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## THE IMPLEMENTATION OF GENDER RESPONSIVE FIQH: A STUDY OF MODEL APPLICATION OF FRIENDLY WOMEN VILLAGE AND EMERGENCY CHILD CARE OF POST COVID-19 PANDEMIC

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**Abstract:** In the midst of a gender-responsive movement, this study attempts to address issues in Islamic jurisprudence (fiqh). This is because fiqh products appear to be unable to address contemporary issues, particularly those affecting women and children. The frequency of sexual and domestic abuse, as well as women's slower acceleration than men, are some of the issues that women face today. Meanwhile, the current condition of children in Indonesia is also experiencing various pressures with the many problems of violence against children. Worse yet, when Indonesia is faced with health problems and the severity of Covid-19, Indonesia is also faced with the problem of the welfare of women and children. To overcome this problem, the Ministry of Women's Empowerment and Child Protection (Kemen PPPA) together with the Ministry of Villages, Development of Disadvantaged Regions, and Transmigration (Kemendesa PDTT) have declared a Movement to Increase Women's Involvement through Women Friendly Villages and Child Care Villages. After the Covid-19 emergency, this movement is one of the synergistic efforts to achieve the Sustainable Development Goals (SDGs) in every town. This study of Islamic law is classified as a type of reaction to societal issues. This study that focuses on literature studies finds that the implementation of women-friendly and child-friendly villages is a representation of the responsive ijtihad fiqh methodology support in the development of fiqh towards gender responsiveness.

Kajian ini bertujuan untuk menjawab tantangan terhadap hukum Islam (fiqh) di tengah gerakan responsif gender. Hal ini dikarenakan produk fiqh selama ini masih terkesan belum bisa merespon problematika kontemporer, khususnya problematika perempuan dan anak. Beberapa problematika yang dialami oleh perempuan saat ini adalah maraknya kekerasan seksual maupun kekerasan dalam rumah tangga serta akselerasi perempuan yang masih terbatas dibandingkan dengan laki-laki. Sementara

itu, kondisi anak di Indonesia saat ini juga mengalami berbagai tekanan dengan banyaknya problematika kekerasan terhadap anak. Lebih parah lagi ketika Indonesia dihadapkan dengan problem kesehatan dan ganasnya Covid-19, Indonesia juga dihadapkan dengan problem kesetaraan perempuan dan anak. Sehingga untuk mengatasi problem tersebut, Kementerian Pemberdayaan Perempuan dan Perlindungan Anak (Kemen PPPA) bersama Kementerian Desa, Pembangunan Daerah Tertinggal, dan Transmigrasi (Kemendesa PDTT) telah mendeklarasikan Gerakan Peningkatan Keterlibatan Perempuan Melalui Desa Ramah Perempuan dan Desa Peduli Anak. Gerakan ini menjadi salah satu upaya sinergi mewujudkan Tujuan Pembangunan Berkelanjutan atau Sustainable Development Goals (SDGs) di setiap desa pasca darurat Covid-19. Upaya ini dalam kajian hukum Islam dikategorikan sebagai bentuk respon atas problematika yang ada di masyarakat. Kajian yang menitikberatkan pada studi pustaka ini menemukan bahwa implementasi desa ramah perempuan dan peduli anak adalah representasi dari metodologi *ijtihad* fiqh responsif. Pada aspek praktis, temuan dalam kajian ini memiliki kontribusi dalam perumusan kebijakan yang berorientasi pada keramahan terhadap perempuan dan anak yang kemudian menjadi alternatif dan sandaran dalam pengembangan fiqh menuju responsif gender.

**Keywords:** *Friendly and Caring Village; Women and Children; Responsive Fiqh.*

## INTRODUCTION

The products of Islamic law have contributed to the perpetuation of injustice against women in ancient Islamic legal doctrine.<sup>1</sup>This injustice manifests itself in a variety of ways in the lives of women, including marginalization and subordination, as well as violence against women.<sup>2</sup>Islamic law's legitimacy tends to favor men and, on the other hand, discriminates against women. As a result of this traditional pattern of Islamic law, women are frequently marginalized<sup>3</sup>in areas like leadership, guardianship, witnessing, polygamy, inheritance, nusyuz, and other aspects.<sup>4</sup>Various provisions of the Islamic law that feminists believe are prejudiced against women.<sup>5</sup>

The product of Islamic law acquired through *istinbath al-ahkam* always begins with a problem that must be solved in the study of Islamic law (*fiqh*). More than that, *fiqh* is essential to change to a *shari'a* purpose with a dimension of an embodiment of goodness (*maqashid shari'ah*), not just to make

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<sup>1</sup>Masykuri Abdillah & Mun'im A. Sirry, "Hukum Yang Memihak Kepentingan Laki-Laki: Perempuan Dalam Kitab Fiqh" in Ali Munhanif, *Mutiara Terpendam: Perempuan Dalam Liteatur Islam Klasik* (Jakarta: Gramedia, 2002).

<sup>2</sup>Ilya Muhsin, Sukron Ma'mun, Wardah Nuronyah, "Sexual Violence in an Islamic Higher Education Institution of Indonesian: A Maqasid Al-Shariah and Foucauldian Perspective," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 1 (2021).

<sup>3</sup> See it in Euis Nurlaelawati & Arskal Salim, "Gendering the Islamic Judiciary: Female Judges in the Religious Courts of Indonesia," *Al-Jami'ah: Journal of Islamic Studies* 51, no. 2 (2013).

<sup>4</sup>Aswiyanto, "Women, Reconciliation Right and Gender Justice in Islam Family Law," *Jurnal Penelitian* 16, no. 2 (2019).

<sup>5</sup>Asni, "Membongkar Akar Bias Gender Dalam Hukum Islam (Telaah Fikih Perempuan Perspektif Sejarah Sosial Hukum Islam)," *Jurnal Al-Maiyyah* 9, no. 1 (2016): 18.

decisions.<sup>6</sup>In today's world, fiqh is also expected to serve as a social mediator.<sup>7</sup>Fiqh must be able to position itself when a government makes policies, including in this case.<sup>8</sup>This type of fiqh responsiveness was subsequently evolved into responsive fiqh' products using various ways and approaches.

The 'women and children's emergency'<sup>9</sup>in Indonesia is a problem that always sticks out and is never resolved.<sup>10</sup> However, the number of cases that injure women and children in Indonesia every year always increases.<sup>11</sup>The increase in cases of violence against women and children can be seen in the course of the last three years in Indonesia. In 2019, violence against women and children was 431,471 cases and an increase of 6% from 2018.<sup>12</sup>

When the Covid-19 pandemic hits Indonesia in 2020, there will be movement limitations, which will increase the danger of violence against women and children.<sup>13</sup>According to Komnas Perempuan data, the number of cases of violence against women and children has increased eightfold.<sup>14</sup>In 2021, there will be an increase in statistics on violence against women and children. The Secretary of the Ministry of Women's Empowerment and Child Protection stated that the trend of growing occurrences of violence against women and children happened between 2019 and 2021.<sup>15</sup>According to the data above, violence is a complex issue,<sup>16</sup>since the status and condition of women and

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<sup>6</sup>Iffatin Nur, Syahrul Adam, M. Ngizzul Muttaqien, "Maqāsid Al-Shari'at: The Main Reference and Ethical Spiritual Foundation for the Dynamization Process of Islamic Law," *Ahkam: Jurnal Ilmu Syariah* 20, no. 2 (2020).

<sup>7</sup>Muhammad Noor Harisudin, "Islam Wa Fiqh Nusantara: Al-Tanafus 'alā Al-Huwiyah Wa 'alaqat Al-Sultah Wa Al-Ramz Al-Dini Li Jam'iyah Nahdlatul Ulama," *Studia Islamika: Indonesian Journal for Islamic Studies* 24, no. 3 (2017).

<sup>8</sup> See it in Ahmad Muhtadi Anshor & Muhammad Ngizzul Muttaqin, "Implementasi Pemikiran Fiqih Prioritas Yusuf Al Qardhawi Sebagai Upaya Membangun Kebijakan Berbasis Kemanusiaan," *Al-Maslahah: Jurnal Ilmu Syariah* 16, no. 1 (2020).

<sup>9</sup> Women and children emergency can be seen in the news about violence towards women and children during 2021. Anita Permata Dewi, "Sinyal Darurat Kekerasan Terhadap Perempuan Dan Anak," *ANTARANEWS.Com*, 31 Desember, 2021, <https://www.antaraneews.com/berita/2616773/sinyal-darurat-kekerasan-terhadap-perempuan-dan-anak>.

<sup>10</sup>Amy Nadia Hidayah, Fahmi Shohib Maulana, Fajar Surya, & R. Wahyu Tri Hartono, "E-Prevent: Stop Kekerasan Terhadap Perempuan Dan Anak," *Prosiding The 12th Industrial Research Workshop and National Seminar, Bandung*, 4-5 Agustus, 2021.

<sup>11</sup> Find it in Editor Team, "KemenPPPA: Kasus Kekerasan Anak Dan Perempuan Meningkat Di 2021," *CNNINDONESIA*, 9 Desember, 2021, <https://www.cnnindonesia.com/nasional/20211208195408-20-731671/kemenpppa-kasus-kekerasan-anak-dan-perempuan-meningkat-di-2021>.

<sup>12</sup>Editorial Team, "Darurat Kekerasan Seksual Perlu Penanganan Komprehensif," *Kemenko PMK*, 17 Maret, 2020, <https://www.kemenkopmk.go.id/index.php/darurat-kekerasan-seksual-perlu-penanganan-komprehensif>.

<sup>13</sup> See it in Elisabeth Dewi, "Gender, Kepemimpinan Dan Kemanusiaan: Sebuah Refleksi Situasi Pandemi Covid-19," *JIH: Jurnal Ilmiah Hubungan Internasional*, 2020.

<sup>14</sup>Editorial Team, "Bersatu Hapuskan Kekerasan Pada Perempuan Dan Anak," *Kemenko PMK*, 27 Oktober, 2021, <https://www.kemenkopmk.go.id/bersatu-hapuskan-kekerasan-pada-perempuan-dan-anak>.

<sup>15</sup>Editor Team, "KemenPPPA: Kasus Kekerasan Anak Dan Perempuan Meningkat Di 2021."

<sup>16</sup> See it in Mahlil, "Peranan Dinas Pemberdayaan Perempuan Dan Perlindungan Anak Dalam Mengurangi Angka Kekerasan: Studi Deskriptif Analitis Pada Korban Pornografi Dan Narkoba Di Banda Aceh," *Jurnal Al-Bayan: Media Kajian Dan Pengembangan Ilmu Dakwah* 24, no. 2 (2018).

children in Indonesia is paradoxical as a phenomena of violence that tends to increase year after year.<sup>17</sup>

The rise in statistics on violence against women and children in the previous three years has undoubtedly created new difficulties for the Indonesian government to address. The Ministry of Women's Empowerment and Child Protection, in collaboration with the Ministry of Villages, Development of Disadvantaged Regions, and Transmigration, declared a "Movement to Increase Women's Involvement through Women Friendly Villages and Child Care" in response to the government's concern. This project is one approach to bringing the 'Sustainable Development' concept together (Sustainable Development Goals SDGs).<sup>18</sup>The activities of the Indonesian government's two ministries reflect the government's concern for women and children.

When it comes to social factors that influence gender-responsive Islamic legal products (fiqh), Indah Wigati points out that all members of society must be sensitive to achieve gender-responsive social features.<sup>19</sup>Windy Triana and Milah Karmilah discovered that including gender problems in the Islamic law curriculum is still a difficult task. The rules, principles, and ideology of ancient Islamic law, which are still deeply established, are to blame for this situation.<sup>20</sup>Regarding the idea of gender fiqh in Indonesia, Arifah Millati Agustina found that the existence of inequality and discrimination against women in several legal regulations in Indonesia has provoked the existence of a gender fiqh ijtihad model.<sup>21</sup>

Linda L. Carli's research on the challenges experienced by women and children during the Covid-19 pandemic found that there was a considerable impact on women and children. These effects can be seen in a variety of domains, including women's employment and children's schooling. As a result, there is a risk of discrimination and a double burden for women and children in this situation.<sup>22</sup>Covid-19 has produced a crisis and burden on women, according to Kate Power's research findings. Without proactive action, the harmful impact on women and families might endure for years, according to

<sup>17</sup>Roudlatul Maunah, Sri Kusriyah, & Umar Ma'ruf, "Local Government Policies In Protection Of Women And Children From Violence In Semarang City," *Proceeding of International Conference on The Law Development For Public Welfare*, 2021, 170.

<sup>18</sup>Editorial Team, "Kemen PPPA Dan Kemendes PDTT Deklarasikan Desa Ramah Perempuan Dan Desa Peduli Anak," *Kementerian Pemberdayaan Perempuan Dan Perlindungan Anak Republik Indonesia*, 11 November, 2020, <https://www.kemenpppa.go.id/index.php/page/read/29/2948/kemen-pppa-dan-kemendes-pdtt-deklarasikan-desa-ramah-perempuan-dan-desa-peduli-anak>.

<sup>19</sup>Indah Wigati, "The Social Aspects of Gender-Responsiveness in Schools," *SAWWA: Jurnal Studi Gender* 14, no. 2 (2019).

<sup>20</sup>Windy Triana & Milah Karmilah, "Gender Awareness in Islamic Legal Education," *Ahkan: Jurnal Ilmu Syariah* 19, no. 1 (2019).

<sup>21</sup>Arifah Millati Agustina, "Gender Construction in The Perspective of Living Fiqh in Indonesia," *Justicia Islamica Jurnal Kajian Hukum Dan Sosial* 18, no. 2 (2021).

<sup>22</sup>Linda L. Carli, "Women, Gender Equality and Covid-19," *Gender in Management*, 2020, <https://doi.org/10.1108/GM-07-2020-0236>.

Kate Power.<sup>23</sup> According to Berta Ausn et al's research, Covid-19 has a stronger psychological influence on women than it does on males.<sup>24</sup>

Through mapping from several studies on the vulnerability of women and children during the Covid-19 pandemic as described above, it appears that there is a heavy burden for women and children during the Covid-19 pandemic.<sup>25</sup> Even after the pandemic has subsided in 2021, the burden on women and children continues to be felt. This circumstance necessitates a response from all parties involved, especially the government. One answer to this challenge is to work to create a village that is welcoming to women and cares for children. The government's initiatives and policies necessitate a unique strategy to be implemented. Islamic law should participate in the government's efforts to offer protection and care for women and children as a reaction to Islamic law that has existed side by side with people's lives. This study seeks to formulate the concept of responsive fiqh to assist the government's efforts to provide protection to women and care for children. Through the perspective of gender-responsive fiqh in terms of ontology, epistemology, axiology,<sup>26</sup> this study looks at the government's efforts and policies regarding the women-friendly and child-friendly village model as an alternative to gender-responsive fiqh.

This study uses qualitative research methods with library research.<sup>27</sup> The data collection method in this study uses the documentation method for primary<sup>6</sup> and secondary sources.<sup>28</sup> Primary sources are taken from the provisions of the Ministry of Women's Empowerment and Child Protection together with the Ministry of Villages, Development of Disadvantaged Regions, and Transmigration regarding the village model that is friendly to women and cares for children. Meanwhile, secondary data was taken from research by previous researchers on the conception of women's and children's protection as well as studies on responsive jurisprudence as a basis for analysis. While the data analysis technique in this study uses content analysis techniques.<sup>6</sup> In particular, this study focuses on the government's efforts through the Ministry of Women's Empowerment and Child Protection together with the Ministry of Villages, Development of Disadvantaged Regions, and Transmigration in formulating a village model that is friendly to women and cares for children with responsive fiqh.

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<sup>23</sup>Kate Power, "The COVID-19 Pandemic Has Increased the Care Burden of Women and Families," *Sustainability: Science, Practice and Policy* 16, no. 1 (2020).

<sup>24</sup>Miguel Ángel Castellanos & Manuel Berta Ausín, Clara González-Sanguino and Muñoz, "Gender-Related Differences in the Psychological Impact of Confinement as a Consequence of Covid-19 in Spain," *Journal of Gender Studies* 30, no. 9 (2020).

<sup>25</sup> See it in Ikfina Chairani, "Dampak Pandemi Covid-19 Dalam Perspektif Gender Di Indonesia," *Jurnal Kependudukan Indonesia*, 2020.

<sup>26</sup>Asmawi, "Epistemologi Hukum Islam Perspektif Historis Dan Sosiologis Dalam Pengembangan Dalil," *Tribakti: Jurnal Pemikiran Keislaman* 32, no. 1 (2021): 74.

<sup>27</sup>Mestika Zed, *Metode Penelitian Kepustakaan* (Jakarta: Yayasan Obor Indonesia, 2007).

<sup>28</sup> See it in, Mukhtar, *Metode Praktis Penelitian Deskriptif Kualitatif* (Jakarta: Referensi, 2013).

## GENDER-RESPONSIVE FIQH: REPRESENTATION OF DIALECTIC TEXT AND CONTEXT

The contemporary era is one in which human resources are being developed, socioeconomic independence is being achieved, and living standards are being raised while morality, solidarity, and social responsibility are upheld. Islamic law (fiqh) frames itself as a type of responsibility in resolving people's issues by offering various paths based on circumstances and situations. Islamic law (fiqh) is a contextual response to the dynamics of the times, urging people to be more proactive and reactive to issues such as social welfare, economic progress, independence, and other human necessities.<sup>29</sup> To put it another way, Islamic law (fiqh) is required to address the issue of worship and to contribute to the growth and welfare of people in terms of social, economic, cultural, and educational aspects.<sup>30</sup>

Human needs are becoming more important in the settlement of religious life due to the rapid development and issues of Islamic law. The necessity for Islamic legal products in modern life, according to al-Qaraawi, is not an act of playing games and breaking the law.<sup>31</sup> Some people desire Islamic guidance to be followed in everyday life, in numerous domains of modern life, and various dimensions. As a result, the study of Islamic law (fiqh) needs to be broadened by taking into account aspects of societal concerns. The role of Islamic law (fiqh) as a scientific subject that gives birth to case law must be more adaptable to changing circumstances. To meet these demands, studying Islamic law (fiqh) today which is following the situation and development of the times is very necessary. In essence, how Islamic law (fiqh) can make breakthroughs by giving birth to various legal products that are following the challenges of the times and the needs of society while still prioritizing the values of the teachings of the Qur'an and As-Sunnah. Al-Shafi'i made adjustments to this change with the emergence of an old opinion (*qaul qadim*) and a new opinion (*qaul jadid*).<sup>32</sup>

The above-mentioned pattern of fiqh is an interpretation of the pattern of modernity responsiveness. Fiqh responds to its realization by attempting to provide alternative ways and solutions to all of the community's needs and demands. Modern society's socio-religious existence is not founded on material or hedonic paradigm; rather, it alludes to the common good, justice, and equality. Responsive fiqh uses a systematic pattern of fiqh formulation and products to guide and shape people's lives in a way that is just and equitable. The urgency of this responsive fiqh is to answer to modern society's socio-religious life as a result of many difficulties and lifestyles, as well as wild

<sup>29</sup> See Akh. Minhaji, "Reorientasi Kajian Ushul Fiqih," *Al-Jami'ah: Journal of Islamic Studies*, no. 63 (1999).

<sup>30</sup> Rasyid Arbanur, "Social Fiqh and Its Implications for Community Life in Society 5.0," *Al-Ahkam: Jurnal Pemikiran Hukum Islam* 31, no. 2 (2021): 145.

<sup>31</sup> Find it in, Yusuf al-Qaradawi, *Al-Ijtihad Fi Al-Shari'ah Al-Islamiyyah Ma'a Nazrati Tahliyyat Fi Al-Ijtihad Al-Mu'asir* (Kuwait: Dar al-Qalam, 2007).

<sup>32</sup> See it in Al-Imam Abi 'Abdillah Muhammad Ibn Idris Al-Syafi'i, *Al-Risalah* (Beirut: Dar Ihya' al-Kutub al-'Arabiyyah, 1998).

paradigms that can occasionally alter lifestyle and behavior. Responsive fiqh contributes to the development of guidelines and methods for living in a good, just, and equal society. It also offers a way to act under Islamic teachings by avoiding external paradigms that contradict Islamic teachings while yet applying global Islamic norms, both in terms of benefit and locality.<sup>33</sup>

Responsive fiqh in this case is understood as a process of *ijtihad* and dialectic between the *maqashid shari'ah* doctrine and social reality which is a necessity in the contextual era.<sup>34</sup> The realization of responsive fiqh in the current contemporary era is a concrete step to developing a broader study of fiqh in alleviating the increasingly complex problems of the people. This condition is no longer only oriented to ritual worship vertically, but also horizontally towards others. Thus, the impact of realizing a more humanistic, socialist, ethical, and spiritual social life can encourage wiser human progress. In this case, it can be called a responsive fiqh paradigm in addition to providing guidance and a way to live as a human being well, it also provides a perspective to act according to Islamic teachings by not following external paradigms that deviate from Islamic teachings as well as educating and guiding people to implement social values based on *maqashid shari'ah*.<sup>35</sup>

Responsive fiqh formulations are based on the structure of change and development of the times that cannot be separated from religious texts. That is, religion is required to be able to inspire the process of change and modernization. In this case, fiqh as the most important part of the meaning of religious law texts places itself as a responsibility. Efforts to interpret texts based on reflection and their relevance to modernity have become the realm of responsive fiqh formulations. Responsive fiqh is expected to provide answers and solutions to problems in the current contemporary era.<sup>36</sup> The interpretation of the text through this responsive fiqh formulation focuses on new approaches and methods to be relevant to modern society.<sup>37</sup>

Regarding gender-responsive fiqh, the ontology aspect of fiqh is a reflection and interpretation of *mujtahids* through various approaches to build responsive fiqh.<sup>38</sup> In the aspect of fiqh epistemology, al-Jabiri focuses on an epistemology which is a broad understanding in understanding the intent and

<sup>33</sup> See Agus Moh Najib, "Reestablishing Indonesian Madhhab: Urf and the Contribution of Intellectualism," *Al-Jami'ah: Journal of Islamic Studies* 58, no. 1 (2020): 182.

<sup>34</sup> See Muhammad Ngizzul Muttaqin & Iffatin Nur, "Fiqh Jalan Tengah (Mempertemukan Maqashid Syari'ah, Hukum, Dan Realitas Sosial)," *Zawiyah: Jurnal Pemikiran Islam* 5, no. 2 (2019).

<sup>35</sup> See it in Maulidi, "Menggagas Fikih Responsif: Upaya Progresif Modernisasi Fikih," *AL-'ADALAH* 14, no. 2 (2017).

<sup>36</sup> Iffatin Nur & Muhammad Ngizzul Muttaqin, "Reformulating The Concept of Maşlahah: From A Textual Confinement Towards A Logic Determination," *Justicia Islamica Jurnal Kajian Hukum Dan Sosial* 17, no. 1 (2020).

<sup>37</sup> Muh. Mukhlis Abidin, "Paradigma Maqāsid Syariah Menjadi Disiplin Ilmu," *Tawazun: Journal of Sharia Economic Law* 2, no. 1 (2019): 74.

<sup>38</sup> See it in Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach* (London: the International Institut of Islamic Thought, 2007).



purpose of the text.<sup>39</sup>Efforts to explore the meaning of this text are oriented to the aspects of the objectives of the text through sharp reasoning.<sup>40</sup> Meanwhile, in the axiological aspect, fiqh is a means to understand God's purposes and goals. In this case, human welfare is the main orientation in extracting Islamic law (*ijtihad*).<sup>41</sup>In such conditions, fiqh responsiveness to gender is fiqh's effort to realize justice for women and children.

#### WOMEN-FRIENDLY MOVEMENT AND CARE FOR CHILDREN

Women and children have always been considered vulnerable populations, even in the modern period. This is since women and children continue to face a variety of issues in everyday life, including discrimination and assault. Apart from prejudice and abuse, women and children continue to face numerous challenges in terms of poverty, the economy, and education. The aforementioned issues are undoubtedly a source of concern for women and children in their daily lives. The existence of such issues, of course, becomes a barrier and has a detrimental impact on Indonesia's growth achievements. As the state's response to protect women and children, of course it requires programs and activity models in the context of empowering women and children for the realization of sustainable development. This condition then became the focus of the Sustainable Development Goals (SDGs) program to realize the achievement of gender equality and empower women and care for children. This goal was then followed up by the Ministry of Women's Empowerment and Child Protection (Kemen PPPA) together with the Ministry of Villages, Development of Disadvantaged Regions, and Transmigration (Kemendesa PDTT).<sup>42</sup>

Various initiatives and issues about gender equality have surfaced, similar to the ones encountered by women and children. These attempts are replicated in the movement's interpretation based on religious sources.<sup>43</sup>In addition to religious struggles,<sup>44</sup>the fight for gender equality has been waged at the national and international levels, with the United Nations (UN) committing to a 30% quota for women in politics and public service. Women, on the other hand, are lagging far behind because they are still dominated by men.<sup>45</sup>A

<sup>39</sup> See it in Muhammad Abid al-Jabiri, *Takwin Al-'Aql Al-'Arabi* (Beirut: Al-Markaz al-Saqafi al-'Arabi, 2009).

<sup>40</sup> See it in Muhammad Abid al-Jabiri, *Al-Khithab Al-Arabiyy Al-Mu'ashir: Dirasah Tahliliyah Naqdiyyah* (Beirut: Markaz al-Wihdah al-Arabiyyah, 1992).

<sup>41</sup> See it in Jasser Auda, *Fiqh Al-Maqasid Inatat Al-Ahkam Bi Maqasidiha* (Herndon: IIIT, 2007).

<sup>42</sup>Editor Team, "Peran Desa Dalam Pemberdayaan Perempuan & Perlindungan Anak," *CNNINDONESIA*, 29 Desember, 2021, <https://www.cnnindonesia.com/nasional/20211229183921-293-740261/peran-desa-dalam-pemberdayaan-perempuan-perlindungan-anak>.

<sup>43</sup>Alimatul Qibtiyah, "Mapping of Muslims Understandings on Gender Issues in Islam At Six Universities in Yogyakarta, Indonesia," *Al-Jami'ah: Journal of Islamic Studies* 56, no. 2 (2018).

<sup>44</sup>Husein Muhammad, *Fiqh Perempuan: Refleksi Kiai Atas Tafsir Wacana Agama Dan Gender* (Yogyakarta: IRCiSod, 2019).

<sup>45</sup> See it in Siti Ruhaini Dzuhayatin, "Gender Glass Ceiling in Indonesia: Manifestation, Roots and Theological Breakthrough," *Al-Jami'ah: Journal of Islamic Studies* 58, no. 1 (2020).

convention on the best interests of children has kicked off the fight for justice for children.<sup>46</sup>The struggle, however, is still classified as wishful thinking that has yet to be realized. The existence of cultural norms and social behaviors that are dialectically coupled with patriarchy and religion is the primary cause.<sup>47</sup>

The establishment of women's organizations is inextricably linked to the history of the Indonesian movement for gender equality and child justice.<sup>48</sup>Women and children were mainly excluded from the formation of the first women's organization in Indonesia, both religious and social. As a result, women and children are treated as objects that are always defeated. However, there have been numerous women's and children's freedom movements in Indonesia over time.<sup>49</sup>

By studying the history of women and children in Indonesia, it is clear that treating women and children as vulnerable groups cannot be justified. This pro-women and the pro-child-care movement grew into an open association to demonstrate how religious and societal beliefs tend to consider women and children as a group that requires fairness. This also demonstrates that Indonesia's dominant cultural, political, or ideological backdrop still considers women and children as second-class citizens. However, in the current contemporary era, there has been a shift in the understanding of religious and social texts of society. This shows that there has been a gender movement in the realm of religion and socio-culture in Indonesia.

The gender equality movement in different periods had different priorities, different levels of autonomy for women and children, and different strategies. These facts are the result of the influence of the gender ideology adopted by the government, the movement for change, and international relations among gender activists globally. Initially, it was a women-friendly and child-friendly movement with gender equality such as the right to education, economic rights, democratic rights, justice rights, and the law of marriage.<sup>50</sup>

At the end of the colonial era, problems were more focused on education, democratic rights, and the law of marriage. The issue of marriage law, especially regarding women and children's rights, has become the most controversial issue since the birth of the movement. Since the 1980s there has been criticism of patriarchal culture as the root of gender equality.<sup>51</sup>

The gender ideology adopted by the government has influenced the gender equality movement in Indonesia in different ways. In the Old Order and the post-independence period, they did not pay much attention to women's problems because the government was more focused on nation-building. On

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<sup>46</sup>Leonora Bakarbesy & Dian Purnama Anugerah, "Implementation of The Best Interests of The Child Principles in Intercountry Adoption in Indonesia," *Yuridika* 33, no. 1 (2018).

<sup>47</sup> See Zulfatun Ni'mah, "The Violation on Women's Rights in the Unilateral Divorce in Sasak Community From a Feminist Legal Theory," *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial* 13, no. 1 (2018).

<sup>48</sup>J. Scott, "Gender: A Useful Category for Historical Analysis," *American Historical Review* 91 (1986): 1067.

<sup>49</sup>Yunahar Ilyas, *Kesetaraan Gender Dalam Al-Quran: Studi Pemikiran Para Mufassir* (Yogyakarta: Labda Press, 2006).

<sup>50</sup> Mufidah CH, *Isu-Isu Gender Kontemporer Dalam Keluarga* (Malang: UIN Maliki Press, 2010).

<sup>51</sup> Hilary M Lips, *Sex & Gender an Introduction* (California: Mayfield Publishing Company, 2016).

the other hand, during the New Order era, the government paid more attention to women's organizations and used them to support government policies.<sup>2</sup> In the Reformation Era, the government seems to have been actively involved through the Ministry of Women's Empowerment. Other factors, including the neo-modernist or renewal movement, the revivalist movement, and international relations among gender activists globally have also influenced the gender equality movement in Indonesia. The neo-modernist movement contributed to the way Muslim gender activists reread religious texts, while the revivalist movement presented them with new challenges. Meanwhile, an international network of gender activists strengthens the progress of the gender equality movement in Indonesia.<sup>52</sup>

As explained above, the history of the gender movement in Indonesia to achieve justice for women and children appears to have affected the government's philosophy in formulating numerous programs that represent women and child protection. This representation becomes a policy issue and a model for the government's efforts to create a more welcoming environment for women and children. The Ministry of Women's Empowerment and Child Protection (Kemen PPPA), in collaboration with the Ministry of Villages, Development of Disadvantaged Regions and Transmigration (Kemendesa PDTT), has come up with a plan to protect women and children in the future.<sup>9</sup>

#### IMPLEMENTATION OF THE WOMEN-FRIENDLY AND CARE OF CHILDREN VILLAGE MODEL IN A RESPONSIVE FIQIH APPROACH

During the Covid-19 pandemic, cases of violence against women and children have skyrocketed.<sup>53</sup> According to the National Commission for Women, violence against women has climbed by 792 percent, or nearly eightfold, in the last 12 years.<sup>54</sup> In 2020, there were 2,341 new cases of violence against women and children. This figure has risen by as much as 65 percent from the previous year.<sup>55</sup> These graphs depict the tough situation faced by Indonesian mothers and children. Indonesia was mentioned in the Gender-Based Violence Education class as having endured physical, psychological, and sexual violence against women and children, as well as commercial exploitation. Women and children's well-being, dignity, survival, and growth are all threatened by this violence. In truth, sexual violence against women and children is prevalent in Indonesia, accounting for 41% of all cases. This indicates that out of every 100 women and

<sup>52</sup>Alimatul Qibtiyah, "Indonesian Muslim Women and The Gender Equality Movement," *Journal of Indonesian Islam* 3, no. 1 (2009): 193.

<sup>53</sup>Editor Team, "Kekerasan Terhadap Anak Meningkat Selama Pandemi," *CNNINDONESIA*, 02 November, 2021, <https://www.cnnindonesia.com/nasional/20211102142206-20-715544/kekerasan-terhadap-anak-meningkat-selama-pandemi>.

<sup>54</sup>Editor Team, "Kekerasan Terhadap Perempuan Naik 8 Kali Lipat Dalam 12 Tahun," *TEMPO.CO*, 6 Maret, 2020, <https://nasional.tempo.co/read/1316317/kekerasan-terhadap-perempuan-naik-8-kali-lipat-dalam-12-tahun>.

<sup>55</sup>Editorial Team, "Siaran Pers Dan Lembar Fakta Komnas Perempuan: Catatan Tahunan Kekerasan Terhadap Perempuan 2020," *Siaran Pers Komnas Perempuan*, 6 Maret, 2020, <https://komnasperempuan.go.id/siaran-pers-detail/siaran-pers-dan-lembar-fakta-komnas-perempuan-catatan-tahunan-kekerasan-terhadap-perempuan-2020>.

children, 41 have been sexually abused. Gender-based violence includes acts of violence against women and children. In Indonesia, this is one of the repercussions of gender inequality. Even if one of the sexes violates social norms, this is not a grounds to legitimize an act of violence perpetrated by the perpetrator. Gender-based violence can occur in cyberspace as well as in open areas when it comes to violence against women and children.<sup>56</sup>

The Ministry of Women's Empowerment and Child Protection, in collaboration with the Ministry of Villages, Development of Disadvantaged Regions, and Transmigration, took the initiative and launched a village program that is women- and child-friendly.<sup>57</sup> These programs and policies target villages that interpret gender movement and care for children as part of their execution. The development, development, and empowerment of women and children are at the heart of village governance. Village government is likewise based on long-term and thorough planning.

Furthermore, nine elements of village government policies are evaluated at the implementation level of women- and child-friendly village programs and policies, such as:<sup>58</sup>

1. The extent to which village government policies regulate and implement the implementation of women-friendly and child-care village programs
2. Increasing women's entrepreneurship in the village environment
3. Increase the representation of women in the structure of the village apparatus and the village consultative body (BPD)
4. Increase the participation of women and children in the village development process
5. Increasing the role of mothers and families in the care and education of children
6. Removing and preventing children in the world of work
7. Prevent child marriage
8. Make efforts to eliminate violence against women and children
9. Provide comprehensive services if violence against women and children has been found

The Ministry of Women's Empowerment and Child Protection, in collaboration with the Ministry of Villages, Development of Disadvantaged Regions, and Transmigration, believes that numerous problems affecting women and children must be addressed beginning in the village. This is since before entering the realm of state government, the village is the smallest government. Village leaders and the community are expected to be able to resolve the issues that women and children have faced. By pursuing the right to

<sup>56</sup>Editor Team, "Kasus Kekerasan Terhadap Anak Perempuan Meningkat Selama Pandemi Covid-19," *Liputan 6*, 16 Juli, 2021, <https://www.liputan6.com/lifestyle/read/4608039/kasus-kekerasan-terhadap-anak-perempuan-meningkat-selama-pandemi-covid-19>.

<sup>57</sup>Sonya Hellen Sinombor, "Melindungi Perempuan Dan Anak Dari Desa," *Kompas.Id*, 12 November, 2020, <https://www.kompas.id/baca/dikbud/2020/11/12/melindungi-perempuan-dan-anak-dari-desa>.

<sup>58</sup>Ade Nasihudin Al Ansori, "9 Ukuran Keberhasilan Program Desa Ramah Perempuan Dan Peduli Anak KemenPPPA," *Liputan 6*, 12 Juni, 2021, <https://www.liputan6.com/health/read/4579306/9-ukuran-keberhasilan-program-desa-ramah-perempuan-dan-peduli-anak-kemenpppa>.

protection against them, the village administration is required to promote a sense of security and comfort for women and children. The intended protection is protection from all forms of violence such as exploitation and discrimination supported by public facilities and infrastructure that have the same dimensions as women and care for children.

The village government is required to tackle women's and children's problems as a whole to implement and implement the above-mentioned women's and child-friendly village policies and programs. Village governments are also encouraged to update data based on village SDGs to simplify and map the village's issues and opportunities. The goal of updating this village data is to identify possibilities and investigate problems that exist in the community. It is hoped that the SDGs-based update room will provide a balanced space for the village administration to investigate all challenges and assess all of the community's possibilities. The use of SDG-based data mapping can also help rural communities formulate priority policies and plan for long-term development.

Female-friendly village initiatives and policies that care for children are in line with Indonesian President Joko Widodo's third nawacita, which argues that Indonesia's growth must be carried out from the periphery through strengthening regions and villages. The Ministry of Women's Empowerment and Child Protection, in collaboration with the Ministry of Villages, Development of Disadvantaged Regions, and Transmigration, followed up by developing women- and child-friendly village policies and initiatives. Women's participation in decision-making in the area of village governance is also a goal of this initiative. These policies and programs are hoped to reduce the number of cases of violence against women and children, child marriage, and child labor, as well as increase women's economic independence.<sup>59</sup>

In the era of the Covid-19 pandemic, many kinds and surges in violence against women and children necessitate preventative and response actions.<sup>60</sup> The Ministry of Women's Empowerment and Child Protection, in collaboration with the Ministry of Villages, Development of Disadvantaged Regions, and Transmigration, is implementing women- and child-friendly village policies and programs that can be used to respond to all forms of violence against women and children. In the post-Covid-19 era, it is hoped that the Indonesian state will be obligated to protect women and children in addition to defending its inhabitants from the virus's virulence. The women-friendly and child-friendly village concept is expected to be implemented to give women and children protection and education.

<sup>59</sup>Juli, "Pemimpin Penggerak Desa Ramah Perempuan Dan Peduli Anak Dikukuhkan," *Info Publik: Portal Berita Info Publik*, 29 Desember, 2020, <https://infopublik.id/kategori/nasional-sosial-budaya/495406/pemimpin-penggerak-desa-ramah-perempuan-dan-peduli-anak-dikukuhkan#>.

<sup>60</sup>Okenews, "Perempuan Kian 'Terperangkap' Di Tengah Pembatasan Sosial Covid-19," 20 Mei, 2020, <https://nasional.okezone.com/read/2020/05/20/337/2217082/perempuan-kian-terperangkap-di-tengah-pembatasan-sosial-covid-19>.

Following the Covid-19 emergency, the government's efforts to develop women- and child-friendly villages appear to be more urgent. Despite the fact that this village model was introduced and programmed in 2020, it can be utilized whenever the village has updated the SDGs data in the village area.<sup>61</sup> Because Covid-19 cases had declined, the adoption of this village model became relevant when the country's attention was no longer on dealing with the disease.

In the study of Islamic law (fiqh), all of society's problems and issues must be addressed from an Islamic perspective. In today's world, this type of fiqh product is required to establish the notion of responsive fiqh. This is because, in comparison to the challenges of Islamic law in the classical period, the problems in the modern-day are much more complicated and diversified. *Based on maqashid shari'ah* with the substance of justice and equality, responsive fiqh is founded on the responsiveness of fiqh to modern situations.<sup>62</sup>

The implementation of the women-friendly and child-friendly village model is the main mission of *maqashid shari'ah*,<sup>63</sup> namely the realization of justice and equality for women and children<sup>64</sup> in every village government policy. At the practical level after the Covid-19 emergency, the implementation of women-friendly and child-friendly villages can be used as the basis for the village government in setting policies in all sectors of life. Through this implementation effort, the existence of justice for women and children in Indonesia can be realized. From the perspective of responsive fiqh, the village model that is friendly to women and cares for children is the actualization of the concepts of justice and equality in *maqashid shari'ah*.<sup>65</sup> From the viewpoint of Islamic law, this governance idea is justified by *maqashid shari'ah*. Even though classical fiqh still contains components of worship, responsive fiqh in the modern-day now has dimensions of empowerment, advocacy, and protection. This type of fiqh model is more than just a fiqh format with dimensions for halal and haram laws. But let us look at a broader interpretation, namely the significance of religion as it relates to life's ethical dimensions.<sup>66</sup>

The methodological instrument of responsive fiqh as the basis for a women-friendly and child-friendly village model focuses on *ushul al-fiqh* that is developing in Indonesia. Where currently the study of *ushul al-fiqh* in the archipelago raises the idea of priority goals of the Islamic law that is more needed (*maqashid shari'ah*).<sup>67</sup> In the discourse on the study of Islamic law (fiqh) in

<sup>61</sup>Editor Team, "SDGs Desa Diyakini Punya Peran Besar Atasi Pandemi Covid-19 Di ASEAN," *Kompas.Com*, 26 November, 2021, <https://nasional.kompas.com/read/2021/11/26/20393771/sdgs-desa-diyakini-punya-peran-besar-atasi-pandemi-covid-19-di-asean?page=all>.

<sup>62</sup>See Fauzi, *Hak Asasi Manusia Dalam Fikih Kontemporer* (Depok: PRENADAMEDIA GROUP, 2018).

<sup>63</sup>See Maulidi, "Menggagas Fikih Responsif: Upaya Progresif Modernisasi Fikih."

<sup>64</sup>Also see Ahmad Muhtadi Anshor, "Fiqh and Progressive Law: Study of Inequality and Racial Issues in America," *Al-Daulah: Jurnal Hukum Dan Perundangan Islam* 11, no. 1 (2021).

<sup>65</sup>Ahmad Al-Raysuni, *Nazhariyat Al-Maqashid 'Inda Al-Imam Al-Syathibi* (Beirut: Dar al-Arabi, 2007).

<sup>66</sup>See Ahmad Imam Mawardi, *Fiqh Minoritas (Fiqh Al-Aqalliyat Dan Evolusi Maqashid Al-Syari'ah Dari Konsep Ke Dekatan)* (Yogyakarta: LKiS, 2010).

<sup>67</sup>Ahmad Raisuni, *Al-Bahs Fi Maqashid Al-Syari'ah Nasy'atuha Wa Tatawuruha Wa Mustaqbaluha* (Ribath: Mathba'ah al-Najah al-Jadidah al-Dar al-Baidhah, 2007).

Indonesia, all Indonesian people <sup>12</sup> have the same status and access to justice, including women and children whose equal rights must be protected and guaranteed. The formulation is based on the basic objectives of fiqh (*maqashid shari'ah*), namely upholding the values and principles of social justice, human welfare, universal compassion, and local wisdom.<sup>68</sup>

To create a village model that is friendly to women and children, efforts to make a paradigmatic change in religious practice, especially fiqh, must be made. The <sup>12</sup> paradigm change establishes fiqh as a need.<sup>69</sup> Fiqh must be viewed not only as a tool for measuring the truth of orthodox religion but also as a tool for reading social reality.<sup>70</sup> In this situation, fiqh serves a twofold purpose: first, as a tool for comparing social reality to Islamic law ideals (*maqashid shari'ah*) to arrive at halal and haram legal rulings, and second, as a tool for social engineering.<sup>71</sup> The responsive fiqh paradigm in the formulation of a women-friendly and child-friendly village model serves as the foundation of the state in implementing programs and as a tool of social control.

This is like the aspects of ontology, epistemology, and axiology of fiqh, fiqh in essence has a responsive nature. This is Jasser Auda's view through the *maqashid shari'ah* system approach,<sup>72</sup> that the *maqashid shari'ah* relationship in the study of fiqh is necessary to give birth to humanist-responsive fiqh.<sup>73</sup> However, fiqh goods are sometimes misunderstood as being rigorous. Furthermore, the concept of fiqh from the beginning has responsiveness to life in both epistemological and axiological dimensions. Fiqh, according to al-Jabiri, is fundamentally a scientific discipline that carries out God's goals. The direction of fiqh through *maqashid shari'ah* is an endeavor to find answers to the disputes and discrepancies between legal ideals and legal realities, according to this perspective.<sup>74</sup> This is because *maqashid shari'ah* is a philosophical value that is relevant to Islamic law research (fiqh).<sup>75</sup>

The women-friendly and child-care village support initiated by the Ministry of Women's Empowerment and Child Protection (Kemen PPPA)

<sup>68</sup> See Abdurrohman Kasdi, "Reconstruction of Fiqh Nusantara: Developing the Ijtihad Methodology in Formulating Fiqh from Indonesian Perspective," *QIJS: Qudus International Journal of Islamic Studies* 7, no. 2 (2019): 254.

<sup>69</sup> M. Noor Harisudin, "The Formulation of Nusantara Fiqh in Indonesia," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 21, no. 1 (2021).

<sup>70</sup> See Abdurrohman Kasdi, "Actualizations Of Maqasid Al-Shariah In Modern Life: Maqasid Al-Shariah Theory As A Method Of The Development Of Islamic Laws And Shariah Economics," *Justicia Islamica: Jurnal Kajian Hukum Dan Sosial* 16, no. 2 (2019): 257.

<sup>71</sup> Rüdiger Lohker, "Fiqh Reconsidered: Indigenization and Universalization of Islamic Law in Indonesia," *Interdisciplinary Journal for Religion and Transformation in Contemporary Society*, 2021, <https://doi.org/10.30965/23642807-bja10011>.

<sup>72</sup> Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*, xxii.

<sup>73</sup> M. Noor Harisudin & Muhammad Choriri, "On The Legal Sanction Against Marriage Registration Violation in Southeast Asia Countries: A Jasser Auda's Maqasid Al-Shariah Perspective," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 1 (2021).

<sup>74</sup> Related to the combination between text and social reality. See it in R. Rusli, "Progressive Salafism in Online Fatwa," *Al-Jami'ah: Journal of Islamic Studies* 52, no. 1 (2014).

<sup>75</sup> Mukti Tabrani, "Maqashid Revitalization in Global Era: Istidlal Study from Text to Context," *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial* 13, no. 2 (2018).

together with the Ministry of Villages, Development of Disadvantaged Regions and Transmigration (Kemendesa PDTT) has relevance to the actualization of responsive fiqh. This actualization becomes the interpretation of fiqh ideas in the contemporary era where fiqh can dialogue with social problems of society and government policies. This is a representation of fiqh with dimensions of empowerment and justice based on government policies. In this case, the representation is actualized through a village model that is friendly to women and cares about children.

## CONCLUSION

The women-friendly and child-care village model that was the idea of the government through the Ministry of Women's Empowerment and Child Protection (Kemen PPPA) together with the Ministry of Villages, Development of Disadvantaged Regions and Transmigration (Kemendesa PDTT) is aimed at giving roles to women and children. Aside from the issue of roles, women and children are also shielded from oppressive situations. This village concept is being used to address the inequality and subordination that women have faced in the past. When the state attempts to resolve the increase in cases of violence against women during the Covid-19 epidemic in the post-Covid-19 era, the women-friendly and child-friendly village model comes into play.

Village government policies that have characteristics of friendliness and concern for women and children are based on the village model that is friendly to women and cares for children. Village governments are supposed to contain requirements for the application of a women-friendly and child-friendly village model in all policy sectors, including law, education, economics, and society. In the study of Islamic law, the importance of enacting women-friendly village policies and caring for children is considered a type of responsiveness to Islamic law. Implementing the woman-friendly village model and caring for children as a form of justice in fiqh enable responsive fiqh interpretations in responding to the difficulties encountered by women and children. In this context, the pattern of responsive fiqh ijthad emphasizes the embodiment of maqashid shari'ah's essence with the embodiment of justice and equality.

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