

**WOMEN'S PUBLIC RIGHTS IN ISLAMIC LAW
AND ITS RELEVANCE IN THE CONTEXT OF INDONESIA
(STUDY OF GENDER APPROACH)**



THESIS

**SUBMITTED TO FACULTY OF ISLAMIC LAW
STATE ISLAMIC UNIVERSITY OF SUNAN KALIJAGA YOGYAKARTA
IN PARTIAL FULFILLMENT OF THE REQUIREMENTS
TO OBTAIN THE BACHELOR DEGREE
IN ISLAMIC LAW**

BY:

HURUN MAQSHURAT UZLIFAT IL-JANNAH
SRN. 09350021

**UNDER THE SUPERVISOR OF:
Dr. H. AGUS MOH. NAJIB, M.Ag.**

**THE DEPARTMENT OF ISLAMIC FAMILY LAW
FACULTY OF ISLAMIC LAW
STATE ISLAMIC UNIVERSITY OF SUNAN KALIJAGA
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2013**

ABSTRACT

Issue of gender in Islamic perspective is interesting to be discussed in academician, because many things that can be taken and learnt to know more values and contents behind the issue that has spreaded by view of *Al-Qur'anul Karim* and Hadist of prophet Muhammad SAW.

In this discussion of scientific work, the major problem are what women's public rights in Islam is like and how is the relevance of women's public rights implied by Islam in constitution order Indonesia. The purposes of this research are knowing woman public right in Islam, and knowing the relevance of woman public right implied by Islam in constitution order Indonesia.

To have the deep understanding about discussed problem, the research method used to arrange this research is library research, is research that uses books as source of data or research by clearly understanding, analyzing, and checking bibliography materials having relevance with this discussion, or research in library by reading, analyzing, or checking bibliography materials. Literature used by writer is taken from book based on gender and woman public right, article, website, papers, and legislation in force in Indonesia.

According to Islam, woman is allowed to choose any desired role, as long as it is not contrary to religion doctrine. As long as it is not contrary to the principles of Shariah justified and defended. Because the most important thing is the purpose of life (*maqāṣid al-syarī'ah*). Islam also allows woman to work as her active role in the public sector. The duty on education access for Indonesian children has resulted an Indonesian nation whose characteristics are glorious, update in facing development and advance of technology, experts in the law, smart in literature, respect, and defending various cultures as nation's glorious heritage. Participation of woman in public sector becomes own addition in accessing the development of era and entity of care towards nation's children. Woman public right can be accessed when she is able to be responsible and accept a variety of risks.

In Islam, between man and woman essentially have the same role in both the public and domestic sectors. However, there are limitations that distinguish both of them. The Acts which currently has upheld gender equality in Indonesia in the political sector is in Presidential Instruction No. 9 year 2000 about Gender Mainstreaming, The 1945 Constitution Article 27 (2), Act No.7 year 1984 on Ratification of CEDAW, Act No. 58 of 1958 on The Rights of Political Women, Act No. 39 Year 1999 on Human Rights, Act No. 2 year 2008 on Political Parties, Act No. 12 year 2003 on The General Election and Act No. 10 of 2008 on Representation of 30% women. This Institution is government response to the importance of gender equality in the political sector that should be implemented as existence and effectiveness in term of running the Institution.

THESIS VALIDATION

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Thesis entitled:

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that is prepared and arranged by:

Name : Hurun Maqshurat Uzlifat Il-Jannah

S I N : 09350021

Date of Examination : 24 June 2013

Score of Examination : -A

Have been accepted by The Department of Islamic Family Law, The Faculty of
Islamic Law, Sunan Kalijaga State Islamic University.

**Examination Board
Chief of Council**



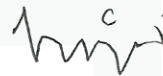
Dr. H. Agus. Moh. Najib, M.Ag
ORN. 19710430 199503 1 001

Examiner I



Dr. A. Bunyan Wahib, M.Ag, M.A
ORN. 19750326 199803 1 002

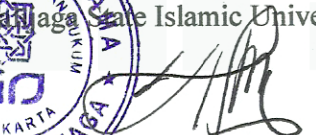
Examiner II



Dra. H. Ermi Suhasti, M.Si
ORN. 19620908 198903 2 006



Yogyakarta, 18 July 2013
The Dean of Faculty of Islamic Law
Sunan Kalijaga State Islamic University Yogyakarta



Noor Haidi, M.A., M.Phil., Ph.D.
ORN. 19711207 199503 1 002

Dr. H. Agus. Moh. Najib, M.Ag

The Lecturer of Faculty of Syari'ah and Law

Sunan Kalijaga State Islamic University

Yogyakarta

OFFICIAL NOTE

Matter: The Thesis of Hurun Maqshurat Uzlifat Il-Jannah.

Exellency,

The Dean of Faculty of Syari'ah and Law

Sunan Kalijaga State Islamic University

In- Yogyakarta

Assalamualaikum Wr. Wb.

Having read, researched, corrected, and suggested to whatever extent necessary, we as supervisor assume that thesis belongs to:

Name : Hurun Maqshurat Uzlifat Il-Jannah

S I N : 09350021

Department : Islamic Family Law

Title : **"Women's Public Rights in Islamic Law and Its Relevance To Indonesian Context (Study of Gender Approach)".**

could be submitted in a partial fulfillment of requirements to obtain a bachelor degree in Islamic law.

Thanks a lot for being available and understanding, may this thesis be useful, amin.

Wassalamualaikum Wr. Wb.

Yogyakarta, 7 Ramadhan 1434 AH
18 July 2013 AD

Supervisor



Dr. H. Agus. Moh. Najib, M.Ag
ORN. 19710430 199503 1 001

THE GUIDELINESS OF ARABIC- ROMAN transliteration

The system of Arabic transliteration used in this thesis is based on Joint Circulating Letter of Minister of Religious Affairs and Minister of Education and Cultural Affairs of The Republic of Indonesia No: 157/1987 dan 0593b/1987

I. Single Consonant

Arabic Letters	Names	Letters of Latin	Assertions
ا	Alif	Not symbolized	Not symbolized
ب	ba'	B	Be
ت	ta'	T	Te
ث	sa'	ṡ	es (with poin on top)
ج	Jim	J	Je
ح	ha'	ḥ	ha (with poin below)
خ	kha'	kh	kadan ha
د	Dal	d	De
ذ	Zāl	ḏ	zet (with poin on top)
ر	ra'	r	Er
ز	Zai	z	Zet
س	Sin	s	Es
ش	Syin	sy	esdan ye
ص	Sad	ṣ	es (with poin below)
ض	Dad	ḍ	de (with poin below)
ط	ta'	ṭ	te (with poin below)

ظ	Za	z	zet (with poin below)
ع	‘ain	‘	Comma reserved from above
غ	Gain	g	Ge
ف	fa’	f	Ef
ق	Qaf	q	Qi
ك	Kaf	k	Ka
ل	Lam	l	‘el
م	Mim	m	‘em
ن	Nun	n	‘en
و	Wawu	w	W
ه	ha’	h	Ha
ء	hamzah	‘	Apostrophe
ي	ya’	y	Ye

II. Double Consonant Caused by *tasydīd*, Written in Double

متعددة	Written	<i>Muta’addidah</i>
عدة	Written	<i>‘iddah</i>

III. *Ta’ Marbūtah* on The End of Word

- a. Written byhif read in Sukun

حكمة	Written	<i>Ḥikmah</i>
جزية	Written	<i>Jizyah</i>

(This stipulation is not required on Arabic words that has been assimilated into English language e.g. zakah etc, except if the original word is wished)

- b. When followed by article “al” and the second word is separated thus its written by *h*

كرامة الأولياء	Written	<i>Karāmah al-auliya'</i>
----------------	---------	---------------------------

- c. If *ta' marbūtah* lives by using *fathah*, *kasrah*, and *dammah* thus its written by *tor h*

زكاة الفطر	Written	<i>Zakāh al-fīṭri</i>
------------	---------	-----------------------

IV. Short Vowels

Tanda Vokal	Names	Letters of Latin	Assertions
-----	Fathah	A	A
-----	Kasrah	I	I
-----	Dammah	U	U

V. Long Vowels

1.	Fathah + alif جاهلية	Written Written	A <i>jāhiliyyah</i>
2.	Fathah + ya' dead تنسى	Written Written	Ā <i>tansā</i>
3.	Kasrah + yā' dead	Written	Ī

	كريم	Written	<i>karīm</i>
4.	Ḍammah + wāwu dead	Written	Ū
	فروض	Written	<i>Furūd</i>

VI. Double Vowels

1.	Fathāh + yā' dead	Written	Ai
	بينكم	Written	<i>bainakum</i>
2.	Fathāh + wāwu dead	Written	Au
	قول	Written	<i>qaul</i>

VII. Consecutive Short Vowels in a Word Saparated by Apostrophe

أنتم	Written	<i>a'antum</i>
أعدت	Written	<i>u'iddat</i>
لئن شكرتم	Written	<i>la'insyakartum</i>

VIII. Article Alif+Lam

- a. If its followed by letter of *al-Qamariyyah*, thus its written by “I”.

القرآن	Written	<i>al-Qur'ân</i>
القياس	Written	<i>al-Qiyâs</i>

- b. If followed by letter of *al-Syamsiyyah*, thus its written by the letter of *Syamsiyyah*, with omitting the letter of *l (el)*

السماء	Written	<i>as-Samâ'</i>
--------	---------	-----------------

الشمس	Written	<i>asy-Syams</i>
-------	---------	------------------

IX. Arranging Words in a Sentence

Written by the arranging:

ذوى الفروض	Written	<i>ẓawī al-furūd</i>
اهل السنة	Written	<i>ahl as-Sunnah</i>

MOTTO

Pelajarilahilmupengetahuan,
makamempelajarinyadenganikhlas, taqwa,
menuntutnya, sebagaiibadah,
merenungkannya, sebagaitasbih,
membahasmasalah yang ada, sebagai jihad,
mengamalkanpadamereka yang belum tahu,
shadaqah...

iaguidespots halal dan haram,
menarajalanbagiahlisurga,
peramah di waktususah...
kawandalamperantauan...
pembicaradalamkeseريان,
pandumelawankejelekandankesesatan,
senjatamenentanglawan,
dekorasi di tempatlenggang,
Allah angkatbangsa- bangsa,
jadikanmerekapemimpinkebijakan,
dikenangseluruhjasa,
diikutiamalperbuatannya,
dipungkaskanpendapatnya
MalaikatRahmatkianmendekat...

Menghapusdosadengankibasansayap,
Setiapbendabasahdankering,
ikanlautandankawanannya,
hewangalakdanternak, memintaampununtuknya,
Penghiduphatidarikebodohan,
Pelitamatadarikegelapan,
Mengankathambaketempatutama,
Kederajatmulia di alamfana,
Merenungimemadaipuasa,
Menela'ahmemadaitahajjud,
Denganilmutercapailahkasihsesama,
tersingkap halal dari yang haram,
Iaamalsebagaipendereknya...
diistimewakanbagi sang bahagia,
dijauhkanbagiahlineraka.

DEDICATION

I am dedicating this academic scientific work as a form of my volunteer work
and be a credit to my world angel, they are the parents:
My lovely Dad, Mr. Drs. H. Maulana Hamdani. A,
and My lovely Mom, Mrs. Sri Damia Mida Asmara
with the full patience and the prayer continuously
always guide their son and daughter to be the generation of Rasulullah struggles,
defender of Islamic religion and be the good child.

Amiin Ya Rabb.

Dear my lovely brother, Hanif Muhtadin Dhiya Ul- Haq
Who always guides and loves me, with the smiles and motionless in facing my
emotions. I love you brother, I hope you always in Allah's way
and be successful of all your expectations.

Amiinn Ya Rabbal 'ālamīn.

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All praise be to Allah swt, The Most Glorious. By the permission of Him, i can finish the arrangement of this thesis to obtain the bachelor degree in Islamic Law without any problem.

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This thesis is structured to meet the final assignment given by The Faculty of Syari'ah and Law as one of many conditions that must be met to obtain a bachelor degree on the field of Islamic Law.

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He always present when i need a friend, when i faced the diffulties, he present to comfort. He is my friend in group, my classmate and my brother in the same struggle. May Allah bless us in the next success. God willing.

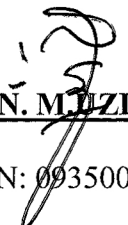
11. To my alumnus of Ar- Risalah Islamic International College period 2009

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Yogyakarta, 18 July 2013


HURUN. MUZLIFAT. J

SIN: 09350021

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 Obligation, Article 80 Paragraph 6
- Legal Draft of Justice and Gender Equality
- The 1945 Constitution, Article 27
- II. CURRICULUM VITAE

CHAPTER I

INTRODUCTION

A. Background of Issue

If talking about woman before 14th century, one thing implied in patriarchy culture is that man has right to do and decide everything. On the other hand, woman just gets justification to stay in subordinate position. Because man is more dominating, while woman autonomy is more decreased and getting marginalization, exploitation and violence, both in the public and domestic sector. Looking at the existence of awesome potential from self of woman, it does not get wrong if this matter gets special response from feminism¹ moral supporter who assumes that view should be removed soon.

Not only competent in domestic affair, contribution of woman in public space often gives own satisfaction for state. Because of many potentials and superiorities inside of woman self, and she has equal policy in every aspect, and equal right of responsibility. So it forms different self concept between man and woman. Woman is more oriented on imaging than judging herself, while man is on social comparison.

Myths told by society for generation over period comes with self of woman. So, stigma attributing to self of woman is only as human who always submissives to rule and command of man. In modern-society era, discrimination caused by

¹ The word of *Feminism* is from Latin (Roman) word, which mean *femina*. That is having femininity. Aida Vitayala S. Hubies, *Pemberdayaan Perempuan dari Masa ke Masa* (Bogor: IPB Press, 2010), p. 199.

myths of society clears away into nuance of belief, politics, economy, race, and skin colour as well. So, woman does not have right to perform in public sector.

Indonesia government in this case takes assertive act in empowering woman by gender perspective. This matter becomes concrete commitment as shown in various policy products supporting realization of international-forum agreement.

Issue of gender in islamic perspective is interesting to be discussed in academicians, because many things that can be taken and learnt to know more values and contents behind the issue that has spreaded by view of *Al-Qur'anul Karim* and Hadith of prophet Muhammad SAW. When the issue appears, term in our mind is discrimination towards woman and disappearance of rights towards them. Gender fought by some groups, either from academicians or from groups assuming Islam as religion appearing that issue of gender in this world. Certainly, orientalist based on missionarism wants to discredit muslims by rising this issue in various writings and books or articles concerning and giving opinion about Islam and gender unilateral.

Islam as religion which always guides human in order to always lives by fear principles. Islam does not differentiate between right and duty which exist in human anatomy, right and duty are always equal in islamic view for both different anatomies. Islam priors fear concept for everyone without looking at their gender. Islam is religion which has set free tyrannical shackle of slavery, equality of right and never priors and shows up one of anatomy communities only. Islam comes as religion spreading affection for everyone.

The difference between man and woman cannot be avoided because has each quadrate. The difference at least is in biology side. The difference in man and woman causes main function that must be hadled by themselves. On the other hand, it can be ensured that there is no difference in genius and understanding ability between of both genders. *Al-Quran* praises *Ulul albab* that remembers and thinks about occurrence of heaven and earth. Remembrance and mindset can guide human to know secrets of universe. *Ulul Albab* is not only limited for man, but also woman, because after *Al-Quran* outlines the characteristics of *ulul albab*, it emphasizes that their Lord grants their pray as in verse. Ali Imran: 195,²

فاستجاب لهم ربهم أني لا أضيع عمل عمل منكم من ذكر أو أنثى بعضكم من بعض
فألذين هاجروا وأخرجوا من ديارهم وأوذوا في سبيلى وقتلوا وقتلوا لا كفرن عنهم سيئاتهم
ولأدخلنهم جنت تجرى من تحتها الأنهر ثوابا من عند الله والله عنده حسن الثواب ﴿١٩٥﴾

It means that woman is equal with man in intellectual pontential, they can also understand, learn then implement what they feel by remembering Allah, and what they understand from this universe.

Al-Quran as human life guidance comprehensively and clearly explain that right of man and woman is equal. That right consists of right to worship, right to get science, right to life, belief, spiritual potential, and the whole existence which is almost in every life sector.³

² Ali- Imrān (3): 195.

³ Syarif Hidayatullah, *Teologi Feminisme Islam* (Yogyakarta: Pustaka Pelajar, 2010), p. 12.

Islam always supports some matters related with difference in every side. It is low if we look at that woman does not have right in public sector. That only plays a part in domestic sector and is isolated by particularistic culture, permanent, and historical. Rule in ushul fiqh explains that,

المرأة خلق الله لتكون في البيت

Islam is always true in every time and place. Looking back problem of woman public right which is bias about gender, it should not only looking at one verse or other text by the way of textual view. Looking at and taking an example of law must be by society context in global culture era. Then applying texts becoming life guidance for benefit. In Islamic view, there are some woman ideal duties that must be done.

1. Woman created as *sakanah* whose mean is gratifying and pacifying.⁴
2. Woman as joy source and feeling of affection.⁵
3. Woman as household queen and educator for her child.⁶

Islamic concept of three points above, clearly mentions about how well educated woman is in order to be competent in facing various life problems and become a feminist in concept of Allah by totality of her owned rights.

As housewife, a woman must be able to understand basic skill, economics, fine art, relationship ethic of couple, household management, theology, youth development science.

⁴ Ar- Rūm (30): 21.

⁵ *Ibid.*

⁶ An- Nahīl (16): 72.

Thereby, how well-educated woman in global culture era becomes important to charge human able to work, think, and create transparent context. Only by that, woman can anticipate progress in various sectors by positive, critical, and dynamic mindset for public good.

In Indonesia, the government has put woman into development as care issue of utilizing potential human resource. This concrete form is reflected in involvement of woman as equal partner in every development aspect. This applies to whole woman in Indonesia, so it is the right time for us to look at role of moeslem woman in transparent global context, and not only to discuss about belief, but also to know how the way implement that belief without ignoring Islam doctrine.

Here is table of Labor Force Participation Level (LFPL) of woman in some periods is reflection of woman-role stereotype from domestic to public sector:

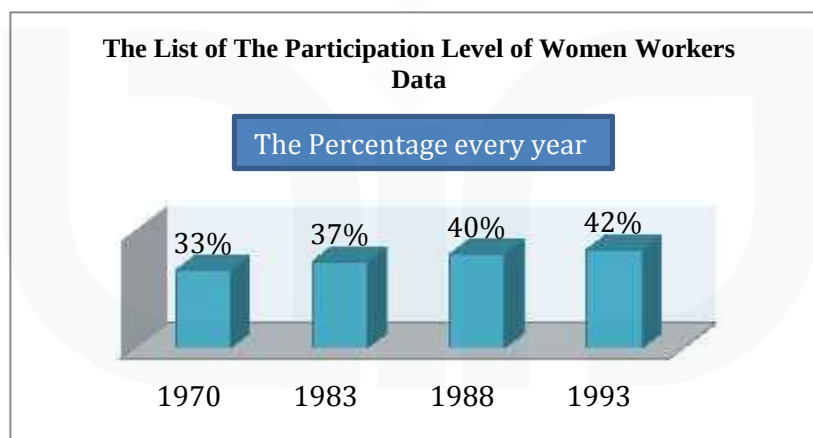


Figure 1: Labor Force Participation Level

Based on that quantity, 34% of the women handles household and men is only 0.5%, the woman works for 7.5 hours per day (3.12 hours to earn the life and

4.38 hours to handle household) while the man is for 6.04 hours (5.08 hours to earn the life and 0.58 hours to handle household).⁷ That numbers reflect high participation of woman in public sector.

Equality of gender means that between man and woman have equal status and condition to use their right and ability in contributing in development of politics, economy, social and culture. By justice principle such as explained in Al-Quran, woman can occupy politics in case without leaving her duty as a wife and mother in household. In Indonesia, gender role gives space for woman to get career in public sector, in both woman prosperity development, human-trafficking clearance, rehabilitation of mentality health, public-facility renewal, politics, and many more.

By publication President Rule (*Perpres*) No. 9 of 2000 about GMF about Gender Mainly Flowing in Development. The various constitutions and rules linked to equality of gender in politics, as follows:

- The 1945 Constitution, The article 27 (2);
- The Ordinance of 1984 No.7 About CEDAW Ratification⁸ (*Convention on the Elimination of All Forms of Discrimination Against Women*);
- The Ordinance of 1958 No.58 About The Political Women Right;
- The Ordinance of 1999 No.39 About The Basic Human Right;

⁷ Aida Vitayala S. Hubies, *Pemberdayaan Perempuan dari Masa ke Masa*, (Bogor: IPB Press, 2010), p: 217.

⁸ L.M. Gandhi Lopian, *Disiplin Hukum Yang Mewujudkan Kesenjangan dan Keadilan Gender*, (Jakarta: Yayasan Pustaka Obor Indonesia, 2012), p. 1.

- The Presidential Regulation of 2000 No.9 About Gender Mainstreaming;
- The Ordinance of 2003 No.12 About General Elections;
- The Ordinance of 2008 No.10 About General Elections and 30% of women representative;
- The Ordinance of 2008 No.2 About Political Parties.

The constitutions above is juridical basic for woman in playing politics. That still needs politics communication and strategi based on gender in understanding that chance. It needs correct perception in interpreting gender and woman role. If perception of gender and woman role gets wrong, it will appears some matters, such as:

- 1) gender assumed as dereliction cause of woman towards her responsibility and god's omnipotence;
- 2) gender assumed as effort of woman to compete with man;
- 3) gender assumed as foreign culture adoption which is about to destruct harmonic culture order between man and woman;
- 4) gender assumed as intervention of foreign culture.

B. Research Issues

1. What woman's public rights in Islam is like?
2. How is the relevance of woman's public rights implied by Islam in constitution order Indonesia?

C. Objectives and Significances of Research

1. Objectives of Research

The study attempts to:

- a) knowing woman public right in Islam;
- b) knowing the relevance of woman public right implied by Islam in constitution order Indonesia.

2. The Significances of Research

The significances wanted to be achieved in this research include:

a) Teoritical

This research is teoritically hoped that it is able to contribute for development of science horizon, especially as scientific reference for women to know public rights in Islamic law of gender bias and take wise action bravely in understanding politics and other public sector but by not leaving her duty in domestic matter.

b) Practical

This study practically can be useful for student or colleger, and teacher as well as society in general who learn this science. Also, it can be utilized as study to consider further discussion linked to that matter.

D. Literature Review

After having found some literatures discussing problem linked to gender and woman public right, compiler took some literatures which are linked to and utilized as reference in finishing this thesis.

Some books discussing about gender and woman public right are *Empowering Woman over Period (Pemberdayaan Perempuan dari Masa ke Masa)* written by Aida Vitayala S. Hubies.⁹ The author of book has published various books about woman and gender. The book as my reference explains about progress how gender takes attention of national and international world over period, and inspires development program which must notice gender mainstreaming.

The next reference is *Law Discipline Bringing into Equality and Justice of Gender (Disiplin Hukum yang Mewujudkan Kestaraan dan Keadilan Gender)* written by L.M. Gandhi Lopian. Here explains about study of law school which is able to bring into equality and justice of gender, for instance law school, law politics, law philosophy, and law theory.¹⁰

The book of *Feminism Theology of Islam (Teologi Feminisme Islam)* written by Syarif Hidayatullah, M.Ag., M.A.¹¹ discusses about creation concept of man and woman, and limitation of woman from public and domestic sector.

The other reference entitled *Argument of Gender Equality in Al-Quran Perspective (Argumen Kestaraan Jender Perspektif Al-Quran)* written by Prof. Dr. Nasaruddin Umar, M.A. completes for gender problem discussed by looking

⁹ Aida Vitayala S. Hubies, *Pemberdayaan Perempuan dari Masa ke Masa*, (Bogor: IPB Press, 2010).

¹⁰ L.M. Gandhi Lopian, *Disiplin Hukum Yang Mewujudkan Kestaraan dan Keadilan Gender*, (Jakarta: Yayasan Pustaka Obor Indonesia, 2012).

¹¹ Syarif Hidayatullah, *Teologi Feminisme Islam*, (Yogyakarta: Pustaka Pelajar, 2010).

at normative bases contextually. This book discusses gender theory, identity of gender in Al-Quran and critical view towards gender concept in Al-Quran.¹²

A thesis entitled “Hak Nafkah Isteri Mencari Kerja (Studi Perbandingan Pendapat Tokoh- Tokoh Islam di Yogyakarta)” (Wife’s Basic Necessities of Life Who Seek the Occupation: Comparative Study of Scholars’ Opinions in Yogyakarta)¹³ written by Agus Zainal Fuadi, about wife and her necessity right. Here has been explained about perspective of some scholars linked to wife rights in earning the life in family. Also problem appearing about law for career woman as well as impact towards duty of husband necessity, otherwise the discussion of gender.

Thesis entitled “Perception of College Student towards Gender Awareness (Case of College Student in Departement of Society Communication and Development Sciences of 2006, Faculty of Human Ecology)¹⁴ created by Alwin Taher, about the gender awareness and perception. In this thesis, it explains about perspective of student who had followed class of gender and development towards gender, that is measured through role allocation, right, obligation, responsibility, and hope given to man and woman, and existed in society and does not contain substance of gender equality. The more students do not agree with the provided

¹² Nasaruddin Umar, *Argumen Kesetaraan Jender Perspektif al-Qur’an* (Jakarta: Dian Rakyat, 2010).

¹³ Agus Zainal Fuadi, “Hak Nafkah Isteri Mencari Kerja” *Studi Perbandingan Pendapat Tokoh-Tokoh Islam Di Yogyakarta* (2010).

¹⁴ Alwin Taher, “Persepsi Mahasiswa Terhadap Kesadaran Gender” *Kasus Mahasiswa Departemen Sains Komunikasi dan Pengembangan Masyarakat Tahun 2006, The Faculty of Human Ecology* (2009).

questions, the lower perception of gender. The factors assumed linked to student perception towards gender awareness is primary socialization (gender, ethnic, race, culture, education level, work, income of the parents, as well as secondary socialization (homestay, organizational agenda, mass-media interaction, GPA, and relationship with brother and friend).

The difference of this written thesis with the previous one is by combining concrete and update data of gender which is faced from annual report of Central Institution of Statistic and some news from internet, then combining by some theories taken from journal, thesis and juridical reference such as Constitutions and Compilation of Islamic Law and stating argument by normative bases which are Al-Quran and Sunnah.

E. Theoretical Framework

To break problem above, writer combines some theory bases to analyze main problems which are normative and juridical bases and gender theory. For normative base, writer uses some texts such as Al-Quran and Hadist of prophet Muhammad SAW.¹⁵ The normative reference in Al-Quran tells about woman role in islamic view. Some variables which can be used as analysis standard of gender equity in Al-Quran are:

1. Equality between man and woman as servant.¹⁶

¹⁵ **Hadist** is traditional collection of stories relating words or deeds of Muhammad. Saw, the chief of source for guidance for understanding religious questions.

¹⁶ Az- Zāriyāt (51): 51.

وَلَا تَجْعَلُوا مَعَ اللَّهِ إِلَهًا آخَرَ إِنَّ لَكُمْ مِنْهُ نَذِيرٌ مُبِينٌ ﴿٥١﴾

2. Man and woman have function and role as Allah's representative, who must responsible for all duties done in the world.¹⁷

وهو الذى جعلكم خلائف الأرض ورفع بعضكم فوق بعض درجات ليبلوكم فى ما ءاتاكم

إن ربك سريع العقاب وإنه لغفور رحيم ﴿١٦٥﴾

3. Equality of man and woman in potential to reach achievement.¹⁸

فاستجاب لهم ربهم أنى لا أضيع عمل عمل منكم من ذكر أو أنثى بعضكم من بعض

فالذين هاجروا وأخرجوا من ديارهم وأوذوا فى سبيلى وقتلوا وقتلوا لأكفرن عنهم سيئاتهم

ولأدخلنهم جنت تجرى من تحتها الأنهر ثوابا من عند الله والله عنده حسن الثواب ﴿١٩٥﴾

The bases above are chance to reach the maximum achievement without differentiating between man and woman. It becomes base of verse implying ideal gender concept and clearing that someone's achievement, either in spiritual sector or in professional career sector must not be monopolized by a gender only.¹⁹

¹⁷ Al- An'ām (6): 165.

¹⁸ Ali- Imrān (3): 195.

¹⁹ Aida Vitayala S. Hubies, *Pemberdayaan Perempuan Dari Masa ke Masa* (Bogor: IPB Press, 2010), p. 272.

Theory that normative base comes from hadist delivered by Ahmad about livelihood and work charge. “hadist”. The next hadist is delivered from Shahih Bukhari, “No better food than hand work”.

The next is juridical base. That is The 1945 Constitution Paragraph 27, Act No.1 year 1974 on Marriage,²⁰ Act No.12 year 2003 on General Election, Paragraph 65 Article 1,²¹ Act No. 2 year 2008 on Political Parties, Paragraph 2 and 1,²² The Compilation of Islamic Law Paragraph 80 Article 6 on Husband’s Obligation.²³

Theory used by writer in finishing this thesis is gender theory. Gender theory is a concept showing role and relationship between man and woman which is not decided with biological difference, but the difference is oriented to environment of social, politics, economy, values and norms of society tradition and culture. While gender perspective is to differentiate all normative and biological matters and matter linked to social-culture product in process of normative and social flexibility agreements which can be transformed. Thus, gender analysis is systemic study about role, relationship, and work load between man and woman in whole society.

²⁰ Act No. 1 year 1974 on Marriage.

²¹ Act No. 12 year 2003 on General Election, Paragraph No. 65 article 1.

²² Act No. 2 year 2008 on Political Parties, Paragraph No.2 article 1.

²³ The Compilation of Islamic Law Paragraph 80 Article 6 on Husband’s Obligation.

In gender studies, there is a gender analysis technique, which is an analytical technique to understand the social structure based on the assumption that man and woman work and participate in accordance with their potential, needs and interests, and together get benefit fairly. By this gender analysis technique, it can be seen the profile, status and role of woman in development in various sectors, linked to the strength, weakness, opportunity and challenge, to fix the imbalances and inequalities between man and woman. The gender concept which is up and about to be discussed here as follows:

- 1) *Gender differences*,²⁴ is the set of differences of social attributes, behaviors, characteristics, fashion style, appearance, expectations, roles which are defined according to the individual based on some certainties since birth (sex). Misinterpretation that often happens, especially in study of science, is attribute of gender difference which is understood more as category whose characteristic is god's omnipotence, and because of that, the explanation whose characteristic is biological is more suitable and needs to be done.

Whereas, the understanding of gender in the context of GAD (Gender and Development) is an achievement of equality, and justice, both in the livelihood of the family, society and state. In other words, an attempt to change the misinterpretation of gender understanding needed to be done is to focus more on systems of value and norm in family, social and culture.

- 2) *Gender gap*, is theory showing the difference existence in public right (to speak up) and acting between man and woman. gender inequality in the field

²⁴ Aida Vitayala. S. Hubies, *Pemberdayaan Perempuan Dari Masa ke Masa*, p. 204.

of law was found in the 3 aspects of the law, namely the legal materials, legal culture and legal structure. In the cultural aspect, the gender imbalance is characterized by low gender sensitivity in the law enforcement environment, especially among the police, prosecutors and judges. In the aspect of law culture, gender inequality is influenced by patriarchal values which then get legitimacy of religious interpretation. Limited law material in local regulation exacerbates gender inequality in the law sector. The reason is that the material contained in the local regulation in line with the value patriarchal content which is gender bias.

The number of women who take part in public sector are very little, and suppose there are some women who are in political parties, generally they do not occupy a key position. Thus, woman is in a weak position even excluded from political processes that occur in the political parties. This causes that woman is left in a various formulations of internal policy political parties and in voting in the public sector.

- 3) *Gederization*, is reference of concept to put gender in central attention of self and view identity. For instance, usage of term '*he*' and '*she*' in english language, '*huwa*' and '*hiya*' in Arabic language, differentiate that '*he*' and '*huwa*' are for man and '*she*' and '*hiya*' are for woman.
- 4) *Gender identity*, self-imaging that should be owned and shown by someone based on gender. As the result, If there is attitude and norm difference in act based on gender, it is assumed as act divergence. This theory is introduced by

Sigmund Freud (1856-1939). Freud said someone's personality was arranged by three components which were *id*, *ego*, and *superego*.²⁵

Id as biological physical characteristic provision of someone since was born. It includes sexual desire and instinct which tend to be always aggressive. *Id* works outside of rational system supporting to get biological happiness and satisfaction. *Ego* works in rational scope trying to tame aggressive will from *id*. *Ego* attempts to control relationship between individual will and objective need of social reality. *Superego* is moral aspect of personality and oriented to reach perfect life which is more than just happiness and satisfaction.

Gender Identity emphasizes on the aspect of a person's masculinity or femininity. When a child is born, then at that time he was also given the burden of gender (gender assignment) of the cultural environment. Person's gender assignment is depended on the values of the culture in which he lives. In a patrilineal and androcentric society, since the first time man's gender burden dominates more than woman's.²⁶ In communities across cultures, determining the burden of gender is oriented more on biological factors, but the identification of gender burden is more than just an introduction to sex, but regarding the fundamental values that have been entrenched in the community.

²⁵ Nasaruddin Umar, *Argumen Kesetaraan Gender Perspektif al-Qur'an*, (Jakarta: Dian Rakyat, 2010), p. 41.

²⁶ *Ibid.* p. 33.

According to Suzzane.J.Kessler and Wendy McKenna, the proper term of the problem above is not review of gender burden, but rather a review of the gender construction in the society, because the concept of burden gender of child is influenced more by gender stereotype cause in society.²⁷

- 5) *Gender role*, is role of man and woman applied in reality based on accepted and followed local culture, and a cultural ideas that define expectations for man and woman in interacting each other in society. Thus, gender role appropriate for each gender will be different from one society to another. This theory is often interpreted as structural functional theory. Functional theory is directed more to psychology matter, while structural theory is directed sociology matter. But, both have same conclusion in evaluating the existence of gender relation pattern.

Gender roles do not stand alone, but are bound to the identity and various characteristics which are assumed by society to man and woman. Therefore, there is an imbalance is a difference between physical-biological and socio-cultural values that exist in society.

F. Research Method

1. Type of Research

To have the deep understanding about discussed problem, type of research used to arrange this research is library research, is research that uses

²⁷ Suzzane J. Kessler dan Wendy McKenna, *Gender: An Ethnomethodological Approach*, (New York: John Wiley & Sons, 1997) p. 154.

books as source of data or research by clearly understanding, analyzing, and checking bibliography materials having relevance with this discussion, or research in library by reading, analyzing, or checking bibliography materials.²⁸

The writer chose library research because assumed knowledge and deep understanding of gender study for woman from various available literatures are important. Literature used by writer is taken from book based on gender and woman public right, article, website, papers, and legislation in force in Indonesia. Beside that, writer chose this title because previously there was no discussion linked to woman public right in islamic law and its relevance of Indonesia context by applicating gender approach study. In this case, the writer does not only analyze creatures of some authors and take factual data, but also take creature linked to writer's thesis discussion.

2. Characteristic of Research

The characteristic of this research is *descriptive analysis*. Analysis research is a research which consists of colleting data, arranging and explaining collected data.²⁹ The descriptive research is research intended to collect information about status of a phenomenon whose condition is depended on the information existence at the process of research.³⁰ So, this

²⁸ Dudung Abdurrahman, *Pengantar Metode Penelitian*, (Yogyakarta: Kurnia Kalam Semesta, 2003).

²⁹ Winarno Sukharmad, *Pengantar Penelitian- Penelitian: Metode Teknik, cet Ke-5*, (Bandung: Tarsito, 1994), p. 139-140.

³⁰ Suharsimi Arikunto, *Prosedur Penelitian Suatu Pendekatan dan Praktek*, (Yogyakarta: Rineka Cipta, 1996), p.109.

research is intended to describe a phenomenon systematically, so that the object of research is about to be clearer.

3. Source of Data

The technique of research is documentation method which is looking for and analyzing various books and other written source having relevance with this discussion. As for the primary data sources are the books linked to empowering woman and gender.

While the literature including in the secondary categories are books and various other scientific papers linked to the discussion topic of research.

4. Technique of Collecting Data

Since the writer uses type of research, library research, the used methods to collect data are:

a) Method of Documentation³¹

According to Suharsimi Arikunto "documentation method is looking for data linked to the matters or variables in the form of notes, transcripts, books, newspapers, magazine, inscription, notes of meeting, agenda and so on".³² Based on this view, the writer used documentation method as medium to collect data from the written source consisting of official documents. Researcher took the note on the things assumed important and linked to the major problem and copied documents linked to the necessary

³¹ Sutrisno Hadi, *Metode Research*, (Yogyakarta: Fak. Psikologi UGM, 1980), p. 38.

³² Suharsimi Arikunto, *Prosedur Penelitian Suatu Pendekatan dan Praktek*, (Yogyakarta: Rineka Cipta, 1996), p. 206.

data which the researcher then arranged them for the purpose of data analysis.

b) Technical Questionnaire

To complete the factual data, the writer chose to use a questionnaire in finishing this thesis. Questionnaire is a data indirect-collection technique (researcher did not asked the respondent directly). data collection instrument or tool is also called questionnaire containing the number of questions that must be answered or responded by respondent. The respondents who became the target were 20 woman students of Syari'ah and Law Faculty Department of Islamic Family Law Period 2009 State Islamic University of Sunan Kalijaga. Respondents have the freedom to give an answer or response based on their perception. Because the questionnaire answered or filled by the respondents and researchers do not always meet directly with the respondents, in drafting the questionnaire, writer should notice some matters. First, before the items of question or statement, there is an introduction or instruction of filling. Second, these items of question are clearly formulated by using commonly-used words and the sentence is not too long. Third, every question or statement open and structured is customized with column to write down the answer or response from the respondents to some extent.

5. Approach

The approach used in arranging this thesis is normative juridical and gender approaches. The first approach refers to the normative reference which

is theoretical base based on text, Al-Quran and hadist. The writer also used approach of gender study, so that people can interpret the meaning and role of gender it self so do not get wrong to interpret the word of gender.

Attribute, opportunity, and relationship are social construction, learned and owned by every man and woman through a process of socialization from birth, that is contextual and can be change or changed. Gender specify what is allowed, expected and appreciated from a man and woman in the context of place and time. And here gender is an important part in the socio-cultural context in general. As an important criterion in the socio-cultural analysis, gender is equal with race, poverty level, ethnic group, and the public.³³

Getting perspective in gender means orienting and referring to the status and position of man and woman, as well as inequality disserving woman in society, and this fact is not only determined biologically, but also socially. As we know that the low valuation towards woman has an effect of marginalizing woman's rights to access, enjoy and control both family asset and community property in marriage such as land, house and income, as well as non-material resource such as time to develop both their selves and participation of politics.

The writer hopes that by arranging this thesis, it can add benefit in term of theoretical and practical needs. From theoretical term, it is oriented to develop science and increases scientific thought pattern, especially in the social-college environment and more especially in the study of human and

³³ L.M. Gandhi Lopian, *Disiplin Hukum Yang Mewujudkan Kestaraan dan Keadilan Gender*, (Jakarta: Yayasan Pustaka Obor Indonesia, 2012), p. 23.

their legal culture. While in practical term, it is oriented to develop, form, enforce, and implement law and justice to people's lives.

6. Data analysis

In this case the writer used deductive way of thinking and qualitative data analysis. According to Aristoteles as quoted by Arief Furchan, deductive method is "A process of thinking which is based on general statement to specific one by using certain logic rule".³⁴

In a research with analysis of deductive thinking here, writer discusses the general rule on woman's public rights in Islam relevanced with the rules that is available in legislation in Indonesia.

Qualitative research is a method of inquiry employed in many different academic disciplines, traditionally in the social sciences, but also in market research and further contexts.³⁵ Qualitative researchers aim to gather an in-depth understanding of human behavior and the reasons that govern such behavior. The qualitative method investigates the *why* and *how* of decision making, not just *what*, *where*, *when*. Hence, smaller but focused samples are more often needed than large samples. In the conventional view, qualitative methods produce information only on the particular cases studied, and any more general conclusions are only propositions (informed assertions).

³⁴ Arief Furchan, *Pengantar Penelitian dalam Pendidikan*, (Surabaya: Usaha Nasional, 1982), p. 22.

³⁵ http://en.wikipedia.org/wiki/Qualitative_research , access 08 july 2013.

Quantitative methods can then be used to seek empirical support for such research hypotheses.

G. Outline of Thesis

To make easy in directing this thesis, in order to discussion of the thesis is more comprehensive and integrated, the writer divided the systematic discussion into five chapters, as follows:

The first chapter, here contains an introduction explaining the Background of Issue, Border of Issue, Major Problem, Objectives and Significances of Research, Literature Review, Theoretical Framework, Research Method, and Outline of Thesis.

The second chapter, contains an overview of the women's public rights in gender perspective. The description in this chapter includes: understanding and history of gender, women's public rights, theory of gender study, benefit of understanding women's public rights and gender, and the legal impact due to gender bias. This description intends to help the writer in analyzing exist gender issue as effort to eliminate patriarchy views desserving women principle right as human.

The third chapter, contains an overview of the right and duty of woman in Islam, and the scholars' view of gender bias to gender sensitive. Then an overview of the right and duty of women in Islam.

The fourth chapter, contains gender analysis of women's public rights to Indonesian context. That was viewed in the discussion of women's public rights and its relevance to Indonesia.

The fifth chapter, contains conclusion, recommendation, and bibliography along with the required attachments.



CHAPTER V

CONCLUDING REMARKS

A. Conclusion

From an explained discussions, from the first chapter until the last (fifth) chapter about “Women’s Public Rights In Islamic Law and Its Relevance to Indonesian Context” we can take for several conclusions, there are:

1. According to Islam, women have allowed to choose any desired role, as long as it is not contrary to religion doctrine. As long as it is not contrary to the principles of Shariah justified and defended. Because the most important thing is the purpose of life (*maqāṣid al-syarī‘ah*). Islam also allows woman to work as her active role in the public sector. The duty on education access for Indonesian children has resulted an Indonesian nation whose characteristics are glorious, update in facing development and advance of technology, experts in the law, smart in literature, respect, and defending various cultures as nation's glorious heritage. Participation of woman in public sector becomes own addition in accessing the development of era and entity of care towards nation's children. Woman public right can be accessed when she is able to be responsible and accept a variety of risks. Mental requirement and double burdens must be able to be conquered by woman as man’s role of working in public sector. To be noticed, that in today’s modernization, there are religion partitions limiting woman’s role as universal principal, not a system.
2. In Islam, between man and woman essentially have the same role in both the public and domestic sectors. However, there are limitations that distinguish

both of them. This difference as something natural in which the subject and its implementation will be able to enjoy each task. The educated and professional woman who also has right to expertise and participate in the public sector. Even in certain things a woman should practice the science and develop the potential in society. But getting career here must be founded on the holy intention, to fulfill the need, help family economy and help husband. So there is no suspicion, fight and differences of vision and mission of family relationship.

3. Another law which currently has upheld gender equality in Indonesia in the political sector is in Presidential Instruction No. 9 year 2000 about Gender Mainstreaming, The 1945 Constitution Article 27 (2), Act No.7 year 1984 on Ratification of CEDAW, Act No. 58 of 1958 on The Rights of Political Women, Act No. 39 Year 1999 on Human Rights, Act No. 2 year 2008 on Political Parties, Act No. 12 year 2003 on The General Election and Act No. 10 of 2008 on Representation of 30% women. This Institution is government response to the importance of gender equality in the political sector that should be implemented as existence and effectiveness in term of running the Institution.
4. The entire law is said to be relevant with the bureaucracy of Indonesia government, that has propered to apply the Institution as well as each ordinance of gender-based, so that the institution of Indonesian government is able to align the regulatory position between men and women in the portion based on intellectual ability, mental and social.

B. Recommendations

يأيتها الناس كلوا مما في الأرض حللا طيبا ولا تتبعوا خطوات الشيطان إنه لكم

عدو مبين

Everything good is comes from the rightfull. Anything jobs which occupied, by the way of Islamic law and without ignoring Islamic teaching, then it result is allowed and blessed. There was no restrictions and prohibitions for everyone who occupied profession appropriates their abilities in dedicate.

Remembering how the important of women understanding about the public right, the suggestions that have been written by composer, there are:

1. To the government

Many accesses of women public bargaining should be counterbalanced with the control of local and central government, so it would make the peaceful and comfortable in performing activities which produced the maximum success.

Ordinances and regulations are should be attended by the government, moreover about the women's public domain. It should be the important, because many women have gotten the insultings from their business partner in the public domain. The government needs to appreciate the form of women dedication in the public sector by giving spaces for women efficienting and needed facility and morality supports as the references of efficienting and developing interest of Indonesian women to perform the creations and the careers.

2. To all women of Indonesia

Work is not the only one purpose of women born. There are many things of women's responsibilities that more important than the occupation. Women have borned as a bearer of affection, love, and comfortable for her couple and children.

The desire of public participation is the noble matter, but the effects of double roles, should have the special attention from actived women for balancing and the continuation of family. Just stay to utilize the times, without ignoring attentions for family. The honesty, the willingness, the mutual repect and admire are the keys of them who have the family and occupied the career.

3. To the society

Worked and occupied the career in the public domain was not restricted by sex dissimilarity. The construction skill in the society and the social range of daily human, have changed something impossible be the possible. The skates of difference role and difference responsibility between men and women in which refered to the sex difference, now its looks fair with the own abilities appropriates the practiced capacity.

Gender understanding that should be socialized, not only from open discussion of women or the university domain, but it can begin from an internaal family, around the range and the general society. It is for the achievement of inhabitant's understanding about gender, then to avoid the discrepancy economic between men and women.

4. To The Candidates of Master Islamic Law

Hoped from this minithesis would be the reference for the next researches with related topic, explains and convinces the urgency of women's economic contribution for the family. For the career women and who worked at the part time, the role of public sector is not disparage and out of marginalization, subordinate and stereotype. For the government, this minithesis is benefit for the policy evaluation, socialization and restrategi of practiced matters, relating program of women protection. Hoped from those policies that should be protecting the professional women, whose automatically have the double roles, in which related the domestic and the public occupations.

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Yogyakarta, 24 Maret 2013

Kepada Yang Terhormat,
Mahasiswi *Al-Akhwāl Asy- Syakhsiyyah* angkatan 2009
FSH Universitas Islam Negeri Sunan Kalijaga
Yogyakarta

Bismillāhirroḥmānirroḥīm...

السلام عليكم ورحمة الله وبركاته

Dengan hormat,

Saya mahasiswi jurusan *Al-Akhwāl Asy- Syakhsiyyah* FSH Universitas Islam Negeri Sunan Kalijaga Yogyakarta. Memohon kesediaan anda dalam mengisi angket ini, guna melengkapi data penelitian dalam rangka penyelesaian srikpsi di Universitas Islam Negeri Sunan Kalijaga, Program Studi *Al-Akhwāl Asy- Syakhsiyyah* (S1).

Tujuan penelitian ini adalah untuk mengidentifikasikan persoalan gender sebagai konstruksi sosial dan hak wanita dalam sektor publik dalam menghadapi perkembangan peradaban modern saat ini. Daftar pertanyaan telah dirancang secara sistematis sehingga memudahkan anda dan hanya membutuhkan waktu kurang dari 20 menit untuk mengisinya. Kerelaan dan kejujuran anda dalam menjawab pertanyaan menjadi hal yang penting, karena merupakan pelengkap dari data akademik yang penyusun kerjakan yang membutuhkan data faktual yang sebenar- benarnya. Jawaban yang anda berikan semata- mata menjadi keperluan akademik, dan menjadi rahasia kedua belah pihak.

Atas kesediaan dan partisipasi anda, saya ucapkan banyak terima kasih.

والسلام عليكم ورحمة الله وبركاته

Yogyakarta, 24 Maret 2013.

Hormat saya,

Hurun Maqshurat Uzlifat Il-Jannah

NIM. 09350021

1) IDENTITAS

- ❖ Nama :
- ❖ Jenis kelamin :
- ❖ Pekerjaan :
- ❖ Pendapatan/ Uang bulanan :
 - a. < Rp. 250.000
 - b. Rp. 250.000- Rp. 500.000
 - c. Rp. 500.000- Rp. 1.000.000
 - d. Rp. 1.000.000- Rp. 2.000.000

2) MOTIVASI

- ❖ Alasan apa anda melanjutkan jenjang pendidikan ke tahap perkuliahan?

Jawab:

- ❖ Apakah Program studi yang anda ambil sesuai dengan orientasi cita- cita selama ini ? berikut alasan anda.

Jawaban:

- ❖ Mengapa anda memilih UIN Sunan Kalijaga sebagai lembaga pendidikan dalam perkembangan ilmu?

Jawaban:

- ❖ Jika anda telah bersuami, mana yang anda pilih antara *focus* menghabiskan waktu bersama keluarga atau bekerja paruh waktu demi meningkatkan ekonomi dan *income* keluarga?

Jawaban:

3) *WOMAN PUBLIC RIGHTFUL* (Hak Publik Wanita)

- ❖ Apa pandangan anda tentang feminisme?

Jawaban:

- ❖ Apakah anda termasuk salah satu perempuan yang tertarik akan hal publik?
Mengapa ?

Jawaban:

- ❖ Andaikan iya, untuk tujuan apa anda menggunakan hak publik itu?

Jawaban:

- ❖ Selain mengembangkan potensi di dalam diri, alasan apa anda memilih terjun di dunia publik?

Jawaban:

- ❖ Apakah anda setuju dengan statement “wanita hanya cocok dengan urusan domestik” ? sertakan alasan.

Jawaban:

- ❖ Sanggupkah anda membagi waktu untuk keluarga dan karir ?

Jawaban:

- ❖ Definisi hak bagi anda.

Jawaban:

4) DEDIKASI

- ❖ Pekerjaan publik apa yang anda minati setelah kelulusan S1? (beri argumen anda mengenai pilihan okupasi di bawah ini.
 - a. Hakim/ Jaksa/ Pengacara
 - b. Pegawai Negeri Sipil
 - c. Wirausaha
 - d. Wanita karir
 - e. Politik Praktis
 - f. (lainnya)

Jawaban:

- ❖ Mana yang lebih anda prioritaskan, antara pekerjaan domestik atautkah publik?

Jawaban:

- ❖ Andai anda lebih memilih bekerja namun tetap tidak meninggalkan kewajiban dalam lingkup domestik, usaha apa yang akan anda lakukan sebagai wanita/isteri yang *smart*, dan memiliki pandangan *progress*?

Jawaban:

- ❖ Sebagai wanita, syarat apa yang harus anda penuhi ketika akan terjun dalam sektor publik?

Jawaban:

CHAPTER I

No	Page	FN	Translation
1	3	2	So their Lord answered their <i>prayers, saying</i> , ‘I will allow not the work of any worker from among you, whether male or female, to be lost. You are from one another. Those, therefore, who have emigrated, and have been driven out from their homes, and have been persecuted in My cause, and have fought and been killed, I will surely remove from them their evils and will cause them to enter Gardens through which streams flow — a reward from Allah, and with Allah is the best of rewards.’
2	11	16	And do not set up another God along with Allah. Surely, I am a plain Warner unto you from Him.
3	12	17	And He it is Who has made you successors <i>of others</i> on the earth and has exalted some of you over the others in degrees <i>of rank</i> , that He may try you by that which He has given you. Surely, thy Lord is quick in punishment; and surely He is Most Forgiving, Merciful.
4	12	18	So their Lord answered their <i>prayers, saying</i> , ‘I will allow not the work of any worker from among you, whether male or female, to be lost. You are from one another. Those, therefore, who have emigrated, and have been driven out from their homes, and have been persecuted in My cause, and have fought and been killed, I will surely remove from them their evils and will cause them to enter Gardens through which streams flow — a reward from Allah, and with Allah is the best of rewards.’

CHAPTER II

No	Page	FN	Translation
1	33	46	And <i>one</i> of His Signs <i>is this</i> , that He has created wives for you from among yourselves that you may find peace of mind in them, and He has put love and tenderness between you. In that surely are Signs for a people who reflect.
2	38	53	It is not possible for the believers to go forth all together. Why, then, does not a party from every section of them go forth that they may become well versed in religion, and that they may warn their people when they return to them, so that they may guard <i>against evil</i> ?
3	47		And if you fear that you will not be fair in dealing with the orphans, then marry of women as may be agreeable to you, two, or three, or four; and if you fear you will not deal justly, then <i>marry only</i> one or what your right hands possess. That is the nearest way for you to avoid injustice.
4	48		And you cannot keep perfect balance between wives, however much you may desire it. But incline not wholly <i>to one</i> so that you leave the other like a thing suspended. And if you amend and act righteously, surely Allah is Most Forgiving, Merciful.

CHAPTER III

No	Page	FN	Translation
1	60	78	And the believers, men and women, are friends one of another. They enjoin good and forbid evil and observe Prayer and pay the Zakat and obey Allah and His Messenger. It is these on whom Allah will have mercy. Surely, Allah is Mighty, Wise.
2	60	79	But whoso does good works, whether male or female, and is a believer, such shall enter Heaven, and shall not be wronged even <i>as much as</i> the little hollow in the back of a date-stone.
3	61	80	And covet not that whereby Allah has made some of you excel others. Men shall have a share of that which they have earned, and women a share of that which they have earned. And ask Allah of His bounty. Surely, Allah has perfect knowledge of all things.
4	61	82	For men is a share of that which parents and near relations leave; and for women is a share of that which parents and near relations leave, whether it be little or much — a determined share.
5	61	83	Men are guardians over women because Allah has made some of them excel others, and because they (men) spend of their wealth.
6	62		And He it is Who has made you successors <i>of others</i> on the earth and has exalted some of you over the others in degrees <i>of rank</i> , that He may try you by that which He has given you. Surely, thy Lord is quick in punishment; and surely He is Most Forgiving, Merciful.
7	63	85	And We have enjoined on man to be good to his parents. His mother bears him with pain, and brings him forth with pain. And the bearing of him and his weaning takes thirty months, till, when he attains his full maturity and reaches <i>the age of</i> forty years, he says, ‘My Lord, grant me <i>the power</i> that I may be grateful for Thy favour which Thou hast bestowed upon me and upon my parents, and that I may do such good works as may please Thee. And make my seed righteous for me. I do turn to Thee; and, truly, I am of those who submit <i>to Thee</i> .’
8	65	86	O ye who believe! fulfil <i>your</i> compacts. Lawful are made to you quadrupeds <i>of the class</i> of cattle other than those which are being announced to you, except that you should not hold game to be lawful while you are in a state of pilgrimage; verily, Allah decrees what He wills.
9	65	87	And We sent none <i>as Messengers</i> before thee but men to whom We sent revelations. So ask the people of the Reminder, if you know not.
10	65	89	And they (the women) have rights similar to those (of men) over them in equity; but men have a rank above them. And Allah is Mighty, Wise.
11	66	90	Whoso acts righteously, whether male or female, and is a believer, We will surely grant him a pure life; and We will surely bestow on such their reward according to the best of their works.

Undang-undang Republik Indonesia

Nomor 1 Tahun 1974

Tentang

Perkawinan

BAB IV BATALNYA PERKAWINAN

Pasal 22

Perkawinan dapat dibatalkan apabila para pihak tidak memenuhi syarat-syarat untuk melangsungkan perkawinan.

Pasal 23

Yang dapat mengajukan Pembatalan perkawinan yaitu:

- a. Para keluarga dalam garis keturunan lurus ke atas dari suami atau isteri.
- b. Suami atau isteri.
- c. Pejabat yang berwenang hanya selama perkawinan belum diputuskan.
- d. Pejabat yang ditunjuk tersebut ayat (2) Pasal 16 Undang-undang ini dan setiap orang mempunyai kepentingan hukum secara langsung terhadap perkawinan tersebut, tetapi hanya setelah perkawinan itu putus.

Pasal 24

Barang siapa karena perkawinan masih terikat dirinya dengan salah satu dari kedua belah pihak dan atas dasar masih adanya perkawinan dapat mengajukan pembatalan perkawinan yang baru, dengan tidak mengurangi ketentuan Pasal 3 ayat (2) dan Pasal 4 Undang-undang ini.

Pasal 25

Permohonan pembatalan perkawinan diajukan kepada Pengadilan dalam daerah hukum dimana perkawinan dilangsungkan ditempat tinggal kedua suami isteri, suami atau isteri.

Pasal 26

(1) Perkawinan yang dilangsungkan dimuka pegawai pencatat perkawinan yang tidak berwenang, wali nikah yang tidak sah atau yang dilangsungkan tanpa dihadiri oleh 2 (dua) orang saksi dapat dimintakan pembatalannya oleh keluarga dalam garis keturunan lurus ke atas dari suami atau isteri, jaksa dan suami atau isteri.

(2) Hak untuk membatalkan oleh suami atau isteri berdasarkan alasan dalam ayat (1) pasal ini gugur apabila mereka setelah hidup bersama sebagai suami isteri dan dapat memperlihatkan akte perkawinan yang tidak berwenang dan perkawinan harus diperbaharui supaya sah.

Pustaka: yayasan Peduli Anak Negeri (YPAN) 6

Pasal 27

- (1) Seorang suami atau isteri dapat mengajukan permohonan pembatalan perkawinan apabila perkawinan dilangsungkan dibawah ancaman yang melanggar hukum.
- (2) Seorang suami atau isteri dapat mengajukan permohonan pembatalan perkawinan apabila pada waktu berlangsungnya perkawinan terjadi salah sangka mengenai diri suami atau isteri.
- (3) Apabila ancaman telah berhenti, atau yang bersalah sangka itu telah menyadari keadaannya, dan dalam jangka waktu 6 (enam) bulan setelah itu masih tetap hidup sebagai suami isteri, dan tidak mempergunakan haknya untuk mengajukan permohonan pembatalan, maka haknya gugur.

Pasal 28

- (1) Batalnya suatu perkawinan dimulai setelah keputusan Pengadilan mempunyai kekuatan hukum yang tetap dan berlaku sejak berlangsungnya perkawinan.
- (2) Keputusan tidak berlaku surut terhadap :
 - a. anak-anak yang dilahirkan dari perkawinan tersebut;
 - b. suami atau isteri yang bertindak dengan itikad baik, kecuali terhadap harta bersama bila pembatalan perkawinan didasarkan atas adanya perkawinan lain yang lebih dahulu.
 - c. Orang-orang ketiga lainnya termasuk dalam a dan b sepanjang mereka memperoleh hak-hak dengan itikad baik sebelum keputusan tentang pembatalan mempunyai kekuatan hukum tetap.



**UNDANG-UNDANG REPUBLIK INDONESIA
NOMOR 12 TAHUN 2003
TENTANG
PEMILIHAN UMUM ANGGOTA DEWAN PERWAKILAN RAKYAT,
DEWAN PERWAKILAN DAERAH, DAN DEWAN PERWAKILAN RAKYAT
DAERAH**

**BAB VII
PENCALONAN ANGGOTA DPR, DPD, DPRD PROVINSI,
DAN DPRD KABUPATEN/KOTA**

**Bagian Pertama
Persyaratan Calon Anggota DPR, DPD, DPRD Provinsi,
dan DPRD Kabupaten/Kota**

Pasal 60

Calon anggota DPR, DPD, DPRD Provinsi, dan DPRD Kabupaten/Kota harus memenuhi syarat:

- a. warga negara Republik Indonesia yang berumur 21 (dua puluh satu) tahun atau lebih;
- b. bertakwa kepada Tuhan Yang Maha Esa;
- c. berdomisili di wilayah Negara Kesatuan Republik Indonesia;
- d. cakap berbicara, membaca, dan menulis dalam bahasa Indonesia;
- e. berpendidikan serendah-rendahnya SLTA atau sederajat;
- f. setia kepada Pancasila sebagai dasar negara, Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, dan cita-cita Proklamasi 17 Agustus 1945;
- g. bukan bekas anggota organisasi terlarang Partai Komunis Indonesia, termasuk organisasi massanya, atau bukan orang yang terlibat langsung ataupun tak langsung dalam G30S/PKI, atau organisasi terlarang lainnya;
- h. tidak sedang dicabut hak pilihnya berdasarkan putusan pengadilan yang telah mempunyai kekuatan hukum tetap;
- i. tidak sedang menjalani pidana penjara berdasarkan putusan pengadilan yang telah mempunyai kekuatan hukum tetap karena melakukan tindak pidana yang diancam dengan pidana penjara 5 (lima) tahun atau lebih;
- j. sehat jasmani dan rohani berdasarkan hasil pemeriksaan kesehatan dari dokter yang berkompeten; dan
- k. terdaftar sebagai pemilih.

Pasal 61

Seorang calon anggota DPR, DPD, DPRD Provinsi, dan DPRD Kabupaten/Kota hanya dapat dicalonkan dalam satu lembaga perwakilan pada satu daerah pemilihan.

Pasal 62

Calon anggota DPR, DPRD Provinsi, dan DPRD Kabupaten/Kota selain harus memenuhi syarat calon sebagaimana dimaksud dalam Pasal 60, juga harus terdaftar sebagai anggota Partai Politik Peserta Pemilu yang dibuktikan dengan kartu tanda anggota.

Pasal 63

Calon anggota DPD selain harus memenuhi syarat calon sebagaimana dimaksud dalam Pasal 60, juga harus memenuhi syarat:

- a. berdomisili di provinsi yang bersangkutan sekurang-kurangnya 3 (tiga) tahun secara berturut-turut yang dihitung sampai dengan tanggal pengajuan calon atau pernah berdomisili selama 10 (sepuluh) tahun sejak berusia 17 (tujuh belas) tahun di provinsi yang bersangkutan;
- b. tidak menjadi pengurus partai politik sekurang-kurangnya 4 (empat) tahun yang dihitung sampai dengan tanggal pengajuan calon.

Pasal 64

Calon anggota DPD dari pegawai negeri sipil, anggota Tentara Nasional Indonesia, atau anggota Kepolisian Negara Republik Indonesia selain harus memenuhi syarat sebagaimana dimaksud dalam Pasal 60 dan Pasal 63 huruf a, harus mengundurkan diri sebagai pegawai negeri sipil, anggota Tentara Nasional Indonesia, atau anggota Kepolisian Negara Republik Indonesia.

Bagian Kedua

Tata Cara Pencalonan Anggota DPR, DPD, DPRD Provinsi, dan DPRD Kabupaten/Kota

Pasal 65

- (1) Setiap Partai Politik Peserta Pemilu dapat mengajukan calon Anggota DPR, DPRD Provinsi, dan DPRD Kabupaten/Kota untuk setiap Daerah Pemilihan dengan memperhatikan keterwakilan perempuan sekurang-kurangnya 30%.
- (2) Setiap Partai Politik Peserta Pemilu dapat mengajukan calon sebanyak-banyaknya 120% (seratus dua puluh persen) jumlah kursi yang ditetapkan pada setiap Daerah Pemilihan.
- (3) Pengajuan calon anggota DPR, DPRD Provinsi, dan DPRD Kabupaten/Kota sebagaimana dimaksud pada ayat (1) dan ayat (2) dilakukan dengan ketentuan:
 - a. calon anggota DPR disampaikan kepada KPU;
 - b. calon anggota DPRD Provinsi disampaikan kepada KPU Provinsi yang bersangkutan; dan
 - c. calon anggota DPRD Kabupaten/Kota disampaikan kepada KPU Kabupaten/Kota yang bersangkutan.

Pasal 66

Pengajuan calon anggota DPD dilakukan dengan ketentuan:

- a. calon mendaftarkan diri kepada KPU melalui KPU Provinsi dengan menyebutkan provinsi yang diwakilinya;
- b. calon menyerahkan persyaratan sebagaimana dimaksud dalam Pasal 60, Pasal 63, dan Pasal 64 kepada KPU yang batas waktunya ditetapkan oleh KPU.

**UNDANG-UNDANG REPUBLIK INDONESIA
NOMOR 2 TAHUN 2008
TENTANG
PARTAI POLITIK**

**DENGAN RAHMAT TUHAN YANG MAHA ESA
PRESIDEN REPUBLIK INDONESIA,**

- Menimbang : a. bahwa kemerdekaan berserikat, berkumpul serta mengeluarkan pikiran dan pendapat merupakan hak asasi manusia yang diakui dan dijamin oleh Undang-Undang Dasar Negara Republik Indonesia Tahun 1945;
- b. bahwa untuk memperkuat kemerdekaan berserikat, berkumpul, dan mengeluarkan pendapat merupakan bagian dari upaya untuk mewujudkan kehidupan bangsa yang kuat dalam Negara Kesatuan Republik Indonesia yang merdeka, bersatu, berdaulat, adil dan makmur, serta demokratis dan berdasarkan hukum;
- c. bahwa kaidah demokrasi yang menjunjung tinggi kedaulatan rakyat, aspirasi, keterbukaan, keadilan, tanggung jawab, dan perlakuan yang tidak diskriminatif dalam Negara Kesatuan Republik Indonesia perlu diberi landasan hukum;
- d. bahwa Partai Politik merupakan sarana partisipasi politik masyarakat dalam mengembangkan kehidupan demokrasi untuk menjunjung tinggi kebebasan yang bertanggung jawab;
- e. bahwa Undang-Undang Nomor 31 Tahun 2002 tentang Partai Politik perlu diperbarui sesuai dengan tuntutan dan dinamika perkembangan masyarakat;
- f. bahwa berdasarkan pertimbangan sebagai-mana dimaksud dalam huruf a, huruf b, huruf c, huruf d, dan huruf e perlu membentuk Undang-Undang tentang Partai Politik.¹
- Mengingat : Pasal 5 ayat (1), Pasal 6A ayat (2), Pasal 20, Pasal 22E ayat (3), Pasal 24C ayat (1), Pasal 28, Pasal 28C ayat (2), dan Pasal 28J Undang-Undang Dasar Negara Republik Indonesia Tahun 1945;

**Dengan Persetujuan Bersama
DEWAN PERWAKILAN RAKYAT REPUBLIK INDONESIA,
dan
PRESIDEN REPUBLIK INDONESIA
MEMUTUSKAN:**

Menetapkan : **UNDANG-UNDANG TENTANG PARTAI POLITIK**

**BAB I
KETENTUAN UMUM**

Pasal 1

Dalam Undang-Undang ini yang dimaksud dengan :

1. Partai Politik adalah organisasi yang bersifat nasional dan dibentuk oleh sekelompok warga negara Indonesia secara sukarela atas dasar kesamaan kehendak dan cita-cita untuk memperjuangkan dan membela kepentingan politik anggota, masyarakat, bangsa dan negara, serta memelihara keutuhan Negara Kesatuan Republik Indonesia berdasarkan Pancasila dan Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.
2. Anggaran Dasar Partai Politik, selanjutnya disingkat AD, adalah peraturan dasar Partai Politik.
3. Anggaran Rumah Tangga Partai Politik, selanjutnya disingkat ART, adalah peraturan yang dibentuk sebagai penjabaran AD.
4. Pendidikan Politik adalah proses pembelajaran dan pemahaman tentang hak, kewajiban, dan tanggung jawab setiap warga negara dalam kehidupan berbangsa dan bernegara.
5. Keuangan Partai Politik adalah semua hak dan kewajiban Partai Politik yang dapat dinilai dengan uang, berupa uang, atau barang serta segala bentuk kekayaan yang dimiliki dan menjadi tanggung jawab Partai Politik.
6. Menteri adalah Menteri yang membidangi urusan hukum dan hak asasi manusia.
7. Departemen adalah Departemen yang membidangi urusan hukum dan hak asasi manusia.

**BAB II
PEMBENTUKAN PARTAI POLITIK**

Pasal 2

- (1) Partai Politik didirikan dan dibentuk oleh paling sedikit 50 (lima puluh) orang warga negara Indonesia yang telah berusia 21 (dua puluh satu) tahun dengan akta notaris.
- (2) Pendirian dan pembentukan Partai Politik sebagaimana dimaksud pada ayat (1) menyertakan 30% (tiga puluh perseratus) keterwakilan perempuan.
- (3) Akta notaris sebagaimana dimaksud pada ayat (1) harus memuat AD dan ART serta kepengurusan Partai Politik tingkat pusat.
- (4) AD sebagaimana dimaksud pada ayat (3) memuat paling sedikit :
 - a. asas dan ciri Partai Politik;
 - b. visi dan misi Partai Politik;

- c. nama, lambang dan tanda gambar Partai Politik;
 - d. tujuan dan fungsi Partai Politik;
 - e. organisasi, tempat kedudukan, dan pengambilan keputusan;
 - f. kepengurusan Partai Politik;
 - g. peraturan dan keputusan Partai Politik;
 - h. pendidikan politik; dan
 - i. keuangan Partai Politik.
- (5) Kepengurusan Partai Politik tingkat pusat sebagaimana dimaksud pada ayat (3) disusun dengan menyertakan paling rendah 30% (tiga puluh perseratus) keterwakilan perempuan.

KOMPILASI HUKUM ISLAM

BAB XII HAK DAN KEWJIBAN SUAMI ISTERI

Bagian Kesatu Umum

Pasal 77

- (1) Suami isteri memikul kewajiban yang luhur untuk menegakkan rumah tangga yang sakinah, mawaddah dan rahmah yang menjadi sendi dasar dan susunan masyarakat
- (2) Suami isteri wajib saling cinta mencintai, hormat menghormati, setia dan memberi bantuan lahir bathin yang satu kepada yang lain;
- (3) Suami isteri memikul kewajiban untuk mengasuh dan memelihara anak-anak mereka, baik mengenai pertumbuhan jasmani, rohani maupun kecerdasannya dan pendidikan agamanya;
- (4) Suami isteri wajib memelihara kehormatannya;
- (5) Jika suami atau isteri melalaikan kewajibannya masing-masing dapat mengajukan gugatan kepada Pengadilan Agama

Pasal 78

- (1) Suami isteri harus mempunyai tempat kediaman yang tetap.
- (2) Rumah kediaman yang dimaksud dalam ayat (1), ditentukan oleh suami isteri bersama.

Bagian Kedua Kedudukan Suami Isteri

Pasal 79

- (1) Suami adalah kepala keluarga dan isteri ibu rumah tangga.
- (2) Hak dan kedudukan isteri adalah seimbang dengan hak dan kedudukan suami dalam kehidupan rumah tangga dan pergaulan hidup bersama dalam masyarakat.
- (3) Masing-masing pihak berhak untuk melakukan perbuatan hukum.

Bagian Ketiga Kewajiban Suami

Pasal 80

- (1) Suami adalah pembimbing, terhadap isteri dan rumah tangganya, akan tetap mengenai hal-hal urusan rumah tangga yang penting-penting diputuskan oleh suami isteri bersama.
- (2) Suami wajib melindungi isterinya dan memberikan segala sesuatu keperluan hidup berumah tangga sesuai dengan kemampuannya
- (3) Suami wajib memberikan pendidikan agama kepada isterinya dan memberi kesempatan belajar pengetahuan yang berguna dan bermanfaat bagi agama, nusa dan bangsa.
- (4) sesuai dengan penghasilannya suami menanggung :
 - a. nafkah, kiswah dan tempat kediaman bagi isteri;
 - b. biaya rumah tangga, biaya perawatan dan biaya pengobatan bagi isteri dan anak;
 - c. biaya pendidikan bagi anak.
- (5) Kewajiban suami terhadap isterinya seperti tersebut pada ayat (4) huruf a dan b di atas mulai berlaku sesudah ada tamkin sempurna dari isterinya.
- (6) Isteri dapat membebaskan suaminya dari kewajiban terhadap dirinya sebagaimana tersebut pada ayat (4) huruf a dan b.

- (7) Kewajiban suami sebagaimana dimaksud ayat (5) gugur apabila isteri nusyuz.

**Bagian Keempat
Tempat Kediaman**

Pasal 81

- (1) Suami wajib menyediakan tempat kediaman bagi isteri dan anak-anaknya atau bekas isteri yang masih dalam iddah.
- (2) Tempat kediaman adalah tempat tinggal yang layak untuk isteri selama dalam ikatan perkawinan, atau dalam iddah talak atau iddah wafat.
- (3) Tempat kediaman disediakan untuk melindungi isteri dan anak-anaknya dari gangguan pihak lain, sehingga mereka merasa aman dan tenteram. Tempat kediaman juga berfungsi sebagai tempat menyimpan harta kekayaan, sebagai tempat menata dan mengatur alat-alat rumah tangga.
- (4) Suami wajib melengkapi tempat kediaman sesuai dengan kemampuannya serta disesuaikan dengan keadaan lingkungan tempat tinggalnya, baik berupa alat perlengkapan rumah tangga maupun sarana penunjang lainnya.

**Bagian Kelima
Kewajiban Suami yang Beristeri Lebih Dan Seorang**

Pasal 82

- (1) Suami yang mempunyai isteri lebih dari seorang berkewajiban memberikan tempat tinggal dan biaya hidup kepada masing-masing isteri secara berimbang menurut besar kecilnya jumlah keluarga yang ditanggung masing-masing isteri, kecuali jika ada perjanjian perkawinan.
- (2) Dalam hal para isteri rela dan iklas, suami dapat menempatkan isterinya dalam satu tempat kediaman.

**Bagian Keenam
Kewajiban Isteri**

Pasal 83

- (1) Kewajiban utama bagi seorang isteri ialah berbakti lahir dan batin kepada suami di dalam yang dibenarkan oleh hukum Islam.
- (2) Isteri menyelenggarakan dan mengatur keperluan rumah tangga sehari-hari dengan sebaik-baiknya.

Pasal 84

- (1) Isteri dapat dianggap nusyuz jika ia tidak mau melaksanakan kewajiban-kewajiban sebagaimana dimaksud dalam pasal 83 ayat (1) kecuali dengan alasan yang sah
- (2) Selama isteri dalam nusyuz, kewajiban suami terhadap isterinya tersebut pada pasal 80 ayat (4) huruf a dan b tidak berlaku kecuali hal-hal untuk kepentingan anaknya.
- (3) Kewajiban suami tersebut pada ayat (2) di atas berlaku kembali sesudah isteri nusyuz
- (4) Ketentuan tentang ada atau tidak adanya nusyuz dari isteri harus didasarkan atas bukti yang sah.

**RANCANGAN
UNDANG-UNDANG REPUBLIK INDONESIA
NOMOR ... TAHUN ...
TENTANG
KESETARAAN GENDER
DENGAN RAHMAT TUHAN YANG MAHA ESA
PRESIDEN REPUBLIK INDONESIA**

Menimbang : a. bahwa negara menjamin hak setiap orang untuk bebas dari perlakuan diskriminatif atas dasar apapun dan berhak mendapatkan perlindungan terhadap perlakuan diskriminatif sebagaimana diamanatkan Undang-Undang Dasar Negara Republik Indonesia Tahun 1945;

b. bahwa Negara Kesatuan Republik Indonesia telah mengesahkan Konvensi mengenai Penghapusan Segala Bentuk Diskriminasi terhadap Wanita (*Convention on the Elimination of All Forms of Discrimination Against Women*) dengan Undang-Undang Nomor 7 Tahun 1984 yang harus ditindaklanjuti pemenuhan hak-haknya dengan pelaksanaan secara efektif;

c. bahwa penghapusan segala bentuk diskriminasi terhadap perempuan dimaksudkan untuk mewujudkan kesetaraan gender, dilaksanakan dengan strategi pengarusutamaan gender di semua bidang kehidupan dalam pembangunan nasional;

d. bahwa dalam masyarakat masih terjadi perlakuan yang belum sepenuhnya mencerminkan pemenuhan hak asasi manusia, khususnya hak perempuan, yang merupakan dampak berbagai bentuk diskriminasi terhadap perempuan dalam kehidupan berkeluarga, bermasyarakat, berbangsa dan bernegara;

e. bahwa berdasarkan pertimbangan sebagaimana dimaksud dalam huruf a, huruf b, huruf c, dan huruf d perlu membentuk Undang-Undang tentang Kesetaraan Gender;

Mengingat: 1. Pasal 5 ayat (1), Pasal 20, Pasal 27 ayat (1), Pasal 28, Pasal 28A, Pasal 28B, Pasal 28C, Pasal 28D, Pasal 28E, Pasal 28F, Pasal 28G, Pasal 28H, Pasal 28I, Pasal 28J, Pasal 31, Pasal 32, Pasal 33, Pasal 34 ayat (2) dan ayat (3) Undang-Undang Dasar Negara Republik Indonesia Tahun 1945;

2. Undang-Undang Nomor 7 Tahun 1984 tentang Pengesahan Konvensi mengenai Penghapusan Segala Bentuk Diskriminasi terhadap Wanita (*Convention on the Elimination of All Forms of Discrimination Against Women*) (Lembaran Negara Republik Indonesia Tahun 1984 Nomor 29, Tambahan Lembaran Negara Republik Indonesia Nomor 3277); (harus masuk)

3. Undang-Undang Nomor 39 Tahun 1999 tentang Hak Asasi Manusia (Lembaran Negara Republik Indonesia Tahun 1999 Nomor 165, Tambahan Lembaran Negara Republik Indonesia Nomor 3886);

Dengan Persetujuan Bersama
DEWAN PERWAKILAN RAKYAT REPUBLIK INDONESIA
dan
PRESIDEN REPUBLIK INDONESIA
MEMUTUSKAN:
Menetapkan :UNDANG-UNDANG TENTANG KESETARAAN GENDER.

BAB I
KETENTUAN UMUM

Pasal 1

Dalam Undang-Undang ini yang dimaksud dengan:

1. Gender adalah nilai-nilai sosial budaya yang dianut oleh masyarakat setempat mengenai tugas, peran, tanggung jawab, sikap dan sifat yang dianggap patut bagi perempuan dan laki-laki, yang dapat berubah dari waktu ke waktu.
2. Kesetaraan Gender adalah kondisi dan posisi yang menggambarkan kemitraan yang selaras, serasi, dan seimbang antara perempuan dan laki-laki dalam akses, partisipasi, kontrol dalam proses pembangunan, dan penikmatan manfaat yang sama dan adil di semua bidang kehidupan
3. Diskriminasi berbasis gender adalah segala bentuk diskriminasi yang didasarkan atas jenis kelamin yang dapat mengakibatkan kerugian terutama bagi perempuan.
4. Diskriminasi terhadap perempuan adalah segala bentuk perbedaan, pengucilan, atau pembatasan, dan segala bentuk kekerasan yang dibuat atas dasar jenis kelamin, yang mempunyai pengaruh atau tujuan untuk mengurangi atau menghapuskan pengakuan, penikmatan manfaat atau penggunaan hak-hak asasi manusia dan kebebasan-kebebasan pokok di bidang politik, ekonomi, sosial, budaya, sipil atau bidang lainnya oleh perempuan, terlepas dari status perkawinan mereka, atas dasar persamaan antara perempuan dan laki-laki.
5. Pengarusutamaan Gender adalah strategi yang dibangun untuk mengintegrasikan perspektif gender menjadi satu dimensi integral dari perencanaan, penganggaran, penyusunan, pelaksanaan, pemantauan dan evaluasi atas kebijakan dan program pembangunan nasional, termasuk penghapusan segala bentuk diskriminasi dan perlindungan terhadap perempuan dalam kehidupan berkeluarga, bermasyarakat, berbangsa, dan bernegara.

6. Pemerintah Pusat, selanjutnya disebut Pemerintah, adalah Presiden Republik Indonesia yang memegang kekuasaan pemerintahan negara Republik Indonesia sebagaimana dimaksud dalam Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.
7. Pemerintah Daerah adalah Gubernur, Bupati/ Walikota, dan perangkat daerah sebagai unsur penyelenggara pemerintahan daerah.
8. Menteri adalah menteri yang membidangi urusan pemberdayaan perempuan dan perlindungan anak.

BAB II

ASAS DAN TUJUAN

Pasal 2

Penyelenggaraan kesetaraan gender diwujudkan berdasarkan asas:

- a. kemanusiaan;
- b. keadilan gender;
- c. persamaan substantif;
- d. non-diskriminasi;
- e. perlindungan;
- f. pemberdayaan;
- g. partisipasi;
- h. akuntabilitas; dan
- i. kesinambungan.

Pasal 3

(1) Penyelenggaraan kesetaraan gender bertujuan untuk:

- a. mewujudkan keadilan gender dalam pemenuhan hak asasi manusia di segala bidang kehidupan;
- b. menghormati, melindungi dan memenuhi hak asasi perempuan sebagai hak asasi manusia;
- b. menyelenggarakan tindakan-khusus-sementara untuk mempercepat tercapainya persamaan substantif antara perempuan dan laki-laki di segala bidang kehidupan;
- d. menyelenggarakan upaya perlindungan dan pemenuhan hak perempuan atau kesehatan reproduksi;
- e. menghapus segala bentuk diskriminasi terhadap perempuan; dan

- f. menghapus prasangka, kebiasaan dan segala praktik lainnya yang didasarkan atas inferioritas atau superioritas salah satu jenis kelamin atau berdasarkan peranan stereotipe bagi perempuan dan laki-laki.

BAB III

KEWAJIBAN NEGARA

Pasal 4

- (1) Negara wajib memberikan perlindungan dan menjamin terwujudnya kesetaraan gender termasuk tindakan-khusus-sementara, yang mencakup akses, partisipasi, kontrol dalam proses pembangunan dan penikmatan manfaat yang sama dan adil bagi perempuan dan laki-laki dalam pembangunan nasional.
- (2) Pemberian perlindungan dan penjaminan sebagaimana dimaksud pada ayat (1) dilaksanakan oleh lembaga negara, lembaga pemerintahan, dunia usaha dan swasta serta melibatkan partisipasi seluruh warga negara.
- (3) Pemberian perlindungan dan penjaminan sebagaimana dimaksud pada ayat (1) dan ayat (2) meliputi :
 - a. peningkatan kualitas hidup dan kesejahteraan perempuan;
 - b. peningkatan keterlibatan dan partisipasi aktif perempuan dalam semua bidang kehidupan terutama dalam proses perumusan kebijakan dan pengambilan keputusan publik di semua tingkat kelembagaan mulai dari desa/kelurahan, kecamatan, kabupaten/kota, provinsi, nasional, regional dan internasional;
 - c. penghapusan segala bentuk diskriminasi dan kekerasan terhadap perempuan;
 - d. penghapusan prasangka dan kebiasaan serta segala praktek lainnya yang memarginalkan perempuan;
 - e. peningkatan partisipasi masyarakat dalam mewujudkan kesetaraan gender; dan
 - f. perlindungan hak korban diskriminasi berbasis gender, atas kebenaran keadilan dan pemulihan.

Pasal 5

- (1) Lembaga negara dan lembaga pemerintahan wajib menentukan strategi pelaksanaan ketentuan sebagaimana dimaksud dalam Pasal 4 ayat (3) melalui berbagai kegiatan yang sekurang-kurangnya meliputi:

- a. peningkatan pelaksanaan dan penguatan kelembagaan pengarusutamaan gender dalam semua bidang pembangunan;
- b. pelaksanaan tindakan-khusus-sementara untuk mewujudkan kesetaraan nyata antara perempuan dan laki-laki;
- c. pemberdayaan masyarakat untuk mewujudkan kesetaraan gender; dan
- d. harmonisasi peraturan perundang-undangan dan perumusan kebijakan pembangunan berperspektif gender.

(2) Bagi Dunia usaha dan swasta serta masyarakat wajib menentukan strategi pelaksanaan melalui kegiatan sekurang-kurangnya sebagaimana (yang) dimaksud pada ayat (1) huruf a, b, dan huruf c.

(3) Ketentuan lebih lanjut mengenai tata cara pemberian perlindungan, penjaminan dan penentuan strategi serta pelaksanaan kegiatan sebagaimana dimaksud pada ayat (1) dan ayat (2) diatur dengan Peraturan Pemerintah.

Pasal 6

(1) Setiap lembaga negara dan lembaga pemerintahan melakukan penelitian dan pengkajian untuk memastikan perspektif gender terintegrasi dalam peraturan perundang-undangan dan perumusan kebijakan pembangunan.

(2) Hasil penelitian dan pengkajian sebagaimana dimaksud pada ayat (1) Wajib dipublikasikan secara luas kepada masyarakat.

Pasal 7

(1) Lembaga negara, lembaga pemerintahan, dunia usaha dan swasta wajib melakukan pemantauan dan evaluasi hasil pelaksanaan ketentuan sebagaimana dimaksud dalam Pasal 5 dan Pasal 6.

(2) Dalam melakukan pemantauan dan evaluasi sebagaimana dimaksud pada ayat (1) dilakukan dengan kerjasama dan koordinasi.

(3) Menteri menetapkan pedoman pemantauan dan evaluasi secara nasional.

BAB IV

HAK DAN KEWAJIBAN WARGA NEGARA

Pasal 8

Setiap warga negara berhak :

- a. memperoleh kesempatan yang sama dan perlakuan yang adil untuk mendapatkan pemenuhan hak sipil, politik, ekonomi, sosial, budaya, dan bidang- bidang lainnya;

- b. mendapatkan perlindungan dan penjaminan melalui peraturan perundang-undangan yang tidak diskriminatif gender; dan
- c. mendapatkan perlindungan atas haknya sebagai korban dari segala bentuk diskriminasi dan kekerasan berbasis gender.

Pasal 9

(1) Kesempatan yang sama dan perlakuan yang adil sebagaimana dimaksud dalam Pasal 8 huruf a meliputi tetapi tidak terbatas pada hak:

- a. mempertahankan, mengganti, dan memperoleh kembali kewarganegaraannya;
- b. pemenuhan hak perempuan atas perlindungan kesehatan reproduksi;
- c. Hak pendidikan;
- d. Hak jaminan sosial;
- e. Hak ekonomi dan ketenagakerjaan;
- f. Hak partisipasi di bidang politik dan hubungan internasional;
- g. keterwakilan perempuan dalam proses dan lembaga perumusan kebijakan dan pengambilan keputusan publik;
- h. perkawinan dan hubungan keluarga; dan
- i. proses dalam penegakan hukum.

(2) Hak-hak sebagaimana dimaksud pada ayat (1), berlaku juga bagi perempuan pedesaan dan perempuan kepala keluarga.

Pasal 10

Setiap warga negara wajib:

- a. memberikan informasi yang benar dan bertanggung jawab kepada pihak yang berwenang jika mengetahui terjadinya diskriminasi berbasis gender;
- b. mencegah terjadinya diskriminasi berbasis gender; dan
- c. melakukan upaya perlindungan korban diskriminasi berbasis gender.

Pasal 11

Kewajiban warga negara sebagaimana dimaksud dalam Pasal 10 dilaksanakan dengan cara:

- a. meningkatkan pemberdayaan anggota masyarakat untuk memahami, menghormati, dan memenuhi hak perempuan sebagai hak asasi manusia ;
- b. menumbuhkan dan mengembangkan kemampuan masyarakat untuk menghapus diskriminasi berbasis gender;
- c. menumbuhkan sikap tanggap anggota masyarakat untuk melakukan pengawasan sosial; dan

- d. memberikan pendapat, dan saran-saran tindak lanjut penanganan pelanggaran hak perempuan.

BAB V

PENGARUSUTAMAAN GENDER

Pasal 12

- (1) Lembaga negara, lembaga pemerintahan, masyarakat, dunia usaha dan swasta wajib menggunakan pengarusutamaan gender dalam melaksanakan tugas, fungsi dan kewenangannya.
- (2) Pengarusutamaan gender sebagaimana dimaksud pada ayat (1) dilakukan dalam perumusan kebijakan dan program yang dimulai dari tahapan perencanaan, penganggaran, penyusunan, pelaksanaan, pemantauan, evaluasi, sampai dengan pelaporan.
- (3) Ketentuan sebagaimana dimaksud pada ayat (1) dan ayat (2) wajib diintegrasikan ke dalam setiap pendidikan dan pelatihan bagi aparatur lembaga negara, pemerintahan dan pemerintahan daerah, masyarakat, dunia usaha dan swasta.
- (4) Ketentuan lebih lanjut mengenai tata cara pelaksanaan pengarusutamaan gender sebagaimana dimaksud pada ayat (1) ayat (2) dan ayat (3) diatur dengan Peraturan Pemerintah.

Pasal 13

- (1) Untuk menjamin terselenggaranya pelaksanaan pengarusutamaan gender yang efektif oleh lembaga negara, lembaga pemerintahan, masyarakat, dunia usaha dan swasta, serta lembaga lain wajib dilakukan pengawasan.
- (2) Pengawasan atas dilaksanakannya pengarusutamaan gender yang efektif sebagaimana dimaksud pada ayat (1) dilaksanakan secara berjenjang sesuai dengan kewenangan masing-masing lembaga negara, lembaga pemerintah, masyarakat, dunia usaha dan swasta.
- (3) Pengawasan sebagaimana dimaksud pada ayat (1) sekurang-kurangnya meliputi pemantauan, evaluasi dan pelaporan.
- (4) Hasil pelaporan sebagaimana dimaksud pada ayat (3) dikonsolidasi menteri koordinator yang membidangi kesejahteraan rakyat.
- (5) Hasil konsolidasi sebagaimana dimaksud pada ayat (4) dapat disampaikan kepada Menteri untuk dilakukan analisis guna penyempurnaan kebijakan dan pelaksanaan pengarusutamaan gender.

Pasal 14

(1) Pimpinan lembaga negara, lembaga pemerintahan, masyarakat, dunia usaha dan swasta wajib melaksanakan dan bertanggung jawab atas pemantauan dan evaluasi pelaksanaan pengarusutamaan gender sesuai dengan tugas, fungsi dan kewenangan masing-masing.

(2) Masing-masing pimpinan bertanggung jawab atas hasil pemantauan dan evaluasi yang dilakukan dan hasilnya dapat diumumkan kepada masyarakat.

Pasal 15

(1) Pemerintah dan pemerintah daerah wajib menyampaikan laporan pelaksanaan pengarusutamaan gender kepada Menteri.

(2) Laporan sebagaimana dimaksud pada ayat (1) memuat hasil pemantauan dan evaluasi yang sekurang-kurangnya mengenai

- a. kebijakan mengenai kesetaraan gender dan implementasinya;
- b. distribusi kesetaraan gender di setiap kategori atau jenis pekerjaan; dan
- c. hal lain yang dianggap penting dalam upaya mewujudkan kesetaraan gender.

(3) Pelaporan sebagaimana dimaksud pada ayat (1) dan ayat (2) dilakukan secara berjejing antar lembaga.

Pasal 16

(1) Menteri melaporkan hasil analisis sebagaimana dimaksud dalam Pasal 13 ayat (5) dan Pasal 14 secara berkala sekurang-kurangnya satu kali dalam satu tahun kepada Presiden.

(2) Laporan sebagaimana dimaksud pada ayat (1), dapat meliputi:

- a. hasil-hasil yang telah dicapai dalam pelaksanaan pengarusutamaan gender
- b. hambatan yang terjadi;
- c. upaya yang telah dilakukan dalam mengatasi hambatan yang terjadi dan rencana kedepan; dan
- d. hal-hal lain yang dianggap penting dalam upaya mewujudkan kesetaraan gender.

Pasal 17

(1) Dalam hal hasil analisis pengarusutamaan gender belum menunjukkan terwujudnya kesetaraan gender, maka lembaga negara, lembaga pemerintahan, masyarakat, dunia usaha dan swasta wajib mengambil langkah-tindak untuk perwujudan kesetaraan gender melalui kesempatan yang sama dan adil sebagaimana ditentukan dalam Pasal 9.

(2) Segala biaya untuk melaksanakan langkah-tindak sebagaimana dimaksud pada ayat (1) dibebankan pada masing-masing lembaga.

BAB VI

PARTISIPASI MASYARAKAT

Pasal 18

- (1) Masyarakat berhak memberikan masukan secara lisan atau tertulis dalam upaya mewujudkan pemberdayaan masyarakat dan mewujudkan kesetaraan gender, serta melakukan upaya pengarusutamaan gender.
- (2) Partisipasi masyarakat dilakukan dengan jalan memantau program dan kebijakan yang dikeluarkan oleh lembaga negara, pemerintah, dan pemerintah daerah, masyarakat, dunia usaha, dan swasta atau lembaga lain dalam melaksanakan pengarusutamaan gender.
- (3) Media sebagai kelompok masyarakat yang strategis untuk mempromosikan pemahaman tentang kesetaraan gender bertanggung jawab untuk meningkatkan pengetahuan, pemahaman dan dukungan masyarakat untuk mewujudkan kesetaraan gender melalui pengarusutamaan gender.
- (4) Dalam hal terjadi pelanggaran terhadap Undang-Undang ini atau peraturan perundang-undangan terkait, masyarakat berhak melaporkan atau mengadukan kepada pejabat yang berwenang atau lembaga-lembaga yang menangani keluhan/ pengaduan atas pelanggaran kesetaraan gender.
- (5) Ketentuan mengenai pelaksanaan partisipasi masyarakat, tata cara pengaduan atau pelaporan dan penanganan, pengembangan sistem informasi tentang kondisi kesetaraan gender diatur dengan Peraturan Pemerintah.

BAB VII

PENGHARGAAN DAN SANKSI

Pasal 19

- (1) Pemerintah dan pemerintah daerah memberikan penghargaan bagi lembaga negara, lembaga pemerintahan, masyarakat, dunia usaha dan swasta yang telah melaksanakan pengarusutamaan gender dan memenuhi kriteria untuk mewujudkan kesetaraan gender.
- (2) Penghargaan sebagaimana dimaksud pada ayat (1) ditandai dengan semakin membaiknya kondisi dan posisi perempuan di berbagai bidang pembangunan dan efektifnya pelaksanaan peraturan perundang-undangan, kebijakan dan program yang responsif gender.
- (3) Menteri menetapkan pedoman pemberian penghargaan sebagaimana dimaksud pada ayat (1).

Pasal 20

- (1) Lembaga negara, lembaga pemerintah, masyarakat, dunia usaha dan swasta, yang diberikan tanggung jawab untuk melaksanakan pengarusutamaan gender, tetapi tidak melaksanakan pengarusutamaan gender, dapat dikenai sanksi administratif atau pemberian disinsentif yang dilaksanakan sesuai dengan peraturan perundangundangan.
- (2) Sanksi administratif sebagaimana dimaksud pada ayat (1) dapat berupa teguran lisan, teguran tertulis, denda administratif, dan sanksi administratif lainnya.
- (3) Ketentuan lebih lanjut mengenai sanksi administratif atau pemberian disinsentif sebagaimana dimaksud pada ayat (1) diatur dengan Peraturan Pemerintah.

Pasal 21

- (1) Setiap orang yang melanggar atau tidak melaksanakan kesetaraan gender, dikenai sanksi sesuai dengan ketentuan peraturan perundang-undangan.
- (2) Dalam hal tindak pidana yang ditentukan dalam Kitab Undang-Undang Hukum Pidana dan undang-undang lain dilakukan oleh seseorang yang dilatarbelakangi oleh diskriminasi gender, maka pidananya dapat ditambah sepertiga dari ancaman maksimum pidana yang diancamkan dalam Kitab Undang-Undang Hukum Pidana dan undang-undang lain tersebut.
- (3) Ketentuan sebagaimana dimaksud pada ayat (2) berlaku juga bagi korporasi.

BAB VIII
KETENTUAN PENUTUP

Pasal 22

Peraturan pelaksanaan Undang-Undang ini harus sudah ditetapkan paling lama 1(satu) tahun sejak diundangkannya Undang-Undang ini.

Pasal 23

Undang-Undang ini mulai berlaku pada tanggal diundangkan. Agar setiap orang mengetahuinya, memerintahkan pengundangan Undang-Undang ini dengan penempatannya dalam Lembaran Negara Republik Indonesia.

Disahkan di Jakarta
pada tanggal

PRESIDEN REPUBLIK INDONESIA,
SUSILO BAMBANG YUDHOYONO

Diundangkan di Jakarta
pada tanggal

MENTERI HUKUM DAN HAK ASASI MANUSIA
REPUBLIK INDONESIA,

PATRIALIS AKBAR

LEMBARAN NEGARA REPUBLIK INDONESIA TAHUN ... NOMOR

UUD 1945	AMANDEMEN I	AMANDEMEN II	AMANDEMEN III	AMANDEMEN IV
BAB X WARGA NEGARA		BAB X WARGA NEGARA DAN PENDUDUK		
Pasal 26 (1) Yang menjadi warga negara ialah orang-orang bangsa Indonesia asli dan orang-orang bangsa lain yang disahkan dengan undang-undang sebagai warga negara. (2) Syarat-syarat yang mengenai kewarganegaraan ditetapkan dengan undang-undang.		Pasal 26 (1) Yang menjadi warga negara ialah orang-orang bangsa Indonesia asli dan orang-orang bangsa lain yang disahkan dengan undang-undang sebagai warga ne (2) Penduduk ialah warga negara Indonesia dan orang asing yang bertempat tinggal di Indonesia. **) (3) Hal-hal mengenai warga negara dan penduduk diatur dengan undang-undang.		
Pasal 27 (1) Segala warga negara bersamaan kedudukannya dalam hukum dan pemerintahan dan wajib menjunjung hukum dan pemerintahan itu dengan		Pasal 27 (3) Setiap warga negara berhak dan wajib ikut serta dalam upaya pembelaan negara.		

Appendix 8

tidak ada kecualinya. (2) Tiap-tiap warga negara berhak atas pekerjaan dan penghidupan yang layak bagi kemanusiaan.				
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UUD 1945	AMANDEMEN I	AMANDEMEN II	AMANDEMEN III	AMANDEMEN IV
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Appendix 8

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CURRICULLUM VITAE

Name : Hurun Maqshurat Uzlifat Il- Jannah

Sex : Female

Adress : District. Ranggalawe, Village Tinap, Subdistrict
Sukomoro, Magetan

Date/ birth place : Manokwari, 05 April 1991

Parent : Father: Drs. H. Maulana Hamdani. A
Mother: Sri Damianti Mida Asmara

Religion : Islam

E- mail : hurunuzlifat@yahoo.com

Education : - State Elementary School Inpres Jayapura (1997)

- MIN Sidoarjo Pacitan (2001)
- MTs. Ar-Risalah (2003)
- MA. Ar-Risala (2006)
- Sunan Kalijaga

State Islamic University Yogyakarta (2009)