

Qiwāmah And Epistemic Violence: A Critical Socio-Legal Analysis of Gendered Authority In Islamic Family Law

***Al Fiqri Ardiansyah^a, Marhamah Annazah Tambunan^a, Randy Putra Alamsyah^a, Idrus Afandi Akbar^b, Nuruddin^c**

^a Universitas Islam Negeri Syarif Hidayatullah Jakarta, Indonesia

^b Sakarya Üniversitesi, Türkiye

^c Universitas Islam Negeri Mataram, Indonesia

*Corresponding author: alfiqriardiansyah3@gmail.com

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Abstract

The concept of qiwāmah (male authority) in Q.4:34 remains a central yet contested foundation in Islamic family law, particularly in shaping gender roles and marital authority. While classical and modern tafsir have largely legitimized male leadership, existing scholarship tends to focus on reinterpretation or normative critique, leaving a gap in examining the epistemological structures that produce and sustain patriarchal authority. This study investigates qiwāmah as a site of epistemic violence and analyzes how gendered authority is constructed within Qur'anic exegesis and institutionalized in Islamic family law, particularly in the Indonesian Kompilasi Hukum Islam (KHI). Employing a qualitative approach grounded in critical hermeneutics and socio-legal analysis, the study examines classical, modern, and critical tafsir alongside legal documents. The findings demonstrate that qiwāmah is not a fixed theological doctrine but an epistemic construct shaped through interpretive traditions, juristic reasoning, and legal institutionalization. Patriarchal interpretations are reproduced through the nafaqah tā'ah framework and codified in legal systems, while marginalizing alternative perspectives. This study's specific contribution lies in advancing epistemic violence as an analytical tool in Qur'anic exegesis, shifting analysis from textual meaning to the structures of knowledge production that sustain legal authority. It further provides a framework for Islamic legal reform, emphasizing the need to reinterpret qiwāmah in light of maqāṣid al-sharī'ah, particularly justice and human dignity.

Keywords: *Qiwāmah; Epistemic Violence; Qur'anic Exegesis; Islamic Family Law; Gendered Authority.*

Abstrak

Konsep qiwāmah (otoritas laki-laki) dalam Q.S. 4:34 merupakan fondasi penting namun tetap diperdebatkan dalam hukum keluarga Islam, khususnya dalam membentuk relasi gender dan otoritas dalam perkawinan. Meskipun tafsir klasik dan modern cenderung melegitimasi kepemimpinan laki-laki, kajian yang ada umumnya berfokus pada reinterpretasi atau kritik normatif, sehingga menyisakan celah dalam menganalisis struktur epistemologis yang memproduksi dan mereproduksi otoritas patriarkal. Penelitian ini bertujuan untuk menganalisis qiwāmah sebagai bentuk kekerasan epistemik serta mengkaji bagaimana otoritas gender dikonstruksi dalam tafsir Al-Qur'an dan diinstitutionalisasi dalam hukum keluarga Islam, khususnya dalam

Kompilasi Hukum Islam (KHI) di Indonesia. Penelitian ini menggunakan pendekatan kualitatif berbasis hermeneutika kritis dan analisis sosio-legal, dengan menganalisis tafsir klasik, modern, dan kritis serta dokumen hukum. Hasil penelitian menunjukkan bahwa qiwāmah bukanlah doktrin teologis yang tetap, melainkan konstruksi epistemik yang dibentuk melalui tradisi tafsir, penalaran fiqh, dan institusionalisasi hukum. Interpretasi patriarkal direproduksi melalui kerangka nafaqah ṭā'ah dan dilembagakan dalam sistem hukum, sekaligus memarginalkan perspektif alternatif. Kontribusi utama penelitian ini terletak pada pengembangan konsep kekerasan epistemik sebagai alat analisis dalam studi tafsir, yang menggeser fokus dari makna teks ke struktur produksi pengetahuan. Selain itu, penelitian ini menawarkan kerangka bagi reformasi hukum Islam melalui reinterpretasi qiwāmah berbasis maqāṣid al-sharī'ah, khususnya prinsip keadilan dan martabat manusia.

Kata Kunci: Qiwāmah; Kekerasan Epistemik; Tafsir Al-Qur'an; Hukum Keluarga Islam; Otoritas Gender.

INTRODUCTION

The question of gendered authority in Islamic family law has become a central issue in contemporary debates on gender justice, legal reform, and the reinterpretation of religious texts. Across Muslim societies, legal systems continue to negotiate the tension between inherited doctrinal frameworks and evolving social realities shaped by modernity, human rights, and transnational influences. Within this context, the concept of *qiwāmah* derived from Q.4:34 occupies a pivotal role as a foundational principle structuring marital authority and obligations. Traditionally understood as male guardianship, *qiwāmah* has been widely used to legitimize hierarchical gender relations, positioning men as providers and women within frameworks of obedience.¹

In practice, this doctrinal framework is institutionalized in Islamic family law through what has been termed the maintenance obedience equation, where a husband's financial responsibility is linked to a wife's legal duty of obedience.² While some jurisdictions, such as Morocco, have introduced reforms toward greater gender equality, others continue

¹ R Rinaldo, "Obedience and Authority among Muslim Couples: Negotiating Gendered Religious Scripts in Contemporary Indonesia," *Sociology of Religion: A Quarterly Review* 80, no. 3 (2019): 323–49, <https://doi.org/10.1093/socrel/sry045>; Ahmad Zein, "Legal Pluralism and Ijtihad in Islamic Economic Law: Revisiting Classical Madhhab Positions," *Ahkam: Jurnal Ilmu Syariah* 18, no. 2 (2018): 245–66, <https://doi.org/10.15408/ajis.v18i2.8756>.

² L Welchman, "A Husband's Authority: Emerging Formulations in Muslim Family Laws," *International Journal of Law, Policy and the Family* 25, no. 1 (2011): 1–23, <https://doi.org/10.1093/lawfam/ebq014>.

to uphold more traditional interpretations, reflecting ongoing contestations over authority and justice in family law. These variations demonstrate that *qiwāmah* operates not only as a theological concept but also as a legal principle shaping positive law and social practice.³

At the epistemic level, classical tafsir traditions have largely interpreted *qiwāmah* as a divinely sanctioned structure of male authority. Exegetes such as al-Ṭabarī, Ibn Kathīr, and al-Qurṭubī consistently emphasize male leadership and disciplinary authority.⁴ Importantly, these interpretations do not remain within the domain of textual exegesis (*tafsir*), but are translated into legal doctrines (*fiqh*), which in turn inform codified family laws in Muslim jurisdictions.⁵ This indicates a critical epistemological chain: tafsir as a source of meaning, fiqh as a process of legal reasoning, and Islamic family law as its institutional manifestation.

From the perspective of *uṣūl al-fiqh*, this process reflects how scriptural interpretation is mediated through juristic methodologies such as *istinbāṭ* and *ta'līl*, where specific readings of Q.4:34 become normative legal rulings. However, contemporary scholarship challenges the assumption that such interpretations are neutral or universally binding. Critical and feminist approaches argue that tafsir is historically situated and shaped by socio-cultural and power relations.⁶ As a result, patriarchal readings of *qiwāmah* may reflect not only textual meaning but also the epistemic conditions under which interpretation is produced.

In this regard, the concept of epistemic violence provides an important analytical lens. Epistemic violence refers to forms of harm embedded within systems of knowledge that marginalize or silence

³ Muhammad Husni Abdulah Pakarti, Diana Farid, Husain, and Yayan Rahtikawati, "Changes in Gender Roles and Family Law Dynamics in Indonesia in the Digital Era," *Usroh: Jurnal Hukum Keluarga Islam* 9, no. 1 (2025): 20–32, <https://doi.org/10.19109/ma8d7117>.

⁴ Muhammad Al-Qurtubi, *Al-Jami' Li Ahkam Al-Qur'an* (Dar al-Kutub al-'Ilmiyyah, 2006); Al-Ṭabarī, *Jāmi' Al-Bayān 'an Ta'Wīl Āy Al-Qur'Ān* (Beirut: Mu'assasah al-Risālah, 2001); Ibn Kathir, *Tafsīr Al-Qur'ān Al-'Azīm* (Riyadh: Dār Ṭayyibah, 1999).

⁵ Abdullahi Ahmed An-Na'im, *Islam and Human Rights* (Harvard University Press, 2002); Ziba Mir-Hosseini, "Muslim Family Laws and the Challenge of Reform," *Zed Books*, 2011.

⁶ Nasr Hamid Abu Zayd, *Reformation of Islamic Thought: A Critical Historical Analysis* (Amsterdam University Press, 2006); Abdullah Saeed, *Islamic Thought: An Introduction* (London: Routledge, 2006); Asma Barlas, *Believing Women in Islam* (Austin: University of Texas Press, 2002); Amina Wadud, *Qur'an and Woman* (Oxford University Press, 1999).

alternative perspectives.⁷ Applied to Qur’anic exegesis, it enables an examination of how interpretive traditions may systematically privilege male authority while excluding women’s voices, thereby reinforcing gender inequality in both legal and social domains.⁸

Despite significant developments in reinterpretation and socio-legal studies, the literature remains fragmented. While many studies propose alternative readings of Q.4:34, and others analyze the implementation of Islamic family law, few systematically examine the epistemological structures linking tafsir, fiqh, and legal authority. In particular, the application of epistemic violence as a framework for analyzing Qur’anic interpretation and its legal consequences remains underexplored.⁹

This study addresses this gap by examining *qiwāmah* as an epistemic construct situated within the interaction between tafsir, fiqh, and Islamic family law. It asks: (1) how is *qiwāmah* constructed within classical and modern Qur’anic interpretation? (2) how does patriarchal epistemology produce forms of epistemic violence in interpreting Q.4:34? and (3) how do these interpretations shape and legitimize gendered authority in Islamic family law?

Theoretically, this study integrates critical hermeneutics and Islamic interpretive approaches with a socio-legal perspective. It draws on hermeneutical insights from Gadamer and Ricoeur, as well as contextual approaches in Qur’anic interpretation,¹⁰ while employing Foucault’s concept of power knowledge to analyze the relationship between interpretation and authority. Within the framework of Islamic legal theory, this approach also positions maqāṣid al-sharī‘ah particularly

⁷ Gayatri Chakravorty Spivak, “Can the Subaltern Speak?,” in *Marxism and the Interpretation of Culture* (University of Illinois Press, 1988), 271–313; Kristie Dotson, “Tracking Epistemic Violence, Tracking Practices of Silencing,” *Hypatia* 26, no. 2 (2011): 236–57, <https://doi.org/10.1111/j.1527-2001.2011.01177.x>.

⁸ M Bezgrebelna and T Teo, “Epistemic Violence,” in *Encyclopedia of Violence, Peace, & Conflict: Volume 1-4, Third Edition*, vol. 4, 2022, 76–81, <https://doi.org/10.1016/B978-0-12-820195-4.00292-2>; S Donabed, “The Existential Threat of Academic Bias: The Institutionalization of Anti-Assyrian Rhetoric,” *International Journal of Middle East Studies* 54, no. 3 (2022): 547–53, <https://doi.org/10.1017/S0020743822000770>.

⁹ Loso Judijanto, Dwanda Julisa Sistyawan, I Made Kariyasa, and Muhammad Husni Abdulah Pakarti, “Gender Roles and the Redefinition of Family Law: Toward a Modern Family with Justice,” *Mawaddah: Jurnal Hukum Keluarga Islam* 2, no. 2 (2024): 140–157.

¹⁰ Fazlur Rahman, *Islam and Modernity* (University of Chicago Press, 1982); Saeed, *Islamic Thought: An Introduction*.

justice (*'adl*) and human dignity (*karāmah*) as a normative framework for re-evaluating gendered authority in Islamic family law.

The contribution of this study lies in bridging the gap between textual interpretation and legal practice by situating tafsir within a broader epistemic and socio-legal framework. By conceptualizing epistemic violence as a mechanism in the production of legal knowledge, this research provides a critical foundation for Islamic legal reform by exposing the epistemic assumptions underlying gendered legal norms and offering a framework for their reconstruction. It offers a critical perspective on how inherited interpretations can be reassessed in light of *maqāṣid al-sharī'ah*, thereby opening space for more equitable and context-sensitive formulations of Islamic family law.

RESEARCH METHODS

This study employs a qualitative research design grounded in critical hermeneutics and socio-legal analysis to examine the construction of *qiwāmah* in Qur'anic exegesis and its implications for gendered authority in Islamic family law. The unit of analysis focuses on Q.4:34 and the concept of *qiwāmah* as articulated within classical and contemporary interpretive traditions. Rather than treating tafsir as a neutral reflection of divine intent, this study approaches it as a historically situated discourse shaped by socio-cultural and ideological forces. Within this framework, *qiwāmah* is analyzed both as a textual construct and as a normative principle that informs legal reasoning (*fiqh*) and its institutionalization in Islamic family law.

Analytically, the study integrates two complementary approaches. First, a critical hermeneutic approach is employed to examine how meaning is produced within tafsir, drawing on Gadamer's historicity of understanding and Ricoeur's hermeneutics of suspicion to uncover underlying assumptions and power relations.¹¹ This is complemented by Islamic interpretive approaches, particularly Fazlur Rahman's contextual method and Abdullah Saeed's contemporary framework.¹² Second, a socio-legal approach is used to analyze how these interpretations are translated into legal norms and institutional practices. To operationalize the analysis, the study applies thematic coding to identify recurring interpretive patterns and critical discourse analysis (CDA) to examine

¹¹ Hans-Georg Gadamer, *Truth and Method* (New York: Continuum, 2004); Paul Ricoeur, *Interpretation Theory: Discourse and the Surplus of Meaning* (Fort Worth: Texas Christian University Press, 1976).

¹² Rahman, *Islam and Modernity*; Saeed, *Islamic Thought: An Introduction*.

how language constructs and legitimizes gendered authority within both tafsir and legal texts.

The primary data consist of selected tafsir texts representing classical, modern, and critical perspectives on Q.4:34, including al-Ṭabarī, Ibn Kathīr, and al-Qurṭubī (classical); Quraish Shihab and Wahbah al-Zuhaylī (modern); and Amina Wadud and Asma Barlas (critical). These works are selected based on three criteria: (1) historical influence within the Islamic scholarly tradition, (2) representativeness across interpretive orientations, including traditional and reformist perspectives, and (3) relevance to debates on gender and authority. In addition, legal documents such as the Indonesian Compilation of Islamic Law (KHI) are analyzed to examine the institutionalization of *qiwāmah* within positive law. Secondary sources include scholarly works on Islamic legal theory, feminist studies, and critical social theory.

Data collection is conducted through library research and document analysis.¹³ The analytical process proceeds in three stages: (1) textual analysis of Q.4:34 and its interpretations, (2) thematic coding to categorize patterns of meaning related to authority, gender, and obligation, and (3) critical interpretation using frameworks such as power knowledge and epistemic violence.¹⁴ To ensure rigor, the study applies source and theoretical triangulation as well as interpretive consistency. This study is limited to selected tafsir texts and does not aim to cover the entirety of classical exegesis; moreover, the analysis focuses on discursive and epistemological constructions rather than empirical legal practice, which may vary across socio-legal contexts.

RESULTS AND DISCUSSION

The Classical Construction of *Qiwāmah*: Foundations of Patriarchal Epistemology

The classical exegetical tradition constructs *qiwāmah* as a divinely sanctioned form of male authority, embedding hierarchical gender relations within both theological discourse and Islamic legal doctrine. Authoritative tafsir works consistently interpret Q.4:34 as legitimizing male leadership, governance, and disciplinary authority over women. Al-Ṭabarī, for instance, interprets the verse as an affirmation of male authority grounded in divine preference: “الرجال قوامون على نساءهم في الأدب”

¹³ Uwe Flick, *An Introduction to Qualitative Research* (Sage Publications, 2014).

¹⁴ Dotson, “Tracking Epistemic Violence, Tracking Practices of Silencing”; Michel Foucault, *Power/Knowledge* (Pantheon Books, 1980); Spivak, “Can the Subaltern Speak?”

”والتدبير، بما فضل الله بعضهم على بعض” (men are in charge of women in discipline and governance due to God’s favoring of some over others).¹⁵ Ibn Kathīr reinforces this view by defining men as rulers and disciplinarians (“هو رئيسها وكبيرها والحاكم عليها ومؤدبها”), framing authority as both natural and enforceable.¹⁶ Al-Qurtubī further codifies *qiwāmah* as a legal principle within marriage, emphasizing the husband’s authority to regulate and discipline women’s conduct.¹⁷ These interpretations demonstrate that *qiwāmah* is constructed not merely as a relational concept but as a structured system of authority embedded within both theology and law.

The legal significance of these interpretations becomes clearer when situated within classical fiqh frameworks. Across the major madhāhib, *qiwāmah* is operationalized through the maintenance–obedience (*nafaqah tā’ah*) equation, in which the husband’s obligation to provide financial support (*nafaqah*) is reciprocated by the wife’s duty of obedience (*tā’ah*).¹⁸ This formulation transforms exegetical meaning into enforceable legal doctrine, shaping rulings on marital hierarchy, guardianship (*wilāyah*), and disciplinary authority. From the perspective of uṣūl al-fiqh, this reflects processes of *istinbāṭ* (derivation of legal rulings) and *ta’līl* (legal reasoning), through which interpretations of Q.4:34 are translated into normative legal principles. Consequently, the epistemological chain from tafsir to fiqh culminates in the institutionalization of gender hierarchy within Islamic family law.¹⁹

This doctrinal structure continues to influence contemporary legal systems. In the Indonesian context, for example, the *Kompilasi Hukum Islam (KHI)* codifies the principle that the husband is the head of the family, reflecting the classical logic of *qiwāmah* and the maintenance–

¹⁵ Al-Ṭabari, *Jāmi’ Al-Bayān ‘an Ta’wīl Āy Al-Qur’ān*.

¹⁶ Kathīr, *Tafsīr Al-Qur’ān Al-‘Azīm*.

¹⁷ Al-Qurtubī, *Al-Jami’ Li Ahkam Al-Qur’an*.

¹⁸ Lynn Welchman, *Women and Muslim Family Laws in Arab States: A Comparative Overview of Textual Development and Advocacy* (Amsterdam: Amsterdam University Press, 2007).

¹⁹ Abdullahi Ahmed An-Na’im, “Islamic Foundations of Religious Human Rights,” in *Religious Human Rights in Global Perspective*, ed. John Witte and Johan van der Vyver (The Hague: Martinus Nijhoff, 2002), 337–59; Ziba Mir-Hosseini, “Muslim Women’s Quest for Equality: Between Islamic Law and Feminism,” *Critical Inquiry* 32, no. 4 (2006): 629–45, <https://doi.org/10.1086/508085>.

obedience framework.²⁰ This demonstrates how interpretive traditions are not confined to textual discourse but are reproduced within positive law and institutional practice, shaping gendered authority in marriage, divorce, and family relations.

Analytically, this pattern aligns with Foucault's concept of power-knowledge, where knowledge production is inseparable from the exercise of power.²¹ Tafsir functions as a discursive apparatus that stabilizes a regime of truth in which male authority appears natural, inevitable, and divinely ordained. Gadamer's notion of the historicity of understanding further clarifies that these interpretations are shaped by the socio-cultural horizons of classical mufassirūn.²² However, when situated within Islamic legal theory, this process also reflects the interaction between text, juristic reasoning, and institutional authority, rather than a purely abstract epistemological phenomenon.

Importantly, classical Islamic thought is not entirely monolithic. Some juristic discussions implicitly recognize the conditional and functional nature of authority, linking *qiwāmah* to economic responsibility rather than inherent superiority. This opens space for internal critique within the Islamic tradition, particularly when evaluated through *maqāṣid al-sharī'ah*, which prioritize justice (*'adl*) and welfare (*maṣlaḥah*) as overarching legal objectives.²³ In addition, *qawā'id fihiyyah* such as "*al-darar yuzāl*" (harm must be eliminated) provide normative grounds to challenge interpretations that produce structural inequality. These internal principles demonstrate that critiques of patriarchal authority need not rely solely on external theoretical frameworks but can be grounded within Islamic legal reasoning itself.²⁴

Contemporary feminist scholarship further strengthens this critique by arguing that classical interpretations reflect historically situated, androcentric perspectives rather than the ethical ideals of the

²⁰ A Rokhmad and S Susilo, "Conceptualizing Authority of the Legalization of Indonesian Women's Rights in Islamic Family Law," *Journal of Indonesian Islam* 11, no. 2 (2017): 489–508, <https://doi.org/10.15642/JIIS.2017.11.2.489-508>.

²¹ Foucault, *Power/Knowledge*.

²² Gadamer, *Truth and Method*.

²³ M Al-Sharmani, "Marriage in Islamic Interpretive Tradition: Revisiting the Legal and the Ethical," *Journal of Islamic Ethics* 2, no. 1–2 (2018): 76–96, <https://doi.org/10.1163/24685542-12340017>.

²⁴ Wahyudi, Muhammad Husni Abdulah Pakarti, and Diana Farid, "Peran Tradisi dan Norma Gender dalam Penyelesaian Sengketa Hukum Keluarga," *An-Nisa: Journal of Islamic Family Law* 1, no. 3 (2024): 1–11, <https://doi.org/10.63142/an-nisa.v1i3.50>.

Qur'an.²⁵ Empirical studies show that these interpretations have contributed to the marginalization of women and the limitation of their agency within both legal and social contexts.²⁶ Thus, the classical construction of *qiwāmah* is better understood not as a fixed theological mandate, but as an epistemic and legal construct shaped by historical context, power relations, and institutional authority.

Epistemic Violence in Tafsir: Silencing and Marginalizing Women's Perspectives

Normatively, this analysis indicates that *qiwāmah* must be re-evaluated in light of *maqāṣid al-sharī'ah*, particularly the principles of justice (*'adl*) and human dignity (*karāmah*), rather than being maintained as a rigid hierarchical doctrine. This requires shifting from authority-based interpretations toward ethical frameworks grounded in reciprocity and responsibility.²⁷

Institutionally, these findings highlight the need for reform in Islamic family law, particularly within the Indonesian *Kompilasi Hukum Islam (KHI)*. This includes critically reassessing the legal construction of the husband as "head of the family" and revisiting the framework of marital rights and obligations (*nafaqah-tā'ah*) to better align with contemporary standards of gender justice.²⁸ Such reform is essential to prevent the continued reproduction of patriarchal norms within legal systems.

The interpretive tradition of *qiwāmah* operates not only as a vehicle of meaning but also as a system of epistemic violence that marginalizes women's voices within Qur'anic exegesis and Islamic legal reasoning. Historically, tafsir has been dominated by male scholars, resulting in the systematic exclusion of women from interpretive

²⁵ Barlas, *Believing Women in Islam*; Wadud, *Qur'an and Woman*.

²⁶ W Nuroniyah, "Gender Discourses within Pesantren in Cirebon: Understanding the Typologies of Kyais' Interpretations of the Concept of Qawwam," *Samarah* 7, no. 2 (2023): 875–96, <https://doi.org/10.22373/sjhc.v7i2.15689>; I Rubab et al., "Gendered Household Decision-Making in Lahore: Different Contextual Interpretations of Qawwam in Qur'anic Verse 4:34," *Feminist Theology* 34, no. 2 (2026): 154–68, <https://doi.org/10.1177/09667350251391785>.

²⁷ Titing Oting Supartini, Yayan Rahtikawati, and Supriati Rumagia, "Legitimasi Hukum dan Ketimpangan Gender dalam Isbat Nikah Anak: Studi Putusan PA Tasikmalaya Nomor 283 Pdt.P 2024 PA.Tmk," *Al-Battar: Jurnal Pamungkas Hukum* 2, no. 2 (2025): 132–144, <https://doi.org/10.63142/al-battar.v2i2.287>.

²⁸ Rokhmad and Susilo, "Conceptualizing Authority of the Legalization of Indonesian Women's Rights in Islamic Family Law"; Welchman, "A Husband's Authority: Emerging Formulations in Muslim Family Laws."

authority. As Wadud observes, this produces a partial epistemology in which women are positioned as objects rather than subjects of interpretation.²⁹ This exclusion extends beyond representation, shaping the conceptual categories through which gender relations are constructed in both religious discourse and legal doctrine.

This epistemic configuration becomes more consequential when situated within classical fiqh frameworks, where interpretive meanings are translated into enforceable legal norms. Across the major madhāhib, gender relations are structured through the framework of *nafaqah* (financial maintenance) and *ṭā'ah* (obedience), whereby male authority is justified through economic responsibility while women are positioned within obligations of obedience.³⁰ In this configuration, authority (*wilāyah*) is institutionalized as a legal norm, demonstrating that tafsir functions as part of a broader epistemological chain in which interpretation informs fiqh and is subsequently embedded in legal practice.

Textual evidence from classical tafsir reinforces this pattern. Women are consistently framed in terms of obedience (*ṭā'ah*), discipline (*ta'dīb*), and correction (*taqwīm*), while men are associated with authority and governance.³¹ As Dotson argues, such patterns constitute epistemic oppression, where exclusion from knowledge production reinforces broader structures of inequality.³² Tafsir, therefore, does not merely describe gender roles but actively constructs and legitimizes them through discursive practices that naturalize male dominance.

From a theoretical standpoint, this dynamic aligns with Spivak's concept of epistemic violence, in which dominant discourses silence subaltern voices by denying them interpretive authority.³³ However, confining the critique to external theoretical frameworks risks overlooking internal resources within Islamic legal tradition. From the perspective of *maqāṣid al-sharī'ah*, legal norms must be evaluated based on their capacity to realize justice (*'adl*) and uphold human dignity

²⁹ Wadud, *Qur'an and Woman*.

³⁰ Welchman, "A Husband's Authority: Emerging Formulations in Muslim Family Laws."

³¹ Al-Qurtubi, *Al-Jami' Li Ahkam Al-Qur'an*; Al-Ṭabari, *Jāmi' Al-Bayān 'an Ta'wīl Āy Al-Qur'ān*; Ibn Kathir, *Tafsir Al-Qur'an Al-'Azim* (Dar al-Tayyibah, 2000).

³² Dotson, "Tracking Epistemic Violence, Tracking Practices of Silencing."

³³ Spivak, "Can the Subaltern Speak?"

(*karāmah*).³⁴ Similarly, *qawā'id fiqhiyyah* such as “*al-ḍarar yuzāl*” (harm must be eliminated) provide normative grounds for reassessing interpretations that produce structural inequality. These principles indicate that critiques of patriarchal authority can be articulated within Islamic jurisprudence itself, rather than imposed from external paradigms.

At the same time, classical Islamic thought is not entirely monolithic. Certain juristic discussions suggest that authority is conditional and functionally linked to economic provision rather than inherent superiority. This opens interpretive space within *uṣūl al-fiqh* for re-evaluating established doctrines. Contemporary scholars such as Barlas and Wadud further argue that patriarchal readings are historically contingent rather than intrinsic to the Qur'anic message.³⁵ Empirical studies likewise demonstrate that these interpretations continue to shape legal structures and social practices, often limiting women's access to rights and participation.³⁶

Foucault's concept of power-knowledge provides additional analytical clarity by illustrating how knowledge systems function as instruments of domination.³⁷ Tafsir, in this sense, operates as a regime of truth that defines legitimate interpretation while excluding alternative perspectives. This dynamic is reinforced through institutional mechanisms, including legal codification. In the Indonesian context, for example, the *Kompilasi Hukum Islam (KHI)* reflects this epistemological legacy by codifying male authority within the family, thereby translating interpretive hierarchies into positive law.³⁸

These findings carry significant implications for both Islamic legal theory and practice. Normatively, the concept of *qiwāmah* must be re-evaluated in light of *maqāṣid al-sharī'ah*, particularly the principles of justice (*'adl*) and human dignity (*karāmah*), rather than being maintained as a rigid hierarchical doctrine. This requires rethinking the *nafaqah*–

³⁴ Al-Sharmani, “Marriage in Islamic Interpretive Tradition: Revisiting the Legal and the Ethical.”

³⁵ Wadud, *Qur'an and Woman*; Barlas, *Believing Women in Islam*.

³⁶ Nuroniyah, “Gender Discourses within Pesantren in Cirebon: Understanding the Typologies of Kyais' Interpretations of the Concept of Qawwam”; Rubab et al., “Gendered Household Decision-Making in Lahore: Different Contextual Interpretations of Qawwam in Qur'anic Verse 4:34.”

³⁷ Foucault, *Power/Knowledge*.

³⁸ Rokhmad and Susilo, “Conceptualizing Authority of the Legalization of Indonesian Women's Rights in Islamic Family Law.”

tā'ah framework and reconstructing gender relations in Islamic law based on reciprocity, responsibility, and equity.

At the institutional level, these insights highlight the urgency of reform in Islamic family law, particularly within the Indonesian *Kompilasi Hukum Islam (KHI)*. This includes critically reassessing the legal construction of the husband as “head of the family” and revisiting the formulation of marital rights and obligations to better align with contemporary standards of gender justice.³⁹

Ultimately, epistemic violence in tafsir is not merely a theoretical concern but a structural phenomenon with concrete implications for legal norms and social practices. Addressing it requires not only reinterpretation of texts but also a transformation of the epistemological and institutional frameworks through which Islamic law is produced, legitimized, and applied.

Reproduction of Qiwāmah in Modern Tafsir and Its Institutionalization in Islamic Family Law

The contemporary reinterpretation of *qiwāmah* does not fundamentally dismantle its hierarchical structure but rather reformulates it into a more acceptable discourse that continues to sustain male authority within Islamic family law. Analysis of modern tafsir indicates that although the language has shifted from domination to responsibility, the underlying epistemological and legal framework remains largely intact. Quraish Shihab, for instance, rearticulates *qiwāmah* as a moral responsibility aimed at maintaining family harmony rather than coercive authority.⁴⁰ Similarly, Wahbah al-Zuhaylī defines *qiwāmah* as a functional duty tied to economic provision and care (“القوامة تكليف للرجل “بالإنفاق والرعاية”), thereby framing male authority as an obligation rather than inherent superiority.⁴¹ However, despite this semantic shift, decision-making authority remains predominantly vested in men, and women continue to be positioned within a structure of relational dependence.

This continuity becomes more evident when examined through the lens of classical *fiqh* doctrines, particularly the framework of *nafaqah* (maintenance) and *tā'ah* (obedience). Across *madhāhib*, the husband's

³⁹ Rokhmad and Susilo; Welchman, “A Husband's Authority: Emerging Formulations in Muslim Family Laws.”

⁴⁰ M.Quraish Shihab, *Tafsir Al-Misbah: Pesan, Kesan Dan Keserasian Al-Qur'an, Jilid 2, Hlm 562*, lentera ha ((Jakarta, 2002).

⁴¹ Wahbah Al-Zuhayli, *Al-Tafsir Al-Munir Fi Al-Aqidah Wa Al-Shari'ah Wa Al-Manhaj* (Dar al-Fikr, 2009).

obligation to provide financial support legitimizes his authority, while the wife's duty of obedience becomes a legal consequence of this arrangement.⁴² Modern reinterpretations often retain this foundational structure, even when reframed in ethical or functional terms. From the perspective of *uṣūl al-fiqh*, this reflects the persistence of earlier processes of *istinbāṭ* and *ta'līl*, where interpretive meanings derived from Q.4:34 continue to inform contemporary legal reasoning. Thus, rather than representing a break from classical jurisprudence, modern tafsir frequently reproduces its underlying legal logic in a modified form.

The translation of these interpretations into legal frameworks further demonstrates their institutional durability. The Indonesian *Kompilasi Hukum Islam (KHI)*, for example, codifies the principle that the husband is the head of the family, directly reflecting the logic of *qiwāmah* and the maintenance–obedience model.⁴³ Similar patterns can be observed across Muslim-majority contexts, where state law incorporates classical gender norms into formal legal systems.⁴⁴ This indicates that the reproduction of *qiwāmah* is not merely discursive but structural, shaping legal practices related to marriage, divorce, and inheritance.

From a theoretical standpoint, this phenomenon aligns with Foucault's concept of power–knowledge, where reinterpretation operates as a strategic reconfiguration rather than a transformation of authority.⁴⁵ By reframing male authority as responsibility, modern tafsir neutralizes critique while preserving hierarchical structures. However, when situated within Islamic legal tradition, this process also reflects continuity in juristic reasoning, where established doctrines are adapted rather than replaced. As Mir-Hosseini argues, Islamic family law is shaped through ongoing negotiation between religious texts, juristic interpretation, and socio-political contexts.⁴⁶

⁴² Welchman, "A Husband's Authority: Emerging Formulations in Muslim Family Laws."

⁴³ Rokhmad and Susilo, "Conceptualizing Authority of the Legalization of Indonesian Women's Rights in Islamic Family Law."

⁴⁴ Rinaldo, "Obedience and Authority among Muslim Couples: Negotiating Gendered Religious Scripts in Contemporary Indonesia"; Welchman, *Women and Muslim Family Laws in Arab States: A Comparative Overview of Textual Development and Advocacy*.

⁴⁵ Foucault, *Power/Knowledge*.

⁴⁶ Ziba Mir-Hosseini, *Muslim Family Law Reform and Human Rights: Towards a New Jurisprudence* (Oxford: Oneworld Publications, 2009).

At the same time, internal critiques within Islamic tradition challenge this continuity. Reform-oriented approaches grounded in maqāṣid al-sharī'ah emphasize justice ('*adl*), welfare (*maṣlahah*), and human dignity (*karāmah*) as higher objectives of the law.⁴⁷ From this perspective, interpretations of *qiwāmah* that perpetuate structural inequality can be critically reassessed. In addition, qawā'id fihiyyah such as "*al-darar yuzāl*" (harm must be eliminated) provide normative justification for revising legal doctrines that produce injustice. These internal principles demonstrate that the critique of patriarchal authority is not external to Islamic tradition but can be articulated within its own epistemological and legal framework.⁴⁸

Emerging reinterpretations further illustrate this potential shift. Contemporary scholars and activists propose models of *qiwāmah* based on partnership and mutual responsibility rather than hierarchy.⁴⁹ These reinterpretations often draw explicitly on maqāṣid-based reasoning and seek to realign legal norms with ethical principles of equality. However, their institutional impact remains uneven. Legal reforms such as Morocco's *Mudawwanat al-usrah* show partial success but continue to face structural limitations, particularly in areas such as polygamy and inheritance.⁵⁰

The broader implication of these findings is that the persistence of *qiwāmah* reflects an ongoing negotiation between tafsir, fiqh, and legal institutions. While contemporary interpretations introduce ethical language and reformist perspectives, they often reproduce the same legal structure established in classical jurisprudence. This suggests that addressing gender inequality in Islamic family law requires not only reinterpretation at the textual level but also critical engagement with the juristic frameworks and institutional mechanisms that sustain these interpretations.

⁴⁷ Al-Sharmani, "Marriage in Islamic Interpretive Tradition: Revisiting the Legal and the Ethical."

⁴⁸ Hany Khairunnisa Kobat, Maila Lidinia, Nesi Alia Putri, Alray Habib Azmi, Muhammad Abrar, and Aulil Amri, "Hukum Keluarga Islam di Arab Saudi: Dinamika, Tantangan, dan Arah Reformasi," *Al-Battar: Jurnal Pamungkas Hukum* 2, no. 2 (2025): 112–121, <https://doi.org/10.63142/al-battar.v2i2.266>.

⁴⁹ S Zumrotun et al., "Islamic Family Law in Diaspora: Negotiating Gender and Marital Authority among Indonesian Muslim Immigrants in Sydney," *Journal of Islamic Law* 7, no. 1 (2026): 193–221, <https://doi.org/10.24260/jil.v7i1.5687>.

⁵⁰ S Z Özdemir, "Islamic Family Law In Morocco: Historical Developments And Reforms," *Ilahiyat Studies* 16, no. 1 (2025): 107–22, <https://doi.org/10.12730/is.1585555>.

Deconstructing Qiwāmah: Toward a Critical and Non-Patriarchal Reinterpretation

A critical re-reading of *qiwāmah* demonstrates that its dominant patriarchal formulation is neither theologically inevitable nor hermeneutically fixed, but rather a historically contingent construct shaped through the interaction of tafsir, fiqh, and socio-legal institutions. Contemporary reinterpreted efforts challenge the hierarchical assumptions embedded in classical exegesis and seek to recover the ethical orientation of the Qur'an. Fazlur Rahman's double movement theory provides a key methodological entry point by distinguishing between the socio-historical context of revelation and its underlying moral objectives.⁵¹ Applied to Q.4:34, this approach allows *qiwāmah* to be understood not as a universal endorsement of male dominance, but as a contextual directive addressing specific socio-economic conditions of early Muslim society. This shift reframes *qiwāmah* from an ontological hierarchy into a functional and historically conditioned principle.

However, the reinterpretation of *qiwāmah* cannot be separated from its juristic articulation within classical fiqh. Across madhāhib, the concept is embedded in the framework of nafaqah (financial maintenance) and ṭā'ah (obedience), which structures marital relations through reciprocal but asymmetrical rights and obligations.⁵² In this system, male authority is justified through economic responsibility, while female obedience becomes a legal consequence. From the perspective of uṣūl al-fiqh, this reflects processes of *istinbāṭ* and *ta'līl*, where interpretive meanings derived from scripture are transformed into binding legal norms. Therefore, any attempt to deconstruct *qiwāmah* must engage not only with tafsir but also with the fiqh doctrines and legal reasoning that sustain its normative force.

Contemporary reinterpretations provide important alternatives to this structure. Amina Wadud advances a gender-inclusive reading that situates *qiwāmah* within an ethical framework of justice, reciprocity, and mutual responsibility,⁵³ while Asma Barlas argues that patriarchal interpretations are historically imposed rather than inherent to the Qur'an.⁵⁴ These approaches are reinforced by maqāṣid al-sharī'ah, which prioritize justice (*'adl*), welfare (*maṣlahah*), and human dignity

⁵¹ Rahman, *Islam and Modernity*.

⁵² Welchman, "A Husband's Authority: Emerging Formulations in Muslim Family Laws."

⁵³ Wadud, *Qur'an and Woman*.

⁵⁴ Barlas, *Believing Women in Islam*.

(*karāmah*) as the ultimate objectives of Islamic law.⁵⁵ Within this framework, *qiwāmah* is no longer treated as a fixed legal hierarchy but as a principle that must be evaluated in relation to its capacity to تحقق العدالة (realize justice) and promote human well-being.

At the same time, internal critiques within Islamic legal tradition further support this reinterpretation. Qawā'id fiqhiyyah, such as "*al-ḍarar yuzāl*" (harm must be eliminated) and "*al-'ādah muḥakkamah*" (custom is legally recognized), provide normative grounds for revisiting legal doctrines that perpetuate inequality. These principles indicate that hierarchical interpretations of *qiwāmah* are not immutable but can be revised when they conflict with broader objectives of justice and social welfare. This demonstrates that the deconstruction of *qiwāmah* is not an external imposition but can be grounded within Islamic jurisprudential reasoning itself.

Recent developments in maqāṣid theory, particularly in the work of Jasser Auda, further reinforce this shift by conceptualizing Islamic law as a dynamic, systems-based framework oriented toward holistic well-being rather than rigid rule preservation. Within this perspective, Islamic family law is understood as an ethical system that must respond to changing social realities while remaining anchored in its normative objectives. This challenges the classical construction of *qiwāmah* as a fixed authority structure and opens the possibility of redefining it as a context-dependent responsibility grounded in justice and equity.

Nevertheless, the translation of these reinterpretations into legal and institutional frameworks remains limited. In many contexts, including Indonesia, legal systems continue to reflect classical formulations. The *Kompilasi Hukum Islam (KHI)*, for instance, maintains the designation of the husband as the head of the family, thereby institutionalizing the hierarchical model of *qiwāmah* within positive law.⁵⁶ This demonstrates a persistent gap between reinterpretive discourse and legal practice, where progressive readings struggle to achieve institutional recognition.

Normatively, the deconstruction of *qiwāmah* requires a re-evaluation of the nafaqah–ṭā'ah framework and the broader structure of

⁵⁵ Al-Sharmani, "Marriage in Islamic Interpretive Tradition: Revisiting the Legal and the Ethical"; D Santoso et al., "The Understanding of the Jamaah Tabligh on Wife Gender Justice: A Maqāṣid Sharī'a Review," *Juris: Jurnal Ilmiah Syariah* 21, no. 2 (2022): 183–94, <https://doi.org/10.31958/juris.v21i2.6935>.

⁵⁶ Rokhmad and Susilo, "Conceptualizing Authority of the Legalization of Indonesian Women's Rights in Islamic Family Law."

marital rights and obligations in Islamic law. By grounding interpretation in *maqāṣid al-sharī'ah*, particularly justice (*'adl*) and human dignity (*karāmah*), *qiwāmah* can be redefined as a relational and ethical responsibility rather than a hierarchical legal norm.

Institutionally, these findings highlight the need for reform in Islamic family law, especially within the Indonesian *Kompilasi Hukum Islam (KHI)*. This includes revisiting the legal construction of male authority as “head of the family,” reassessing gendered divisions of roles, and aligning legal norms with contemporary standards of gender justice.⁵⁷ Such reforms are necessary to bridge the gap between evolving interpretive frameworks and entrenched legal structures.

The reinterpretation of *qiwāmah*, therefore, must extend beyond textual analysis to encompass transformation at the level of legal doctrine, institutional practice, and epistemological foundations. Without such integration, hierarchical interpretations are likely to persist despite theoretical advances.

CONCLUSION

This study demonstrates that *qiwāmah* functions not as a fixed theological mandate but as an epistemological construct continuously reproduced through patriarchal interpretive traditions embedded within classical *tafsīr* discourse, Islamic family law, and modern legal codification. Analysis of dominant interpretations of Q.4:34 reveals that these readings do not merely reflect divine intent but actively construct and legitimize male authority by inscribing gender hierarchy into both hermeneutical and institutional frameworks. The persistent continuity of this construct across classical exegesis, reformist reinterpretations, and codified legal systems such as the Indonesian *Kompilasi Hukum Islam (KHI)* indicates a recurring pattern of discursive reproduction in which patriarchal norms are reformulated rather than fundamentally dismantled. Critically, this study positions epistemic violence not merely as a theoretical abstraction but as an operative analytical framework for examining how Qur'anic interpretation generates and sustains gendered power asymmetries within Islamic legal thought. This methodological contribution bridges *tafsīr*, *fiqh*, and socio-legal analysis, offering a novel epistemological lens for Islamic legal scholarship.

⁵⁷ Welchman, “A Husband’s Authority: Emerging Formulations in Muslim Family Laws”; Rokhmad and Susilo, “Conceptualizing Authority of the Legalization of Indonesian Women’s Rights in Islamic Family Law.”

The findings confirm that dominant interpretations of *qiwāmah* are produced through male-dominated epistemic structures that systematically marginalize women's perspectives, subsequently translating into *fiqh* rulings and becoming institutionalized within family law regimes that reinforce asymmetrical marital roles and obligations. At the same time, critical hermeneutic and *maqāṣid-based* approaches offer epistemically viable alternatives by reframing *qiwāmah* as a contextually situated ethical responsibility grounded in the principles of justice (*'adl*) and reciprocity, rather than as an ontological mandate for hierarchical dominance. These alternative frameworks provide a theoretical and jurisprudential basis for reform, particularly in reconsidering the maintenance obedience (*nafaqah-nushūz*) paradigm and in expanding interpretive authority to encompass the contributions of women scholars (*'ālimat*) within Islamic legal epistemology.

The implications of this study extend directly to Islamic legal reform in Muslim-majority jurisdictions. In the Indonesian context, the persistence of patriarchal interpretations within instruments such as the KHI underscores the urgent need for systematic *ijtihād* that aligns legal norms with the higher objectives of Islamic law (*maqāṣid al-sharī'ah*), particularly the preservation of human dignity (*karāmah*) and the realization of substantive justice. Future research should move beyond discursive analysis by incorporating empirical investigations into judicial practice and the lived experiences of Muslim communities navigating these legal norms. Comparative studies across diverse legal systems including Morocco, Malaysia, and other Muslim-majority contexts are likewise needed to assess how varying institutional frameworks mediate the implementation of gender-just reinterpretations. Such research will be essential for developing grounded, context-sensitive, and epistemically inclusive approaches to the reform of Islamic family law.

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