, their relationship is better understood as complementary and dialogical rather than contradictory. One of the most effective frameworks for reconciling these perspectives is *maqashid al-shariah*, which emphasizes that Islamic law seeks to preserve religion, life, intellect, lineage, and property while promoting the common good. Within this framework, gender equality may be understood as an essential component of justice and human welfare.

The *maqashid al-shariah* approach also provides opportunities for contextual reinterpretation of religious texts. Rather than altering Islamic teachings, this method seeks to understand scriptural provisions in light of contemporary social realities while preserving their fundamental objectives. Such an approach enables Islamic law to respond constructively to modern challenges, including issues related to women's rights and gender equality. In practice, tensions between Islamic law and human rights frequently stem not from theological principles but from divergent interpretations and inconsistent implementation. Many practices perceived as discriminatory are more closely associated with patriarchal traditions, cultural norms, and state policies than with the normative teachings of Islam.

Consequently, it is essential to distinguish between Islamic doctrine and culturally constructed social practices.

Patriarchal structures remain a significant obstacle to gender equality in many Muslim societies by limiting women's participation in family, economic, and political life. These structures are often legitimized through selective interpretations of religious texts, thereby reinforcing gender inequality. Political institutions and government policies also play a decisive role. States that demonstrate a stronger commitment to human rights generally adopt more progressive legal reforms and policies promoting women's rights, whereas weaker institutional commitment often perpetuates discriminatory practices. Globalization has further intensified interactions between Islamic legal systems and international human rights standards. Muslim-majority countries increasingly face pressure to harmonize domestic legislation with global human rights norms, particularly regarding women's rights. This process has encouraged legal reforms aimed at integrating human rights principles into Islamic legal frameworks. Nevertheless, such reforms remain controversial in some contexts, where human rights discourse is occasionally perceived as reflecting Western values that may conflict with local religious and cultural traditions. This perception underscores the need for culturally sensitive and context-based approaches to legal reform.

An integrative framework offers a constructive solution by combining universal human rights principles with the ethical foundations of Islamic law. Under this perspective, gender equality is viewed not as an external concept imposed upon Islam but as an expression of the Islamic commitment to justice, dignity, and social welfare. Religious scholars and legal academics play a crucial role in advancing contextual *ijtihad*, producing interpretations that remain faithful to Islamic principles while addressing contemporary societal needs. Education likewise serves as an essential instrument for promoting awareness of gender justice and strengthening respect for women's rights.

Overall, the relationship between Islamic law and human rights should not be viewed as inherently antagonistic. Instead, both possess substantial normative compatibility in promoting justice, equality, and human dignity. Existing tensions primarily result from interpretative differences, patriarchal social structures, and legal policies that have yet to fully accommodate gender equality. A comprehensive and contextual approach that integrates the universal values of human rights with the objectives of Islamic law provides a more effective framework for advancing gender justice within Muslim societies. Ultimately, integrating Islamic law and human rights in addressing gender issues represents a long-term process of achieving social justice. Through constructive dialogue, contextual reinterpretation, legal reform, and the collective commitment of governments, religious scholars, academics, and civil society, gender equality can evolve beyond a normative

aspiration into a practical reality that benefits contemporary Muslim communities.

### Conclusion

The findings of this study indicate that gender equality in Islamic law is founded upon strong normative principles that are consistent with the core values of Human Rights (HR). As a comprehensive legal and ethical system, Islam does not place women in an inferior position; instead, it recognizes the equal dignity of all human beings before God, with piety serving as the primary measure of distinction. The principles of justice (*al-'adl*), equality (*al-musawah*), and public welfare (*maslahah*) constitute the fundamental values of Islamic law, demonstrating its substantive commitment to gender justice. Nevertheless, a considerable gap remains between these normative principles and their practical implementation in many Muslim societies. This disparity is not inherent in Islamic teachings but is largely influenced by external factors, including conservative interpretations of religious texts, deeply rooted patriarchal traditions, and state policies that have yet to fully address gender-related concerns. Consequently, women continue to experience various forms of inequality in social, economic, and political life.

From a human rights perspective, gender equality is a fundamental principle that requires fair treatment and the elimination of discrimination against all individuals. These values share common ground with the objectives of Islamic law, particularly in promoting human dignity, justice, and the protection of fundamental rights. Therefore, the common perception that Islamic law and human rights are inherently incompatible is not fully supported. Rather, both frameworks can be understood as complementary when interpreted through a contextual and holistic approach.

This study further demonstrates that the *maqashid al-shariah* approach provides an effective framework for reconciling Islamic law with international human rights principles. By emphasizing the higher objectives of Islamic law and the promotion of public welfare, this approach allows for contextual reinterpretation while preserving the essential values of the Sharia. Such an approach enables Islamic law to remain responsive to contemporary social developments without compromising its normative foundations. Finally, achieving gender equality requires the active involvement of governments, religious scholars, academics, and civil society. Legal reform, gender-responsive public policies, educational initiatives, and greater public awareness are essential strategies for addressing structural inequalities. Accordingly, the integration of Islamic legal principles with human rights norms offers a constructive pathway toward developing a more just, inclusive, and gender-responsive legal system in Muslim-majority societies.

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