

## GENDER IN ISLAMIC INHERITANCE

### A Study on Muḥammad Sa‘īd Ramaḍān Al-Būṭī and his Thoughts

Rahmatullah

UIN Sunan Kalijaga, Yogyakarta, Indonesia  
rahmatullah2508@gmail.com

#### Abstract

*This article examines a debate on gender equality, which is considered by some to be in conflict with the Qur'an, an-Nisa [4]:11. Using a philosophical approach and analyzing Sa‘īd Ramaḍān al-Būṭī's concept of inheritance in his Al-Mar'ah Bayna Ṭughyān al-Niẓām al-Gharbī wa Laṭā'if al-Tashrī' al-Rabbānī, this paper tries to refute this allegation and offers a more gender-friendly interpretation. For al-Būṭī, the verse has actually liberated women because the provisions are caused by the responsibilities imposed by Islam on men as prospective husbands, not on women. On the contrary, if women are more empowered than men, that becomes a moral issue, not a shari' a one. Women have been given freedom by the shari' a in order to determine their choice to participate in bringing about stability in life. A condition that women are more empowered than men will not be the cause of changes in the shari' a's provisions concerning inheritance.*

*[Artikel ini berangkat dari perdebatan tentang kesetaraan gender yang dianggap oleh sebagian kelompok bertentangan dengan Q.S. An-Nisa [4]: 11. Dengan pendekatan filosofis dan mengacu pada konsep kewarisan Sa‘īd Ramaḍān al-Būṭī dalam kitab al-Mar'ah Baynā Ṭughyān al-Niẓām al-Gharbī wa Laṭā'if al-Tashrī' al-Rabbānī, artikel ini coba membantah tuduhan tersebut dan menawarkan tafsir yang lebih ramah gender. Bagi al-*

*Būī* ayat tersebut sejatinya telah memerdekan kaum perempuan karena ketentuannya disebabkan tanggung jawab yang dibebankan oleh Islam kepada laki-laki selaku calon suami dan tidak dialami oleh perempuan. Sebaliknya, jika perempuan yang berdaya daripada laki-laki, maka itu merupakan tanggung jawab moral, bukan tanggung jawab syariat. Sehingga perempuan telah diberikan kebebasan oleh syariat dalam rangka menentukan pilihan untuk berpartisipasi dalam mewujudkan stabilitas kehidupan, terlepas dari adanya suatu kondisi perempuan lebih berdaya daripada laki-laki itu tidak akan menjadi penyebab atas berubahnya ketentuan syariat Islam menyangkut kewarisan.]

**Keywords:** *Sa'id Ramadhan al-Būī, Gender, Inheritance*

## **Introduction**

Inheritance, which constitutes an Islamic legal doctrine, is one of the many aspects discussed in the Qur'an, and becomes central to Muslim knowledge. Besides, as Fada Abdur Razak al-Qashir explains, another reason, which makes inheritance an important doctrine in Islam, is because of its position within the dynamic relationship of Muslim families.<sup>1</sup> The importance of inheritance science can be explained from what has been noted by Khisni that inherited property often triggers conflicts among family members. In this regard, knowledge about everything associated with inheritance becomes very crucial.<sup>2</sup>

However, as explained by Suryani, the problem lies in the inheritance issues is that the Islamic doctrine that seems to discriminate women at the first glance, and therefore features inequality and creates

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<sup>1</sup> The reason is because: *First*, the principal of inheritance can strengthen the relation of each individual that exists in a family. *Second*, it can help preventing the excessive financial production. *Third*, inheritance can make somebody enthusiastic on working because there is an awareness that there will be family who will inherit their wealth. *Fourth*, inheritance that has been regulated by shari'a at least can prevent the revenge feeling or hatred to the related parties. Lihat Fada Abdur Razak al-Qashir, *Wanita Muslimah: Antara Syari'at Islam dan Budaya Barat*, (Yogyakarta: Darussalam, 2004), p. 89-90.

<sup>2</sup> A. Khisni, *Hukum Waris Islam* (Semarang: Unissula Press, 2011), p. iv.

injustice in the division of inherited property between men and women.<sup>3</sup> This issue leads those who do not show sympathy to Islam to accuse that Islam indeed maintains inequality in inheritance, while at the same time it claims to promote justice. As al-Qashir mentions, some have said; “how can this reality be accepted that Islam declared that it has given equality between men and women, meanwhile in inheritance case, women only get a half of men’s part?”<sup>4</sup> This accusation at least has ignited the Islamic intellectuals to respond, one of whom is Muḥammad Saʿīd Ramaḍān al-Būfī in his book *Al-Mar’ah Bayna Ṭughyān al-Niẓām al-Gharbī wa Laṭā’if al-Tashrī’ al-Rabbānī*.

Several studies have dealt with the works of al-Būfī: Mukit focuses on al-Būfī’s theology of education;<sup>5</sup> Hakim discusses his thoughts on Islamic *dakwah*;<sup>6</sup> Intizam examines al-Būfī’s contribution to the stipulation of Islamic law;<sup>7</sup> and Solikhuddin observes al-Būfī’s thoughts on *maṣlahah* (public interest) and its limitation.<sup>8</sup> Taking a different focus from the previous studies, this article observes al-Būfī’s *al-Mar’ah Bayna Ṭughyān al-Niẓām al-Gharbī wa Laṭā’if al-Tashrī’ al-Rabbānī* to highlight his thought on Islamic inheritance, which is still unnoticed from broad discussions in Islamic studies.

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<sup>3</sup> Suryati, *Hukum Waris Islam* (Yogyakarta: ANDI, 2017), p. 2.

<sup>4</sup> Fada Abdur Razak al-Qashir, *Wanita Muslimah: Antara Syari’at Islam dan Budaya Barat*, h. 91. Bandingkan dengan Abdurrahman Al-Baghdadi, *Emansipasi Adakab dalam Islam: Suatu Tinjauan Syariat Islam Tentang Kehidupan Wanita*, trans. Muhammad Ustman Hatim (Jakarta: Gema Insani Press, 1998), p. 47.

<sup>5</sup> Abdul Mukit, “Pendidikan Akidah: Telaah Pemikiran Muhammad Said Ramdhan Al-Būfī,” *Tawazun: Jurnal Pendidikan Islam*, Vol. 8, No. 1, 2015, p. 1–26.

<sup>6</sup> Nanik Mujiati Lukman Hakim, “Pemikiran al-Būfī tentang Problematika Dakwah,” *Jurnal Mediakita : Jurnal Komunikasi dan Penyiaran Islam*, Vol. 3, No. 1, 2019.

<sup>7</sup> Ikhsan Intizam, “Sumbangan Pemikiran Said Ramadhan Al-Būfī tentang Konsep Maslahat dalam Penetapan Hukum Islam,” *Jurnal Didaktika Islamika*, Vol. 6, No. 2, 2015.

<sup>8</sup> Muhammad Solikhuddin, “Pemikiran Muhammad Said Ramadan Al-Buti tentang Maslahah dan Batasan-Batasannya,” *Mabakim: Journal of Islamic Family Law*, Vol. 3, No. 1, 2019. In this case he also proposes clear boundaries about *maṣlahah* aligned with the *shari’a Islamiyyah*. *Maṣlahah* was a pleasure, therefore, all things are dangerous must be avoided. Requirements proposed al-Būfī, started the benefit included on *syari’i* goal embodied in Islam universal basic principles five, not contrary with the al Qur’an

This article focuses on two discussions: (1) What does al-Būṭī's say about Islamic inheritance in his book *al-Mar'ah Bayna Tuḡhyān al-Niẓām al-Gharbī wa Laṭā'if al-Tashrī' al-Rabbānī?*; and (2) what is the implication of his thought in responding gender issues. This study is based on the assumption that the al-Būṭī's thought on inheritance is closely related to his purpose in defending Islam from the attacks of those deemed to be the enemies of Islam.

### **A Biography of Muḥammad Sa'īd Ramaḍān al-Būṭī**

Shaykh Muḥammad Sa'īd Ramaḍān al-Būṭī ibn Mullā Ramaḍān ibn Umar al-Būṭī was born in Buthan (Turkey) in 1929 M/ 1374 H and passed away in 84 years old, or exactly on March 21, 2013 M/ 9 Jumadil Awal 1434 H. Little al-Būṭī was raised in a religious family. His father, Shaykh Mullā Ramaḍān, was a famous cleric in Turkey. After the coup by Musthafa Kemal at-Tatrük and the secularization in Turkey, al-Būṭī was brought by his father to Syria.

Al-Būṭī started learning Islamic religious disciplines such as Islamic theology, the history of the Prophet Muhammad and Arabic from his father. In his childhood, al-Būṭī was known as a smart child. It was proven with his ability in memorizing *Alfiyya* of Ibn Mālik and *Naẓam al-Ghāya wa al-Taqrīb* of al-Imrīṭī at his 4 years old. He memorized them within less than one year. He memorized the Qur'an at 6, and acted as a preacher (*ḵbaṭīb*) before his 17.<sup>9</sup> Besides his father, al-Būṭī learned Islam from *Mabad at-Tanjīb al-Islāmī* in Damaskus under the supervision of Shaykh Ḥasan Habannakah, and finished his study there in 1953.

For al-Būṭī, his father and Shaykh Ḥasan Habannakah were the most influential teachers in his life. This can be seen from how he showed high respect to both figures, especially his father. Aḥmad Bassām, Rector of Ladzkiyah University, witnessed that al-Būṭī was very obedient to

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<sup>9</sup> Muhammad Sa'īd Ramadhan al-Būṭī, *Fatwa-fatwa Kemasyarakatan Syeikh Said Ramadhan al-Būṭī*, trans. Muhammad Najih Arromadloni (Yogyakarta: Adisso Publishing, 2018), p. 181.

his father; when his father did not allow him to do something, al-Būfī immediately obeyed him without arguing. When al-Būfī was 40 years old, he was appointed as a dean at Damaskus University. Al-Būfī was a favourite pupil of Shaykh Ḥasan Habannakah; he tried to emulate the characters of his teacher especially when dealing with the government.

In 1954, al-Būfī continued his study at al-Azhar University in Cairo, from which he obtained bachelor degree (Lc.) in Islamic law. He continued his education in Arabic Faculty, and then obtained a doctoral degree in 1965 with a thesis entitled “*Ḍawābiṭ al-Maṣlaḥa fi al-Sharḥ a al-Islāmiyya*” with *Summa Cum Laude* (*Mumtāz ma’ a Martabat al-Sharaf al-’Ulā*) with recommendation of publishing his thesis at al-Azhar’s cost. Al-Būfī was a diligent student during his studies at al-Azhar. He actively wrote literary articles, and was involved in some social activities. His articles were published in “Al-Ayyam” newspaper.

As a Sunni cleric and a leader of the Association of Syrian Scholars, al-Būfī was active in responding and criticizing ‘deviant’ religious thoughts and practices by Muslims in his various papers. Al-Būfī also taught Islam in both formal and non-formal institutions, such at Damaskus University, and mosques. He actively participated in various international scientific forums. He was actively involved in several institutions, such as a member at the Royal Research Institute of Islamic Culture in Jordan, at the High Council of Advisors to the Thabah Foundation Abu Dhabi, and at the High Council of Senate of Oxford University in England.<sup>10</sup>

Al-Būfī plays was also concerned with the national issues of his country. He maintained some relationship with the state authority with the purpose to encourage the government to command right and to forbid wrong. Al-Būfī’s relationship with the government began in 1985 when he had frequent meetings with Hafiz al-Assad, President of Syria at the time. The president enjoyed reading some of al-Būfī’s books. Al-Būfī’s relationship with the government had some positive impacts. This

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<sup>10</sup> *Ibid*, p. 182-184.

can be seen from the government's respect to al-Būfī; the government would be eager to listen to and implement what al-Būfī suggested. On his advice, the government freed Islamist activists from the state detention, improved Islamic education curriculum, and became active in supporting the struggle of Palestinians for their freedom from Israel.<sup>11</sup>

**On *Al-Mar'ab Bayna Ṭughyān al-Niẓām al-Gharbī wa Laṭā'if al-Tashrī' al-Rabbānī***

The writing background of the book *Al-Mar'ab Bayna Ṭughyān al-Niẓām al-Gharbī wa Laṭā'if al-Tashrī' al-Rabbānī* can be seen from its introduction where al-Būfī raised an issue that the question of Islamic inheritance is an old one, but it became one of the most debated issues in modern times where human equality was openly aspired. There appeared voices to rethink Islamic religious traditions, especially ones that touch upon the position of women in Muslim societies.

The opinions of classical and modern Muslim scholars on women affairs are beyond the discussion in this article. This article talks about a condition when Western powers failed to rule over Islam. That failure was caused by the underdevelopment of Western civilization while Islamic civilization prevailed at that time. In the following centuries, the West was occupied to manage its fate and created a new kind of civilization. Islamic civilization seemed to awaken the West and made them realize that there was something that can be taken from Islamic civilization to develop Western civilization. Therefore, starting from that awareness, the West came up with the plans to demolish, destroy, or ruin Islam and its civilization with so many ways.

Al-Būfī explained that one of the ways which was planned and taken by the West in order to destroy Islam is targeting the education realm. The West viewed that education was an effective medium to realize their plans by targeting institutions and women as the main objects. The

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<sup>11</sup> *Ibid*, p. 186-188.

reason is because they realize that educational institutions and women were the main sources of Islam in producing qualified generations in order to establish advanced civilization. In this regard, targeting Islamic educational institutions and especially women could be their way for distributing and applying Western education system in order to change Islamic educational system.

The method used by the Western powers is that they made propaganda that Islam and its *shari'a* were hostile to women. In other words, Islam does not treat them fairly and humanely; it does not give proper attention to their rights. This way at least can poison the mind and the soul of women, so that they are afraid of Islam and its *shari'a*. After proposing this matter, the West appeared by introducing its system as an alternative and solution for the fate of women in the Muslim world by boosting the idea of women emancipation. This method seems to be effective; Muslim women started experiencing 'personality degradation'.

Muslim women started suing Islam and its *shari'a* openly. Thus, it can be said that the West succeeded in making Muslim women as their representatives for propagating or campaigning the Western thoughts and values. The condition was even getting worse because Muslim women found from emancipated Western women a perfect support. Besides, some publication on women emancipation mushroomed and showed the ambiguities or paradoxes in Islam in a more convincing way. It led some Muslim women to think that anything proposed by the West is true. Now ideas of emancipation which are born from a Western 'hidden agenda' have enchanted many Muslims and make them dare to criticize and to act against anything Islamic and practices endorsed by the *shari'a*.

The above perspective was a reason for al-Būṭī to write this book. He expressed that the book gives explanation about the true position of women in Islam and their rights. It is also accompanied with a discussion which leads to women deliverance. The main idea of this book lies in its discussion on women's position in Islam as a response to the claim that

Islam does not give attention to the women, and ignores their human rights. The way al-Būfī discusses the topic in this book does not show any prejudice or emotional expression related to the defense of Western accusation. The topic in this book is explained with clear mind and dan peaceful soul.<sup>12</sup> Therefore, it can be said that this book criticizes argumentatively the Western misinterpretation of Islam, and therefore gives an alternative understanding about inheritance in Islam as well.

The book *al-Mar'ab Bayna Ṭughyān al-Niẓām al-Gharbī wa Laṭā'if al-Tashrī' al-Rabbānī* consists of 1 volume with 240 pages in total, and is written in Arabic. It consists of four chapters, the details of which are explained as follows. The first chapter contains the main discussion about the sources of women rights and obligations in Islam and Western society, with sub chapters; introduction, the sources of women rights and obligations in Islam, and the sources of women rights and obligations in Western culture. This part is obviously interesting as al-Būfī firstly classified the division of rights and obligations between those two strongholds, before entering further discussions.

The second chapter is about women's position in Islam, with sub chapters that consist of introduction, women and dan life rights, women and ownership rights, women's rights in independency, which include independency in working and independency in politics as the head of state, a member of the Shura council, and a member of women's political association. Then, this chapter is closed with the discussion about women and social rights including; women's prayer together with men in mosque, scientific and educational activities, their involvement in many meetings, and production fields.

The third chapter contains an extensive discussion on differences and equality between men and women, which cover the issues of leadership, and heritage, public positions and their positions before

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<sup>12</sup> Muhammad Sa'id Ramadhan al-Būfī, *Al-Mar'ab Bayna Ṭughyān al-Niẓām al-Gharbī wa Laṭā'if al-Tashrī' al-Rabbānī* (Damaskus: Dar al-Fikr, 1996), p. 11-15.

the law. It deals with the issue of *nushuẓ* (disobedience): its forms and problems, equality and consequences, and conflicting solution in beating issue. The next discusses polygamy, which consists of benefit and priority scale, Western values and polygamy, conditions for polygamy, and polyandri. The divorce issue is also discussed in relation to dowry, the divorce provisions in Islam, alternative solution, the essence of dowry, marriage eternity, and divorce problems. The next is about witness and *hijab*/female veiling. The discussion of this chapter is closed with the explanation of hadits concerning gender discrimination.

The fourth chapter discusses women and the rest of *jahiliyya* traditions. It deals with how the *jahiliyya* traditions viewed women, heritage and dowry, problems in polygamy, discrimination in gift and giving, and the exploitation of women's wealth. The book is closed with a discussion on the regime system and the *shari'a* system.

If it is looked carefully, it can be said that *al-Mar'ah bayna Ṭuḡhyān al-Niẓām al-Gharbī wa Laṭā'if al-Tasbrī' al-Rabbānī* discusses comprehensively women issues and Islamic *shari'a*. The book deals with contemporary issues closely related to women. Besides, the book also elucidates Western and Islam perspectives on women matters. This book is a response to Western denigrating views on Islamic treatments of women.

Discussing the topic, al-Būṭī refers to the Qur'an, the tradition of the Prophet Muhammad as mentioned in the *Kutub al-Sittah*, *Tafsir Ibnu Katsir*, Khatib asy-Syarbini's *Mughni al-Muhtaj*, Ibnu Hajar al-Asqalani's *Fathul Bari*, and other sources. It can be said that the book does not refer to many sources. However, it does not mean that the contents of this book become highly questioned. The book expresses the author's original intellectual contribution. It is therefore still considered as a qualified book whose explanations can be accounted for, not to mention that the author himself is a high-level Muslim scholar and an important authority in the Muslim world.

### **Inheritance in *al-Mar'ah Bayna Ṭughyān al-Nizām al-Gharbī wa Laṭā'if al-Tashrī' al-Rabbānī***

Al-Būṭī discusses inheritance by highlighting “gender equality”, which is one of the issues related to inheritance. Western activists are very enthusiastic in campaigning the idea of the gender equality in the Muslim world, for they assume that Islamic *shari'a* has suppressed women, as shown in inequality in Islamic inheritance. The West campaigns the idea of gender equality as an effort to actualize women emancipation againsts the ‘crime’ of Islamic *shari'a*. This idea actually can be understood as a Western effort to attack Islamic *shari'a* so that Muslims will doubt the *shari'a* and try to seek for an alternative offered by the West.

Al-Būṭī elucidates Islamic inheritance by focusing on an-Nisa [4]: 11. The reason is that the verse is used by Western activists to legitimize their accusations on Islam. Al-Būṭī starts his explanation as follows. One of the issues that often become a strategic arena to attack Islam is Islamic inheritance. This issue is often addressed by Western activists in their discussions on “gender equality”. The issue is based on what is found in the Quran (an-Nisa [4]: 11) which affirms that the share of man in inheritance is equal to the share of two women.

Al-Būṭī views that this verse often becomes justification to accuse that Islam discriminates women in the inheritance issue. Western polemicists are questioning why man gets double from woman? If Islam claims to introduce equality between men and women, why does its *shari'a* say otherwise? For al-Būṭī, that kind of accusation is full of subjectivity, far from being argumentative; it appears from shallow knowledge, and skeptical attitude in viewing Islam.<sup>13</sup>

Furthermore, al-Būṭī views that Western accusation of Islam being unfair to women is a stupidity or a big mistake. The Western polemicists and those who share the same thought often expose this matter in order to deligitimate Islam. Many of them assume that the verse binds the

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<sup>13</sup> *Ibid*, p.106.

shares of men and women in inheritance universally. In other words, the exact division of inheritance in that verse is applied for every issue, situation, condition, and context. In fact, the verse talks about the share of children in inheritance left by their deceased parents. An-Nisa [4]: 11 regulates the distribution of inheritance between men and women in different divisions; male heirs get a double of the share of female heirs. Meanwhile, other verses seem to suggest equal division between men and women.<sup>14</sup>

To clarify and strengthen his argument, al-Būḩī then gives some examples based on his explanation of other inheritance verses. From his explanation, we may conclude that the explicit division of inheritance in an-Nisa [4]: 11 is not a universal provision which has to be applied at all different cases. An-Nisa [4]: 11 is only applicable for the inheritance of a child who is left behind by one of his (her) parents. This indication becomes clear if the verse is understood thoroughly.

If someone passed away and left some children behind, the inherited property is to be shared among the heirs where the children take all the residuaries (*‘ashabah*). In the case of *‘asaba* the son gets double of the share of the daughter. The reason is because the son holds more responsibilities when he has grown up; he becomes the head of household in his family. The son is also demanded to provide dowry when going to get married. All these responsibilities, al-Būḩī contends, are not borne by the daughter. In this regard, it is very fair if the male heirs get more share than the female.<sup>15</sup> Vice versa, if someone passed away and left both of his/her parents behind, both of the parents shared the same position in sustenance acquisition from their child when he/she was alive. However, this will be applicable if that child belongs to capable person, and his/her parents have been in a condition where they cannot work anymore. From that matter, it is fair if both parents also obtain the same share

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<sup>14</sup> *Ibid*, p.106-107.

<sup>15</sup> *Ibid*, p. 108.

of inheritance. Besides, that condition is also applicable when someone passed away and left a brother and a sister from the same mother, while at the same time there is no other heirs closer than they both—such as children or siblings. In this condition, they both also obtain their shares of inheritance. However, this discussion does not mention the difference between men and woman because they both did not get a demand to support the deceased when he/she was still alive.

Based on the explanation above, it seems obvious for al-Būfī that gender difference is not the main reason behind the differences in inheritance rights. If gender difference causes differentiation in inheritance, the share that male heirs obtain will be multiplied from that of women. The inheritance provision is determined in relation to the responsibilities borne upon the heirs and their relationship with the testator. If the male heirs have closer relationship with the testator, they will get more shares than the female. If the female heirs have closer relationship and their responsibilities are higher than those of existing male heirs, the law will dictate otherwise. The examples that have been mentioned above at least have strengthened this issue.<sup>16</sup>

In the issue of inheritance, an important question often raised is “does the Islamic law on inheritance changes if women is empowered?” This question is often raised in relation to the concept of division 2:1 between male and female heirs. Such a division is considered unfair in modern times when Muslim life has contrastingly changed, and Muslim women have become increasingly empowered. In this condition, many have questioned that the provision of division 2:1 in inheritance sharing between men and women should be no longer relevant in the present era.

Responding the question above, al-Būfī gives an explanation that in this problem Allah has given the difference between moral responsibility and *shari'a* compliance responsibility. *First*, as for moral responsibility, Allah provides the same opportunity for women to be able to participate

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<sup>16</sup> *Ibid*, p. 109.

together with men in carrying responsibility in economic fields. Based on the perspective of moral demands, women are also called to participate in alleviating economic burden that their husbands bear, such as in dowry matter and the fulfillment of household and family economic needs. In their involvement, women are given flexible choices whether they would like to participate directly or even indirectly in actualizing the economic stability of their lives.

Furthermore, the flexibility of man-and-women participation in family may affect financial duties upon husband to his wife, such as dowry or other rights. This means that wife may drop her economic rights from husband with the intention to help her husband. The wife may demand her rights if the husband's financial condition is good or if the husband does not mind giving the wife her rights. As for moral responsibility, the wife may participate in giving sustenance to both of her parents or to her siblings as long as she can do so.<sup>17</sup> Besides, al-Būṭī notices that the value of this moral responsibility is justified as long as the wife does not abandon her obligation as a wife. It is so because this responsibility cannot be the same as obligation, which is borne by husband in his family.

*Second*, from the side of compliance to the *shari'a*, if Allah gives women economic responsibility, this implies that women have to work to earn money. The financial obligation upon women will lead them into various difficulties, just like Western women experienced. This matter seems to endanger women themselves and the next generations, because women actually have a sacred duty and play a role to be domestic teachers who prepare new Muslim generations in the future. If women are obliged to take public duties, it is feared that it will give bad impacts for the future of Muslim.

Therefore, to keep a woman away from this kind of danger, stable economic conditions, and the quality of family and household lives must

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<sup>17</sup> Zainab ath-Thaqofi (the wife of Abdullah ibn Mas'ud) which was narrated by *Muttafaqun 'alaih. Ibid.*, p. 110-111.

be guaranteed. This guarantee can be either from her father when she is still dependent, or from her husband when she is already married. She may enjoy independency to participate in actualizing the good quality of life without necessarily bearing responsibility as man. Thus, it is obviously that Islamic *shari'a* in economic fields has been hospitable to woman by acknowledging her independency or freedom to choose a model and to make decision whether to be involved or not in economic activities of the family.<sup>18</sup>

Meanwhile, the West with the slogan of “women emancipation”, which they deem to offer a just system for women, actually has colonized the independency of women. Through that slogan, women experience suppression in their empowerment. The slavery system that lies beneath the slogan forces women to go outside their house for working. This situation leads women to neglect domestic ‘duties’ or business at their house, such as to educate their children and to fulfill their obligations as housewives. It seems that women are not given a chance to choose independently or freely, but to force them to take public responsibilities.

Considering the reality that has happened in the West, there should be awareness among the majority of world society that Islam has actually given independency that fits the characteristics of women. Women’s independency on choosing and deciding their involvement in economic activities certainly shows Islamic consideration on an issue of priority. Thus, Islamic rule on the inheritance division of 2:1 between man and woman cannot be seen partially; rather, it should be understood in relation to the general conditions of man-woman relationship in family life.

In al-Būṭī’s logic, it is weird if there are people who do not know Islamic *shari'a* but assume that Islam is not hospitable, but discriminative and suppressing women. If seen from the rule of inheritance, Islam has actually been hospitable to women, so that women have independency to live optimally, especially on educating their children to be future

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<sup>18</sup> *Ibid*, p. 111-112.

generations. The campaign of gender equality and women's emancipation against Islamic *shari'ah* by some Western activists and their followers has actually targeted the order of Muslim life. This campaign erodes the very character of Muslim womanhood for women are enslaved and pressed under the tyranny of a new system, which drives them fall into nonrealistic lives. No matter how they are respected as public figures, this situation in al-Būfī's view sacrifices the dignity of Muslim women.<sup>19</sup>

Al-Būfī's explanation at least has a little difference if compared to that of other Syrian Muslim scholars, such as Jamaludin al-Qasimi and Wahbah Musthafa al-Zuhaili. Al-Qasimi explains that the reason behind Islamic provision in inheritance, which favors men over women is because men bear more responsibilities than women. Islamic law perceives that men bear full responsibility for everyone in their family. Besides, al-Qasimi also explains that if women are given the same portion of inherited wealth as men, while their ability to control their emotion is low, but their appetite level is quite high, this most likely will lead to an action of wasting wealth. This is the reason why women only get a half of men's share in Islamic law.<sup>20</sup>

Meanwhile, al-Zuhaili in his *al-Munir* explains the meaning of *surah* An-Nisa [4]: 11 and views that the verse contains God commandment, which has to be obeyed, because God knows everything, including the inheritance matter. So, it becomes baseless to change what has been stipulated by God. Giving women the same share as men as proposed by some Western activists clearly contradicts the very notion of of Qur'anic text. Furthermore, al-Zuhaili explains that provision in inheritance that has been regulated by Allah as a form of justice and grace from Allah to His servants. The provision cannot be neglected. Those who deny

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<sup>19</sup> *Ibid.*, p. 112-113.

<sup>20</sup> Muhammad Jamaludin ibn Sa'id ibn Qasim al-Hallaq al-Qasimi, *Mahāsin al-Ta'wīl*, Vol. 1 (Beirut: Dar al-Kutub al-Ilmiyah, 1996), p. 1139; Fatihunnada, "Diskursus Pembagian Warisan Bagi Wanita: Kritik terhadap Tafsir Sosial Al-Qāsimī dalam Mahāsin al-Ta'wīl," *Al'Adalah*, Vol. 14, No. 1, 2017, p. 16-17.

Allah's rules are considered disobedient servants.<sup>21</sup> Al-Zuhaili writes in *al-Wasith* commentary that inheritance provision regulated by the *shari'a* is the one that is made based on the principle of truth and justice—paying attention to the rules of nature and human effort, objectivity, affection, and responsibility in life. Therefore, the servants must commit themselves to the *shari'a*, and should not deny it.<sup>22</sup>

Based on two interpretation models above, i.e., the interpretations by Jamaludin al-Qasimi and Wahbah al-Zuhaili as compared to that of al-Būṭī, it can be seen that there is dynamic interpretation which appears at least to be an effect of social, education, cultural, understanding factors, or even the interests of each scholar. Jamaludin al-Qasimi's interpretation of inheritance is concised and does not differ from that of classical Muslim scholars. So is al-Zuhaili's interpretation, but it puts a particular emphasis on the issue of inheritance between Islam and the West, even only briefly. Meanwhile, it can be said that al-Būṭī is more likely to explain the inheritance discussion as a response to Western polemics on it in a fairly comprehensive description, and puts more effort to prioritize the domestic roles of women. It is obviously an interesting and unique aspect, considering that al-Qasimi, al-Zuhaili, and al-Būṭī are all Syrian clerics. However, each figure has different orientations in interpretation, or in other words they have their own styles when articulating Islam.

### **Between Inheritance and Gender Issues**

Al-Būṭī's thought in inheritance is interesting because it tends to refuse the revolutionary idea introduced by the West on behalf of women emancipation. It has quite significant implications as the alternative in constructing the role of women in the present era. The reason is because al-Būṭī still prioritize that women occupy domestic arenas. It

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<sup>21</sup> Wahbah ibn Musthofa al-Zuhaili, *al-Taḥṣīr al-Munīr fi al-Aqā'id wa al-Syarā'ih wa al-Manhaj*, Vol. IV (Damaskus: Dar al-Fikr, 1997), p. 280.

<sup>22</sup> Wahbah ibn Musthofa al-Zuhaili, *al-Taḥṣīr al-Wasith*, Vol. I (Beirut: Dar al-Fikr, 2002), p. 290-293.

means that women should prioritize family affairs and optimize their roles in actualizing family endurance. This is the background of the essential message of al-Qur'an that regulates the division of 2:1 shares between men and women. Men get a double share due to their dominant responsibility in family life as featured by the *shari'a*. The stability of family life will give a positive impact on family endurance where women play their role to manage it.

Besides, the verse that regulates the inheritance division of 2:1 is actually aimed to transform the condition of women when they were suppressed in pre-Islamic traditions. As noted by Munadi Usman, the Qur'anic verse that regulates the Islamic inheritance law has replaced the pre-Islamic system, which excluded women from the list of the heirs, because at that time, women were considered politically powerless and socially less important. Islam then introduces a more just system that gives women their rights in inheritance by considering their social roles and position.<sup>23</sup>

Looking at what has been written by Ahmad Syarifudin, Islam is seen to have placed women as the party that occupies a central position in the domestic affairs of family. The quality of Muslim generations, and even a nation, depends on the quality and the role of women in the family. The quality of women in the family may also give implication for a wider community.<sup>24</sup> Al-Būṭī's comprehensive thought in inheritance at least has led the author to make a conclusion that Islam actually has upheld gender equality. His categorization of human responsibility according to the *shari'a* and moral standards is derived from his understanding of an-Nisa [4]: 11; Islam maintains justice between men and women by considering the levels of their responsibility.

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<sup>23</sup> Munadi Usman, "Al-Quran dan Transformasi Sistem Waris Jahiliyyah," *Sarmah: Journal of Islamic Civilization and Thought*, Vol. 15, No. 1, 2016, p. 10.

<sup>24</sup> Achmad Syarifuddin, "Peran Strategis Kaum Perempuan dalam Mewujudkan Masyarakat Religi," *An Nisa'a*, Vol. 12, No. 1, 2017, p. 31.

In *shari'a*, men are driven more to take public roles, while women are driven to play more in domestic spheres. Meanwhile, according to the moral responsibility, both man and woman may collaborate each other, become good partners, and may switch the role. Based on this elaboration, it can be said that Islam has already laid down the principle of equal relationship between man and woman. In other words, Islam acknowledges gender equality. Islam has managed woman's and man's rights in such a way according to the spirit of *maqasid* (the purposes of religion). With *maqasid*, Islam aims at making a strong and harmonious family.

Al-Būfī, therefore, contributes to clarifying the 'true' doctrines of Islam and enlightening Muslims who are heavily affected by the thoughts of Western feminism, which introduce a new role for women in family life alien in Muslim religious tradition. Al-Būfī views that Western feminism as such is established based on materialism and individualism philosophies.<sup>25</sup> Al-Būfī's thought can be seen as a critical response to Western feminism by a Muslim scholar who intends to propose an Islamic-rooted idea on gender issues.

## **Conclusion**

Al-Būfī's the thought on Islamic inheritance as found in his book entitled *al-Mar'ah bayna Ṭuḡhyān al-Niẓām al-Gharbī wa Laṭā'if al-Tashrī' al-Rabbānī* is a response to the Western accusations that Islam has doctrinally suppressed women. Al-Būfī's response on this topic aims not only to enlighten the meaning of Allah's commandment in an-Nisa [4]: 11, but also to draw an Islamic understanding concerning the position of women in Islam, their rights and obligations. For al-Būfī, the division of 2:1 as mentioned in an-Nisa [4]: 11 is not necessarily universal. This is what many Western activists misunderstand Islam. Al-Būfī underlines that the idea of women emancipation as proposed by Western activists is actually

<sup>25</sup> Warsito, "Perempuan dalam Keluarga Menurut Konsep Islam dan Barat," *Profetika: Jurnal Studi Islam*, Vol. 14, No. 2, 2013, p. 161.

aimed at destroying Islamic civilization by questioning the position of Muslim women, an important agent in what is called the Islamic project to create future bright Muslim generations.

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