



**MUSLIM WOMEN EMANCIPATION DISCOURSE:
Analyzing the Legal Thoughts of Muhammad
Quraish Shihab**

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Abstract: This article aims to analyze several issues on women in Muhammad Quraish Shihab's *fatwās* (legal opinions) contained in several of his works in the form of questions and answers. This study departs from the existing studies on Muslim women's emancipation movements, particularly which have become a common trend in the modern Muslim world, including in Indonesia. Shihab's thoughts on Muslim women are worth studying because he attempts to unravel the primary Islamic religious texts that deal with women's issues within their initial context to provide religious instructions for Muslim women today without necessarily renouncing the traditional methods of reasoning. This article argues that Shihab's articulation of Indonesian women's *fiqh* (jurisprudence) using exegetical logic opens a broader space and provides an alternative for more emancipatory interpretations of religious texts operating within the grand corridor of Islamic religious and intellectual tradition.

Keywords: women's issues, *fatwās*, emancipation, religious tradition.

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Introduction

AS ONE OF THE CONTEMPORARY leading Indonesian exegetes of the Qur'an who employs a contextual approach, Muhammad Quraish Shihab attempts to interpret the verses of the Qur'an by the exigencies of and the problems faced by Muslim society.¹ Not only does Shihab make exegetical activities a basis for understanding the Qur'an, but he also opens up new possibilities for reading Islam more comprehensively about the realities of Muslim life. Indeed, various ways of reading the Qur'an have emerged from

¹ Muhammad Iqbal, "Metode Penafsiran Al-Qur'an M. Quraish Shihab," *Jurnal TSAQAFAH* 6, no. 2 (2010): 249.

differences in perspectives, approaches, and methods of understanding a particular verse.² Attempt to interpret the Qur'an has something to do with how exegetes orient Muslims toward what they perceive as the divine good for human beings.³

One of the most critical topics, which receives little scholarly attention, is how to situate Quraish Shihab's Quranic interpretation within the framework of *fatwā* (Islamic legal opinion) studies. In the discussion of Islamic law, *fatwā* is a question and answer between a Muslim individual and a religious scholar. In this article, Shihab is depicted as a religious scholar who acts as a *muftī* (*fatwā* giver) with which he responds to religious questions. This role mainly appears through his works. Munirul Ikhwan discusses Shihab's Islamic legal thought in his thesis. However, he deals with the issue as part of a general discussion on Shihab's intellectual project of 'making the Qur'an down to earth' (*membumikan al-Qur'an*).⁴ This article, on the other hand, examines Shihab's *fatwās* on women's issues, which modern Muslim scholars have frequently discussed -be they academicians, activists, *ulama*, and the Muslim public- as to which the discourse on women's emancipation and gender equality is of having textual justification in the Qur'an.⁵ Moreover, women's emancipation and gender equality,⁶ which have become essential idioms of modern society,⁷ have been featured in various seminars held by certain Muslim activists in order to promote a campaign against women's

² Abdullah Saeed features the vibrant exegetical activities in modern Indonesia, mainly triggered by the waves of Islamic reformism in the modern Muslim world. See Abdullah Saeed (ed.), *Approaches to the Qur'an in Contemporary Indonesia* (London: Oxford University Press, 2005).

³ As for this method, see Abdul Hayy Al-Farmawi, *Al-Bidāyah Fi Tafsi'r Al-Mawdhū'iy* (Kairo: Al-Hadharah al-'Arabiyyah, 1999).

⁴ Munirul Ikhwan, "An Indonesian Initiative to Make the Qur'an Down-to-Earth: Muhammad Quraish Shihab and His School of Exegesis", *Ph.D. Thesis* (Berlin: Freie Universität, 2015).

⁵ See Anshori, *Penafsiran Ayat-Ayat Jender Menurut Muhammad Quraish Shihab* (Jakarta: Visindo Media Pustaka, 2008).

⁶ See Mudhofir Abdullah, "Marriage In Islam and the Problem of Gender Equality: A Philosophical Perspective," *Ulumuna* 22, no. 1 (2018).

⁷ Wolfgang Wagner, Ragini Sen, & Caroline S Howarth, "The Veil and Muslim Women's Identity: Cultural Pressures and Resistance to Stereotyping," *Culture & Psychology* 18, no. 4 (2012).

discrimination in public life in patriarchal societies.⁸ Thus, this article discusses how Qur'anic exegesis is employed as a basis for religious deliberation on Muslim women's issues, which are deeply rooted in the Qur'an. This article argues that Shihab's exegesis-based *fatwā* provides an alternative for Islamic emancipatory articulation without necessarily renouncing the traditional methods of reasoning.

This article uses a qualitative⁹ approach with text analysis as the primary method. The data analyzed includes various works of Quraish Shihab, especially Quraish Shihab's interpretations and Islamic legal fatwa responses to women's issues. This method is intended to explore in depth the logic and method of fatwa formulation used by Quraish Shihab. The main focus lies in analyzing how Quraish Shihab responds to issues of Islamic law related to fatwas about women and how Quraish Shihab utilizes the semantic space of Islamic texts in compiling fatwa arguments in interpretation. This article aims to answer several research questions related to women's issues in Quraish Shihab's fatwas through the above method. These questions include: How does Quraish Shihab use the tafsir approach in responding to women's issues in Islam? What are Quraish Shihab's fatwas related to women's emancipation, and how does he interpret these texts? How can the contextual approach and tafsir reasoning used by Quraish Shihab provide space for a more emancipatory interpretation of Indonesian women's fiqh? In addition, how does the study of these fatwas contribute to the modern discourse on women in Islam, especially in the Indonesian context? The results of this study are expected to show that Quraish Shihab's reading of women's fiqh is not only based on historical and doctrinal aspects but also opens up wider space for interpretation and is relevant to the contemporary context.

In order to provide a relevant and analytical study, this study is structured around Quraish Shihab's position in using the tafsir

⁸ Regarding some questions on women, see Husein Muhammad, *Fiqh Perempuan: Refleksi Kiai Atas Tafsir Wacana Agama Dan Gender* (Yogyakarta: IRCiSod, 2019).

⁹ N. K. Denzin & Y. S. Lincoln, *The SAGE Handbook of Qualitative Research* (Thousand Oaks, CA: SAGE, 2011).

approach in responding to women's issues in Islam. The article also explains Quraish Shihab's fatwa related to women's emancipation and how he interprets texts in the Qur'an. In addition, the discussion of the contextual approach and tafsir reasoning used by Quraish Shihab and the study of fatwas on women contribute to contemporary Islamic legal discourse, especially in the Indonesian context. By highlighting how Quraish Shihab uses the logic of tafsir to provide more expansive and emancipatory space for interpretation, this article emphasizes the importance of the contextual approach in responding to the challenges of modernity faced by Muslim societies. Finally, the article concludes that Quraish Shihab's approach not only enriches the scientific discourse on women in Islam but also offers an alternative that is more inclusive and relevant to today's sociocultural dynamics.

Putting Quraish Shihab's *Fatwā* on Muslim Women's Affairs into Analysis

Contemporary Muslim thinkers have adopted a great variety of approaches to responding to religious issues, and these can be classified into the following:¹⁰ The first is the formalistic approach, which emphasizes a formal-normative implementation of Islamic norms. This approach rules out the strategy of implementing Islam by creating an Islamic party, an Islamic political system, or, in other words, by formalization and politicization of Islam and its religious symbols. The second is the substantive approach, which proposes implementation beyond religious symbols. Religion here is understood as a way to actualize values in all aspects of human life. The third is the transformative approach, which proposes an articulation of Islam by valuing humanity. In this regard, Islam is seen as a spirit to defend the fundamental rights of humans, freeing people from poverty, ignorance, backwardness, and injustice. The fourth is the totalistic approach, which perceives Islam as a totalistic entity, leaving no space for any particularistic

¹⁰ See Ali Akbar, "Philosophical Hermeneutics and Contemporary Muslim Scholars' Approaches to Interpreting Scripture," *Philosophy & Social Criticism* 47, no. 5 (2020).

and pluralistic expression. The fifth is the idealistic approach, which views that the world must be situated to create religiously committed Muslims. This approach is concerned with realizing the above worldview, whose articulation must be formulated thoroughly and systematically.¹¹ The sixth is the realistic typology, which proposes that Islamic doctrines must be in constant dialogue with the various cultures of Muslim societies.¹²

Based on the above typologies, Shihab belongs to the camp that promotes substantive, transformative, and idealistic approaches. This can be seen from the style and logic of his *fatwās*, which show his moderate and offer various alternatives to Muslims of different backgrounds. Significantly, his educational background profoundly shapes Quraish Shihab's approach to interpreting the foundational text of Islam. He spent much time, about 13 years, studying at al-Azhar in Cairo. Al-Azhar's intellectual climate and tradition have greatly influenced his religious and intellectual thought. Harun Nasution,¹³ For example, al-Azhar's intellectual tradition can be seen in three characteristics. First, al-Azhar's learning method generally emphasizes the importance of memorizing religious dogmas. Second, its intellectual paradigm in Islamic studies emphasizes normative-ideological approaches more. Although new trends in Islamic studies, which are by definition more liberal and introduce historical-sociological approaches to Islam, do not feature the foundation of al-Azhar's curriculum. Third, al-Azhar's normative approaches to Islam bring some consequences to the institution's position amid academic development in Islamic studies, where social sciences are increasingly adopted in the studies of Islam.¹⁴

¹¹ Harun Nasution, *Islam Rasional: Gagasan Dan Pemikiran* (Bandung: Mizan, 1998), 397.

¹² Azyumardi Azra, *Pendidikan Islam: Tradisi Dan Modernisasi Menuju Millenium Baru* (Jakarta: Logos Wacana Ilmu, 2000), 238-239.

¹³ Piet Hizbullah Khaidir, Abdul Kadir Riyadi, Idri idri, Azhar Ibrahim, & Fathurrofiq Fathurrofiq, "Rational Sufism: The Influence of Harun Nasution's Thought in the Academic World in Indonesia," *ULUL ALBAB: Jurnal Studi Islam* 24, no. 1 (2023).

¹⁴ Saiful Amin Ghofur, *Profil Para Mufasir Al-Qur'an* (Yogyakarta: Insan Madani, 2007).

These three characteristics have shaped Quraish Shihab's Islamic religious thought. Nevertheless, Shihab's thought is deeply rooted in centuries of Islamic intellectual tradition; he is vigorously able to bridge the foundational text of Islam with the collective social sensitivity of contemporary Muslim society.¹⁵ Due to his moderate Islamic thought, he is also seen as a modernist fundamentalist scholar. As a contemporary Indonesian Muslim scholar and thinker, he intellectually grew up. He developed his insights at a time when debates on reforming Islamic religious thought featured the modern Indonesian context. This, of course, considerably shaped his personality and thoughts.¹⁶

Quraish Shihab is one of the leading Indonesian figures whose articulation of Islam resonates significantly with that of reformist Muslim thinkers. Quraish Shihab's thought on women is derived from his understanding of an Islamic religious doctrine that a woman was created from the ribs of a man. Muhammad 'Abduh and Muhammad Rashid Rida view that the details of the story of Adam and Eve came to Muslim tradition from the Old Testament. The story of Adam and Eve, particularly on the origin of Eve from Adam's rib, is mentioned nowhere in the Qur'an.¹⁷ The Qur'an was revealed to abolish narratives that distinguish man and woman ontologically. Woman shares the same rights, both domestic and public rights, as man. Likewise, women share the same obligations as men in religious life. In reformists' view, the Qur'an stands against any discrimination toward women and, therefore, upholds justice and equality.

In the context of thought in the Muslim world, Quraish Shihab is a prominent Muslim scholar from Indonesia with a solid academic background. He was educated at Al-Azhar University, Egypt, and obtained his doctorate in Qur'anic exegesis. His career spans various important positions, including as Indonesia's

¹⁵ Munirul Ikhwan, "An Indonesian Initiative to Make the Qur'an Down-to-Earth", 49.

¹⁶ Muhammad Quraish Shihab, *Era Baru Fatwa Baru; Kata Pengantar, Dalam MB Hooker, Islam Mazhab Indonesia; Fatwa-Fatwa Dan Perubahan Sosial* (Jakarta: Teraju, 2002), 1.

¹⁷ Muhammad Quraish Shihab, *Studi Kritis Tafsir Al-Mannar Karya Muhammad Abduh Dan M. Rasyid Ridha* (Bandung: Pustaka Hidayah, 1994), 43.

Minister of Religious Affairs and rector of several Islamic universities. Quraish Shihab is also widely known through his various written works in books, articles, and lectures that discuss many Qur'anic interpretations and contemporary issues in Islam. Quraish Shihab displays a distinctive and contextual approach regarding fatwas on women's issues. The typology and style of Quraish Shihab's fatwas on women's issues show how he uses the logic of tafsir to interpret Qur'anic texts in a way relevant to modern life. His father often emphasizes the importance of women's emancipation within the framework of Islamic law, which remains rooted in primary texts. Quraish Shihab adopts an approach that is not only historical and doctrinal but also considers the present sociocultural context, which allows for a more inclusive and progressive interpretation. Through analyzing these fatwas, Quraish Shihab attempts to bridge the gap between tradition and modernity, making room for interpretations that allow women to play a more active and equal role in society. His fatwas reflect an attempt to accommodate modern values without abandoning the basic principles of Islam, making him an influential figure in contemporary Islamic legal discourse in Indonesia and the world.¹⁸

Women's Rights and Duties in Religion

The typology and style of Quraish Shihab's fatwas on women's issues mainly focus on Quraish Shihab's thoughts, fatwas and interpretations regarding women's rights in Islam. This discussion describes Quraish Shihab's general views on women, followed by a specific analysis of the various fatwas he has issued. The aim is to understand how Quraish Shihab uses the tafsir approach in responding to contemporary issues about women and to see how his interpretations provide space for emancipation and gender equality in contemporary Islamic law (fiqh). Quraish Shihab integrates tradition and modernity in his fatwas by providing moderate and progressive examples of facing the challenges and

¹⁸ See F.V. Greifenhagen, "North American Islamic Feminist Interpretation: The Case of Sūrah 4:34, with a Comparison to Christian Feminist Interpretation," *Studies in Religion/Sciences Religieuses* 33, no. 1 (2004).

sociocultural dynamics that develop in Indonesia. This argumentation provides insight into Quraish Shihab's contribution to the discourse of women's rights in Islam and how his approach can be a model for developing Islamic law that is more inclusive and responsive to contemporary issues.¹⁹

It should be noted that the patriarchal system has a significant influence on how religious classical Muslim scholars produce thoughts and fatwās;²⁰ it influenced them when interpreting Qur'anic verses and understanding the prophetic tradition.²¹ Representing a reformist scholar who witnesses modern sociocultural problems of Indonesian society, Shihab appears to be more sensitive to the exigencies and contemporary questions of Muslim society, including women's issues. Shihab situates his interpretation of Islam and his legal opinions on women within the demands of the modern era.

Regarding the rights and obligations of women in religion, Shihab interprets a Qur'anic verse (Q. 4:4) that mentions a woman's right to dowry by stressing that dowry is merely something that must be paid, but more importantly, a symbol of a man's sincere intention to marry a woman and commitment to support her life necessities. As for a wife's maintenance, Shihab views it as an obligation on a man.²² Interpreting the verses on women's obligations, Shihab views that a good woman is the one who always obeys her husband, as indicated in Q. 4:34. He requires a woman to be obedient to her husband because it represents an important characteristic of a pious woman. Furthermore, regarding the obligations of a wife in Q. 24:31,

¹⁹ See Abdulloh Fuadi, "Quraish Shihab's Quranic Exegesis on Interreligious Harmony and Its Relevance to the Contemporary Western Hermeneutics," *Ulumuna* 25, no. 1 (2021).

²⁰ Amanah Nurish, "Women's Same-Sex Relations in Indonesian Pesantren," *Gender, Technology and Development* 14, no. 2 (2011).

²¹ Masdar F. Mas'udi, *Islam Dan Hak-Hak Reproduksi Perempuan* (Bandung: Mizan, 2000).

²² Muhammad Quraish Shihab, *Tafsir Al-Misbah: Pesan, Kesan Dan Keserasian* (Jakarta: Lentera Hati, 2004), 346.

Shihab underlines that a woman should lower her gaze and not see a man other than her husband.²³

Interpreting Q. 33:59 on the command for women to lower their cloaks over their bodies, Shihab mentions several opinions about the meaning of *jilbāb* but stresses its meaning as a female outer outfit. He views that the verses cannot be made a textual argument for women's obligation to wear headscarves because the verse does not discuss that issue. Female head-covering had been an ancient practice, and its styles have varied. Some women may cover part of their head, less than what has been practiced by pious female Muslims today. However, according to him, it is perfectly suited for Muslim women to wear a headscarf, although that does not mean that those who do not wear it must be seen to have violated Islamic religious teaching as long as they wear a polite dress.²⁴

In addition, when interpreting Q. 24: 31 regarding a request to Muslim women to extend their veil over their chest, Shihab does not find any indication from the verse regarding women's obligation to wear a headscarf. The verse addressed the Arab Muslim women who used to wear headscarves to cover their chest with part of the headscarf they had already worn. Shihab highlights the obligation of Muslim women to cover their chests. He thinks that Muslim women who cover their whole body except for their face and palms meet the literal redaction of the Qur'anic text. However, at the same time, he also emphasizes that those who show part of their hands or do not cover their head must not be seen as violating religion because the Qur'an itself does not mention the limits of women's bodies that must be covered and Muslim scholars themselves disagree upon those limits. Shihab is more concerned with the impact of clothes dressed by Muslim women. As for the verse's interpretation of Muslim women's obligation to stay at home, he appears more flexible. He views that Muslim woman, if necessary, may leave their house without the

²³ Muhammad Quraish Shihab, *Pakaian Wanita Muslimah Pandangan: Ulama Masa Lalu Dan Cendekiawan Kontemporer* (Jakarta: Lentera Hati, 2009), 39.

²⁴ Muhammad Quraish Shihab, *Tafsir Al-Misbah: Pesan, Kesan Dan Keserasian*, 424-432.

companion of their guardian (*mahram*) as long as she can maintain their honor.²⁵

Regarding Quraish Shihab's legal opinion on Muslim women's rights and obligations, it seems that Shihab bases his articulation of women's rights and obligations on a reformist way of thinking. He articulates Islam by valuing public interest, peace, and justice. Several reasons contextually constitute *raison d'être* in Quraish Shihab's *fatwā*s in the form of casuistry, which should not be elevated as if the role of men can be equated with women. If the idea of male-female equality becomes a result of *ijtihad*, which should be practiced and used as a reference, it will pose havoc within Islamic legal discourse. In Quraish Shihab's legal opinion on the rights and obligations of women in the religion above, it appears that Shihab plays a role as a reformer who actively answers and responds to various issues in Muslim society.²⁶ In Indonesia, he is well known as a religious figure whose legal opinions and religious advice are publicly expected. Questions directed to him, including on the issues of women's rights and obligations in religion, are not surprising. As a result, his responses to the issues constitute a form of responsibility as a religious intellect who is expected to take some roles in providing solutions for problems that take place within Muslim society.

Quraish Shihab's *fatwās* on the rights and obligations of Muslim women show some relevance to women's emancipation issue. He contributes to introducing a legal argumentation driven by his articulation of public interest, producing more nuanced legal opinions that correspond to women's emancipation voices. Shihab puts forward a contextual analysis of the Islamic religious texts while still maintaining the spirit of religiosity. This can be seen in his *fatwās* regarding the obligation of Muslim women to cover their bodies; Muslim women's clothing can be adapted to some proper cultural elements. Shihab does pay attention to aspects of prudence when coming up with his 'reformist' opinion

²⁵ *Ibid.*, 440.

²⁶ Ahmad Baidowi, *Tafsir Feminis: Kajian Perempuan Dalam Al-Q'uran Dan Para Mufassir Kontemporer* (Yogyakarta: Nuansa, 2005).

of female outfits (in the philosophy of Islamic jurisprudence known as *sadd al-dharāi'*, blocking the damages).

Regarding formulating *fatwā* methodology, Shihab views that the discussion of women's rights and obligations belongs to the domain of social ethics without compromising divine ethics. This can be seen when women's rights and obligations are analyzed by considering the significance of Muslim locality and public good. This means that a combination of local and cultural elements, in which contemporary Muslim society lives and which might be very different from the culture when the Qur'anic text was first revealed, and consideration of the public good, which is always dynamic, can produce *fatwās* with the greater opportunity to engage in women's emancipation issues.

In treating the aspect of locality, for example, Shihab views that the rule of *ṣālih li-kulli zamān wa makān* (relevance in all times and places) indeed cannot be sidelined in the methodology of Islamic law. Regarding the changing context of Muslim society, the primary texts of Islam can be understood and interpreted in a broader meaning where public interest constitutes an underlying principle. Furthermore, Shihab positions women in a very noble and honorable position according to their nature and character as equal partners of men in human life. As such, he orients Islamic law within the framework of realizing the public good and justice.

Defining the Private Part of Women's Body

First of all, we need to understand the concept of the private part of women's bodies (*'aura*) in Islam in order to comprehend contemporary issues that deal with Muslim women. Questions on *'aura* become even more critical because female *'aura* often become a public concern in many Muslim societies. The point is that the parameters of female *'aura* will define the criteria and standard of lawful dress that Muslim women should wear. Conceptually, Islamic law also regulates the parameters of outfits that cover *'aura*. In addition, the Islamic concept of *'aura* demands that Muslim women not be allowed to wear dresses that may show the shape of their bodies. It regulates that they should dress appropriately and modestly. The Islamic parameter of proper

dressing is the way of clothing that does not stimulate the other sex, and it must be clean.

Considering the development of sociocultural influences in Indonesia today, we may assume that foreign cultures can slowly erode or even eliminate the native culture of the country. This native culture is deeply rooted in Indonesian society, as seen in clothing styles, music, art, and others. Most of the clothes worn daily come from foreign cultures, ranging from pants, suits, ties, robes, headscarves, and others. Only a tiny part of the community still wears traditional clothes daily. In this regard, Shihab views that Islam does not concern the styles or models of clothing –be they Arab, Pakistani, American, British, and so on– as long as Muslims cover their 'aura. Muslims are forbidden to wear a dress only if it does not meet the parameters of lawful clothing in Islam.²⁷

Regarding the limits of female 'aura, Shihab views that there are no definite (*qat'i*) rules. This opinion is based on his understanding of the Qur'an, which only gives a general idea about what is meant by 'aura, but without giving any firm instruction regarding which part of women's body should be covered in public.²⁸ Shihab, therefore, views that wearing a headscarf is not obligatory for Muslim women. He thinks not to force Muslim women to wear a headscarf. He even views that coercing Muslim women into wearing a headscarf could go beyond God's provision.²⁹ Shihab derives his legal opinion on headscarves for Muslim women from his understanding of the Qur'anic chapter al-Ahzab (33):59,

يَا أَيُّهَا النَّبِيُّ قُلْ لِّلرِّوَاكِجِ وَبَنَاتِكَ وَنِسَاءِ الْمُؤْمِنِينَ يُدْنِينَ عَلَمَهُنَّ مِنْ جَلَابِيبِهِنَّ ۚ ذٰلِكَ اَدْنَىٰ اَنْ يُعْرَفْنَ فَلَا يُؤْذَيْنَ ۗ وَكَانَ اللّٰهُ عَفُوْرًا رَّحِيْمًا

O Prophet, tell your wives, your daughters, and the women of the believers to bring down over themselves [part] of their outer garments. That is more

²⁷ Muhammad Quraish Shihab, *Jilbab, Pakaian Wanita Muslimah*, (Jakarta: Lentera Hati, 2004), 32.

²⁸ Muhammad Quraish Shihab, *Tafsir Al-Misbah: Pesan, Kesan Dan Keserasian*, 326.

²⁹ Muhammad Quraish Shihab, *Pengantin Al-Qur'an, Kalung Permata Buah Anak-Anakku* (Jakarta: Lentera Hati, 2007).

suitable that they will be known and not be abused. And indeed, Allah is the Most Forgiving and Merciful.

Shihab's legal opinion is based on his analysis of the context of the revelation of the above verse. He views that some free Arab women used to wear clothes in a way that did not distinguish them from the enslaved people, because of which they became subjects of men's harassment. To avoid this inconvenience and protect Muslim women's honor, Q. 33:59 was revealed.³⁰ Elsewhere, Shihab rejects the opinion that requires women to cover their entire bodies, which is based on the assumption that the whole female body is seen as *'aura*. Shihab views this opinion as weak and does not consider the function of female clothing as adornment (*perhiasan*) and a symbol of beauty, as the Qur'an itself mentions.³¹

As for women's hair, Shihab's legal opinion is based on his understanding of Q. 24:31,³² which he views as indicating only an order to cover women's chests but does not indicate any command to cover their heads. Indeed, there is a reported saying attributed to the Prophet (*hadith*), which is often made a basis for the obligation of female head covering: "The prayer of a female adult (menstruating) will not be accepted except by wearing a headscarf" (narrated by Abu Dawud, al-Turmudi, Ibn Majah, and Ahmad). According to Shihab, this hadith discusses the obligation to wear a headscarf for women when they are willing to pray. In

³⁰ Muhammad Quraish Shihab, *Jilbab, Pakaian Wanita Muslimah*.

³¹ Muhammad Quraish Shihab, *Menjawab 1001 Soal Keislaman Yang Patut Anda Ketahui* (Jakarta: Lentera Hati, 2008).

³² Moreover, tell the believing women to reduce [some] of their vision and guard their private parts and not expose their adornment except that which [necessarily] appears and to wrap [a portion of] their headscarves over their chests and not expose their adornment except to their husbands, their fathers, their husbands' fathers, their sons, their husbands' sons, their brothers, their brothers' sons, their sisters' sons, the women in their possession, or those male attendants having no physical desire, or children who are not yet aware of the private aspects of women. And let them not stamp their feet to make known what they conceal of their adornment. Moreover, turn to Allah in repentance, all of you, O believers, that you might be successful.

this regard, he views the obligation as not applying to women outside of praying activities.³³

In Indonesia's Islamic religious life, the limits of female *'aura* often feature in public debates. This seems to lead Shihab, as an authority in religion, to respond to the question by providing a legal opinion. Shihab seems to situate his legal opinion on female *'aura* by considering Indonesia's cultural and social values. His legal standing on this issue can be understood from the perspective of a normative-idealistic pattern, which attempts to lay down some basic tenets for feminist theology by introducing some norms derived from the ideal Islamic teachings. The Qur'an and the prophetic tradition (*sunna*) constitute his main textual references when dealing with problems of Muslim life. Shihab puts the Qur'an as the most important source in the hierarchy of Islamic textual sources. The normative-idealistic approach provides an exegete with the normative ideal when investigating social and religious problems.³⁴ This approach in Muhammad Quraish Shihab's legal reasoning provides an ethical judgment when addressing the ethics of Muslim women's clothing, where local customs are highly respected because the Qur'an provided rules based on the social conditions at that time.

Based on our analysis of Shihab's position on the issue above, he considers female *'aura* as conditional, local, and temporal. In this regard, Shihab opens the door for a fresh articulation of Islamic law according to the principles of locality and common good (*maṣlahah*). Shihab also employs the principle of gender equality in formulating legal opinions based on liberation and justice for women. This means that women are no longer put in unfavorable positions. Shihab's legal reasoning is a breakthrough in the methodology of interpreting ambiguous verses (*mutashābihāt*), whose meaning cannot be concluded with certainty but has to be derived through a creative analogy, just like the difference regarding the position of women during the Prophet's time and our time. Therefore, Shihab issues a *fatwā* that does not

³³ Muhammad Quraish Shihab, *Membumikan Al-Qur'an, Fungsi Dan Peran Wahyu Dalam Kehidupan Masyarakat* (Bandung: PT Mizan Pustaka, 1992).

³⁴ *Ibid.*

put the burden on women. He views women as God's creatures who should not be seen as merely objects but as subjects who deserve protection and justice. Shihab's *fatwā*, therefore, is in line with a progressive trend of Islamic law in modern times, where the values of justice and *maṣlaḥa* are highly considered and must be realized. Because most *fatwās* on women tend to keep them in traditional values, Shihab features himself as a Muslim scholar who can provide solutions to the contemporary problems of Islamic law.

In addition to *maṣlaḥa*-based *fatwās*, Shihab introduces legal opinions that correspond to the real conditions of Muslim society. This means that Shihab brings together the text, the objectives of the *sharī'a* (*maqāṣid sharī'ah*), and social reality. He considers that a *fatwā* should be able to accommodate various problems and find a solution. Therefore, Shihab idealizes that a *fatwā* should be based on integrating texts through which God's purposes are understood and the conditions and reality of Muslim society.

On Man and Woman Relation

For Shihab, the difference between men and women is a natural fact. Both man and woman are created in a certain measure with their own distinctive (biological) nature as acknowledged by the Qur'an itself, Q. 54:49: "Indeed, all things We created with measure (*qadar*)". Shihab interprets *qadar* as a system and a measure that ties them as creatures predestined by God.³⁵ Since man and woman are created with differences, Shihab views, God accordingly gives each of them certain privileges, which are not possessed by the other as indicated in Q. 4:32:

وَلَا تَتَمَنَّوْا مَا فَضَّلَ اللَّهُ بِهِ بَعْضَكُمْ عَلَىٰ بَعْضٍ ۗ لِلرِّجَالِ نَصِيبٌ مِّمَّا كَتَبْنَا لَهُ وَاللِّسَاءِ نَصِيبٌ مِّمَّا كَتَبْنَا لَهُ ۗ وَأَسْأَلُوا اللَّهَ مِنْ فَضْلِهِ ۗ إِنَّ اللَّهَ كَانَ بِكُلِّ شَيْءٍ عَلِيمًا

Moreover, do not crave what Allah has given some of you over others. Men are rewarded according to their deeds, and women are awarded according to theirs. Moreover, ask Allah for His bounties. Surely Allah knows all things.

³⁵ Muhammad Quraish Shihab, *Tafsir Al-Misbah: Pesan, Kesan Dan Keserasian*, 265.

Based on this verse, Shihab acknowledges that the differences between men and women raise some debates on the functions and privileges of each. Men and women differ in terms of their functions and tasks, though in religion, both deserve the same rights for every obligation they have fulfilled. Shihab views that both men and women are given the same intelligence and the ability to think.³⁶ Thus, he introduces a *fatwā* that emphasizes the equality between man and woman. Like men, women can think, learn, and conduct actions based on their reflection of God and understanding of the universe.³⁷ The Qur'an mentions that God praises *ulū al-albāb* (people endowed with insight) who can contemplate events on earth and uncover the universe's secrets. In this regard, *ulū al-albāb* can be man and woman because the Qur'an mentions some of their characteristics in Q. 3:195:

فَاسْتَجَابَ لَهُمْ رَبُّهُمْ أَنِّي لَا أُضِيعُ عَمَلَ عَامِلٍ مِّنْكُمْ مِّنْ ذَكَرٍ أَوْ أُنْثَىٰ ۖ بَعْضُكُمْ مِّنْ
بَعْضٍ ۖ فَالَّذِينَ هَاجَرُوا وَأُخْرِجُوا مِنْ دِيَارِهِمْ وَأُوذُوا فِي سَبِيلِي وَقَاتَلُوا وَقُتِلُوا
لَأُكَفِّرَنَّ عَنْهُمْ سَيِّئَاتِهِمْ وَلَأُدْخِلَنَّهُمْ جَنَّاتٍ تَجْرِي مِنْ تَحْتِهَا الْأَنْهَارُ نَوَابًا مِّنْ عِنْدِ اللَّهِ
وَاللَّهُ عِنْدَهُ حُسْنُ الثَّوَابِ

Moreover, their Lord responded, "Never will I allow to dissipate the work of [any] worker among you, whether male or female; you are of one another. So those who emigrated or were evicted from their homes or were harmed in My cause or fought or were killed - I will surely remove from them their misdeeds, and I will surely admit them to gardens beneath which rivers flow as reward from Allah, and Allah has with Him the best reward."

However, Shihab has a different legal opinion regarding the distribution of inheritance between men and women. He views both men and women as having different inheritance rights and does not advocate equal distribution of wealth. His position is based on his conviction that the Qur'anic textual redaction regarding the issue of inheritance belongs to the category of *muhkamāt* (verses with definite indication). Nevertheless, Shihab underlines that the main issue is not in the equal distribution of inheritance but in the aspect of justice contained in the verse on

³⁶ Muhammad Quraish Shihab, *Menjawab 1001 Soal Keislaman Yang Patut Anda Ketahui*, 397.

³⁷ *Ibid.*

inheritance,³⁸ which is closely related to the obligation of each member of the family.

According to Quraish Shihab, equality between man and woman in terms of nations, tribes, and descent, constitutes one of the main teachings of Islam. The Qur'an (49:13) says:

يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنْثَىٰ وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ لِتَعَارَفُوا ۗ إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَتْقَاكُمْ ۗ إِنَّ اللَّهَ عَلِيمٌ خَبِيرٌ

O humanity, indeed, We have created you from male and female and made you peoples and tribes so you can know one another. Indeed, the most noble of you in the sight of Allah is the most righteous of you. Indeed, Allah is Knowing and Aware.

Shihab employs the verse above as a basis for a *fatwā*, which suggests that men and women do not have substantial differences in many aspects, such as they share the same rights and responsibilities. According to him, the Qur'an cannot be understood partially. Instead, it must be understood comprehensively to get into the idea about the fundamental Islamic teachings, especially on the issue of equality between men and women. The idea of just relations between man and woman is based on respecting each other's rights as human beings and God's vicegerents on earth. The next step after the idealistic-normative approach is to use a historical-empirical approach. Through this approach, in his *fatwās*, Shihab tries to see how Muslim women in Indonesian society are understood empirically and historically, not merely dictated by a narrow textual understanding of the Scripture.³⁹

The next aspect that needs to be discussed is Shihab's methods of issuing *fatwās* on the relations between women and men. He employs the *maqāsid shari'ah* principle (the *shari'a's* purposes), particularly regarding protecting women's dignity. Applying this principle, Shihab proposes a relationship between men and women based on the principles of equality and justice. As such, he

³⁸ Muhammad Quraish Shihab, *Menjawab 1001 Soal Keislaman Yang Patut Anda Ketahui*, 335.

³⁹ Yunahar Ilyas, *Kesetaraan Gender Dalam Al-Quran: Studi Pemikiran Para Mufassir* (Yogyakarta: Labda Press, 2006), 37.

introduces a reformed paradigm of legal opinion where human dignity is highly valued. This means that his *fatwās* have an orientation towards the formation of an equality-based society. The emancipation process here is the output of his *fatwās*, which are oriented toward putting the rights and obligations of man and woman in a balanced manner.

Muslim Women's Public Roles

In Islam, it is believed that God created man and woman with particular privileges, functions, and obligations. Therefore, religion should not be used to side with one gender. The question of man-woman relation is closely related to a Qur'anic verse, which mentions that a man (husband) is a *qawwām* (leader or man in charge) of a woman (his wife) because Allah has already determined that man's leadership is linked with a consideration that he must provide a livelihood for his family. The majority of Muslim scholars understand the word *al-rijāl* as husbands. However, Shihab explains that the word does not simply mean men in a general sense but should be understood with an emphasis on what is mentioned in the next verse, "men (husbands) who spend part of their wealth for their wives."⁴⁰

As part of society, a woman becomes a man's partner to prosper the earth and realize social empowerment. There are no clear textual indications in Islam, be they in the Qur'an or *hadith*, that explicitly prohibit women from conducting activities in public spaces. Islam has set rules related to this: "In social affairs, everything is permissible as long as there is no clear textual prohibition, while (pure) worship matters, everything is prohibited as long as there is no clear textual guidance."⁴¹ Furthermore, in response to various thoughts of classical Muslim scholars on the prohibition of women from engaging in public activities, Shihab views that this opinion must be understood as a kind of punishment for women. This is based on Q. 4:15:

⁴⁰ Muhammad Quraish Shihab, *Wawasan Al-Qur'an: Tafsir Tematik Atas Berbagai Persoalan Umat* (Bandung: Mizan, 2002).

⁴¹ Afrizal Nur, "M. Quraish Shihab Dan Rasionalisasi Tafsir," *Jurnal Ushuluddin* XVIII, no. 1 (2012).

وَاللَّاتِي يَأْتِينَ الْفَاحِشَةَ مِنْ نِسَائِكُمْ فَأَسْتَشْهِدُوا عَلَيْهِنَّ أَرْبَعَةٌ مِنْكُمْ فَإِنْ شَهِدُوا
فَأَمْسِكُوهُنَّ فِي الْبُيُوتِ حَتَّى يَتَوَفَّاهُنَّ الْمَوْتُ أَوْ يَجْعَلَ اللَّهُ لَهُنَّ سَبِيلًا

Those among your women who commit immorality, bring against them four [witnesses] from among you. Moreover, if they testify, confine them in the houses until death takes them or Allah ordains for them [another] way.

Shihab understands the verse above as a basis for his *fatwās*, which explains that God determines punishment for women who commit adultery by staying in their homes and not being allowed to go out at all until they die or find another way out, namely that those women find husbands. According to him, the view that prohibits women from doing public activities cannot be maintained. Rejecting women from public roles that might benefit the community means that at least half of the community's potential has been wasted.⁴²

Muslim scholars have widely used Quraish Shihab's methods of legal reasoning, but he modifies their application differently, situating them to address contemporary issues and realizing contemporary Muslim public interests. In response to contemporary discourse on gender equality, he has provided a theological basis that facilitates Muslim women to carry out public roles. His position may be in contrast to the dominant opinion among Muslim scholars, especially in pre-modern times, which viewed women as unfit to take public roles. Providing a theological basis for women's public roles, Shihab might indirectly contribute to changing women's culture and religious articulation, backed by many Muslim circles. Moreover, women in modern times live in different conditions where they have to be involved in the working world to meet their families daily needs. This situation requires them —mainly those economically unsupported by their husbands— to conduct activities outside their homes.

Regarding women's roles in public spaces, Shihab seemingly aims to answer various challenges Muslim women face today. He does not intend to equate men and women fully. This view is socially and culturally constructed and, in this regard, related to

⁴² Muhammad Quraish Shihab, *Logika Agama: Logika Wahyu & Batas-Batas Akal Dalam Islam* (Jakarta: Lentera Hati, 2005).

Indonesian people's social and cultural contexts.⁴³ It means that although men and women are equal in their positions as servants of God, their social roles and functions may not always be the same. Yet, the differences in their roles and functions are, in fact, complementary. Both are equal partners who complement each other to create a harmonious system and can establish good-faith relationships.

Shihab's *fatwā* regarding women's public roles is a form of response to conditions that indirectly cannot be answered by the texts. This means that in certain conditions that may be unpredictable in advance, a creative understanding of Islam's primary texts needs special attention. For example, when a man encounters a condition where he cannot perform his role as a man in a patriarchal system, a woman must appear to represent him. Shihab's legal opinion is a form of *fatwā*, which is neglected in most classical literature of Islamic law. In such a way, Shihab addresses the issue of women's emancipation in his *fatwās*, which are formulated through a comprehensive understanding of the texts to provide solutions and religious guidance to Muslims. This means that Quraish Shihab's methods of legal reasoning still work within the traditional concepts of Islamic jurisprudence but with an emphasis on solution-based *fatwās*, consideration of public interest, and *sad al-dharī'a* (blocking evil things).

Women's public roles today are of necessity. For example, in the processes of policymaking on the protection of children and women, the role of women is very much needed to provide psychological assistance as well as distinct perspectives from the affected subjects. In addition, Muslim women in Indonesia are increasingly involved in many state institutions following recent developments where more and more women receive higher education and enjoy more equal opportunities. In this regard, Quraish Shihab's *fatwās* should be read in correspondence to the discourse of women's emancipation and are situated toward giving a theological basis and solution. Such *fatwās* seem to become a common trend among reform-minded scholars, such as

⁴³ Muhammad Quraish Shihab, "Pemikiran Gender Quraish Shihab Dalam Tafsir Al-Misbah," *Manthiq* 1, no. 1 (2016): 33.

Jasser Auda, who call for new approaches to formulate solution-based *fatwās*.⁴⁴

Conclusion

As long as Shihab's *fatwās* and his interpretation of the Qur'anic verses that deal with women's issues are concerned, it is clear that women are positioned in an equal position to men. Shihab's approaches to producing legal opinions seem to be greatly influenced by the sociocultural conditions of the Indonesian people. His legal opinions emphasize that women are not objects to be targeted, oppressed, demeaned, exiled, and deprived of their rights. Rather, women should enjoy the same respect and privilege as men so that there is no hegemony enjoyed by one gender but suppressing the other. His *fatwās* clearly contest discrimination against women and give all the freedom for women to participate in public affairs. Therefore, Shihab has introduced *fatwās* that can become a model of *fatwā* production driven by the spirit of religious renewal.

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⁴⁴ Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach* (London: the International Institut of Islamic Thought, 2007).

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