

An Epistemological Analysis of Gender-Biased *Istinbath* Methodology in Islamic Law

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Abstract

This study is motivated by indications of gender bias in Islamic legal products derived from classical istinbath methodologies, which tend to be textual and patriarchal. The core problem lies in how the epistemological constructions employed by earlier jurists were often shaped by socio-cultural conditions that positioned men as the primary subjects of law. The purpose of this study is to conduct an epistemological analysis of gender-biased istinbath methodology and to propose a more emancipatory methodological deconstruction. The study employs a qualitative method with a library research approach, in which data are analysed descriptively and analytically using the theory of Islamic legal epistemology. The results show that gender bias arises from the dominance of rigid bayani reasoning, which interprets texts without considering the justice-oriented dimension of maqashid sharia. The study concludes that the istinbath methodology must be reconstructed by integrating burhani and irfani reasoning so that Islamic legal products become dynamic, inclusive, and responsive to gender equality in the contemporary era.

Keyword : Epistemology, Istinbath Methodology, Gender Bias

Abstrak

Penelitian ini dilatarbelakangi oleh adanya indikasi bias gender dalam produk hukum Islam yang bersumber dari metodologi *istinbath* klasik yang cenderung tekstual dan patriarkal. Masalah utama terletak pada bagaimana konstruksi epistemologis yang digunakan para fukaha terdahulu sering kali dipengaruhi oleh kondisi sosio-kultural yang menempatkan laki-laki sebagai subjek utama hukum. Tujuan penelitian ini adalah untuk melakukan analisis epistemologis terhadap metodologi *istinbath* hukum yang bias gender serta menawarkan dekonstruksi metodologis yang lebih emansipatoris. Metode penelitian yang digunakan adalah kualitatif dengan pendekatan studi pustaka (*library research*), di mana data dianalisis secara deskriptif-analitis menggunakan teori epistemologi hukum Islam. Hasil penelitian menunjukkan bahwa bias gender terjadi akibat dominasi nalar *bayani* yang kaku dalam memahami teks tanpa mempertimbangkan dimensi *maqashid syariah* yang berkeadilan. Kesimpulannya, diperlukan rekonstruksi metodologi *istinbath* yang mengintegrasikan nalar *burhani* dan *irfani* agar produk hukum Islam bersifat dinamis, inklusif, dan responsif terhadap kesetaraan gender di era kontemporer.

Kata kunci : Epistemologi, Metodologi Istinbath, Bias Gender

INTRODUCTION

The discourse on gender equality in Islamic law remains a crucial issue amid the social transformations of modern society. For centuries, the formulation of Islamic law, or fiqh, has been regarded as a sacred body of thought, even though, epistemologically, fiqh is the product of a dialectic between the revealed text and human reasoning bounded by time and place. The unequal positions of men and women in fiqh rulings frequently stem not from the essence of religious teaching but from the biased perspective of interpreters shaped by the patriarchal

culture that dominated the formative period of Islamic law (Mulia, 2021). A critical examination of how this legal knowledge was constructed is therefore needed, so that biased products of human thought are not sacralised.

Within the structure of Islamic epistemology, the methodology of legal extraction (*istinbath*) has long been dominated by *bayani* reasoning, which relies heavily on the authority of the linguistic text read literally. This tendency has at times led *mujtahids* to overlook the sociological context behind the revelation of a text or the emergence of a tradition, producing rulings that discriminate against women in matters such as inheritance, leadership, and civil rights. An epistemology centred on the text without engaging social reality often fails to capture the universal value of justice that constitutes the core mission of the sharia. This calls for a re-examination of the intellectual foundations on which such rulings rest.

Gender bias in *istinbath* methodology is further reinforced by the limited involvement of women's experience, as legal subjects, in the process of Islamic legal reasoning. Historically, the codification of law was carried out largely by male scholars who, often unconsciously, brought masculine assumptions into their interpretation of the Qur'an and Hadith. This produced double standards in the application of law that placed women in a position subordinate to male authority (Subhan, 2022). Without epistemological critique, Islamic law will continue to be perceived as an instrument that perpetuates gender injustice, contrary to its humanitarian spirit.

In the contemporary era, challenges to traditional *istinbath* methodology have intensified with the emergence of more integrative paradigms in Islamic studies. Modern thinkers have begun to offer a *maqashid sharia* approach that places public welfare (*maslahah*) and justice at the heart of every legal ruling. The integration of the social sciences, the humanities, and religious texts is expected to dismantle the gender bias long entrenched in the Islamic intellectual tradition (Hidayatullah, 2020). An epistemological analysis therefore serves as an entry point for restructuring Islamic legal methodology so that it becomes fairer and more relevant to the demands of the times.

This study aims to examine in depth the epistemological roots of gender bias in traditional Islamic *istinbath* methodology. It maps how the structure of reasoning, socio-cultural assumptions, and linguistic approaches employed by the *fuqaha* contributed to the marginalisation of women in legal texts. It further seeks to formulate a more inclusive methodological reconstruction that integrates principles of gender justice into the framework

of Islamic legal reasoning, so that the law can generate solutions that truly bring mercy to all of humanity regardless of sex. Accordingly, the study addresses two questions: what epistemological factors give rise to gender bias in classical *istinbath* methodology, and what form of methodological reconstruction can make Islamic legal reasoning responsive to gender justice?

METHOD

This study is qualitative research of the library research type. It focuses on examining primary and secondary literature concerning Islamic *istinbath* methodology and theories of gender epistemology. A philosophical-normative approach is used to dissect the structure of knowledge underlying Islamic legal products (Zed, 2014).

The primary data consist of classical works of *usul al-fiqh* [DATA BELUM TERSEDIA] and writings by contemporary Islamic legal thinkers relevant to gender issues. Secondary data were obtained from scholarly journals, books, and recent studies addressing the critique of Islamic legal epistemology. All sources were collected to obtain a comprehensive picture of the paradigm shift in the methodology of legal extraction.

Data were collected through documentary study, namely by tracing, reading, and recording key points from the selected literature [DATA BELUM TERSEDIA]. To ensure the validity of the data, source triangulation was applied by comparing the views of experts from various schools of thought (*madhhab*), complemented by peer debriefing through academic discussion, so that the resulting interpretations are objective and accountable (Sugiyono, 2018).

The data were analysed using descriptive-analytical and content analysis methods. The collected data were classified according to epistemological themes and then examined through the lens of gender justice theory and Islamic epistemology (*bayani*, *burhani*, and *irfani*). Conclusions were drawn deductively, moving from the general premises of Islamic legal methodology to specific conclusions about gender-responsive legal construction.

RESULTS AND DISCUSSION

Results

The content analysis of classical and contemporary literature produced five thematic findings, summarised in Table 1. The first three concern the sources of bias: the structure of legal reasoning, the social setting in which *fiqh* was formulated, and the composition of those

who held interpretive authority. The last two concern the direction of correction, namely a general methodological reconstruction and its application to relations within the household.

Table 1. Epistemological Findings on Gender Bias in *Istinbath* Methodology

No.	Theme	Epistemological Finding	Implication
1.	Mode of reasoning	Dominance of <i>bayani</i> reasoning that ties legal truth to the literal meaning of the text	Context-specific verses generalised into fixed rulings that disadvantage women
2.	Socio-cultural setting	Androcentric social structure of the classical period absorbed into <i>istinbath</i> ; cultural prejudice treated as religious truth	Rules on guardianship and on women's freedom of movement gain religious legitimacy
3.	Subject of <i>ijtihad</i>	Interpretive authority held by men; women's experience excluded as a basis of legal knowledge	Rulings on <i>talaq</i> and polygamy judged from the male side; <i>ijtihad</i> becomes partial
4.	Methodological reconstruction	Shift from a textual-atomistic reading to a holistic <i>maqashid sharia</i> approach integrating <i>bayani</i> , <i>burhani</i> , and <i>irfani</i>	Equality becomes a foundational principle of <i>usul al-fiqh</i> ; discriminatory rulings open to review
5.	Household power relations	<i>Qiwamah</i> and <i>ta'ah</i> read hierarchically as male control over domestic and public rights	Subordination of wives; proposed shift to partnership (<i>mubadalah</i>) and <i>mu'asyarah bil ma'ruf</i>

Taken together, the findings indicate that gender bias is located not in the revealed texts themselves but in the way knowledge about those texts was produced. The bias operates on several levels at once: the method of reading, the social horizon of the reader, and the identity of those authorised to read. For this reason, the correction found in the literature is methodological in nature rather than a revision of individual rulings, since every *istinbath* method that yields discriminatory rulings has to be re-examined epistemologically.

Discussion

The following sub-discussions interpret each finding in turn and relate it to the two research questions posed in the Introduction. The first three sub-discussions answer the question of the epistemological roots of gender bias, while the last two answer the question of methodological reconstruction.

1. The Dominance of *Bayani* Reasoning and Textual Literalism

Bayani reasoning is the dominant mode of thought in the *usul al-fiqh* tradition, in which the truth of a legal ruling depends entirely on its proximity to the linguistic meaning of the text. In practice, this mode of reasoning often becomes trapped in the outward meaning of the text without exploring the sociological dimensions behind it. As a result, verses revealed in a specific context are frequently generalised into fixed rulings that disadvantage women (Anwar, 2021).

Gender bias emerges when texts born within a patriarchal culture are understood rigidly. The verse on male leadership in the family, for instance, is often read as evidence of men's inherent superiority over women in every sphere, whereas, epistemologically, its meaning was contextual and functional to its time. Such fixation on the text closes the space for broader *ijtihad*.

The exclusive use of *bayani* reasoning also tends to ignore historical change. Although social reality has shifted and women now hold public and economic roles on an equal footing, these texts continue to be applied according to medieval understandings. The failure to distinguish between the universal message of revelation and its cultural packaging makes the law feel unjust to women today (Fauzi, 2023).

Dependence on textual literalism must therefore be balanced by other approaches. Islamic legal epistemology cannot stop at what is written; it must reach the question of why a ruling was commanded. Without a shift from *bayani* reasoning towards more analytical modes of reasoning, gender bias will remain a historical burden on Islamic law that is difficult to resolve.

2. Socio-Cultural Influence on the Construction of Fiqh

Fiqh is not sacred revelation but the product of human thought, deeply shaped by the environment in which each *mujtahid* lived. In the classical period, the social structure was strongly androcentric, with men at the centre of all social and political activity. This orientation inevitably seeped into the way scholars formulated their *istinbath* methodology.

A strong patriarchal culture led women to be seen as beings who needed protection or even supervision, a view later manifested in rules on guardianship and restrictions on women's freedom of movement. Epistemologically, such cultural prejudice came to be treated as religious truth and therefore became difficult to contest, even though fiqh is a reflection of the dialectic between a thinker and his reality (Kodir, 2019). From the perspective of law, this is

also the terrain on which the question of forced marriage is situated: where guardianship is understood as supervision, a woman's own decision is easily set aside.

Many rulings regarded as gender-biased are in fact adoptions of local tradition that were subsequently given religious legitimacy. This "Islamisation" of tradition often did not pass through a rigorous filter of justice but merely adjusted to the prevailing power structure. Consequently, women lost access to substantive justice, blocked by fences of tradition wrapped in the label of sharia.

Recognising this socio-cultural influence is essential for deconstructing biased rulings. It is necessary to separate teachings that are permanent (*thawabit*) from those that are subject to change (*mutaghayyirat*). By acknowledging that fiqh has a historical dimension, scholars can be more open to reforming legal methodology so that it becomes relevant to the principle of equality (Rohman, 2021).

3. Critique of the Marginalisation of Women's Experience in *Ijtihad*

One root of gender bias in *istinbath* is the minimal involvement of women as subjects who contribute perspectives in the formulation of law. For centuries, interpretive authority rested in the hands of men, so matters closely tied to women's biological and social experiences were viewed through a masculine lens (Hasan, 2023).

This marginalisation has meant that many rulings concerning women do not represent women's own needs or feelings. In matters of *talaq* and polygamy, for example, justice is often assessed only from the man's side. Epistemologically, this creates an information imbalance that renders the results of *ijtihad* partial and incomplete.

The presence of women exegetes (*mufasssir*) and jurists (*mujtahid*) is therefore essential to balance legal narratives. Women's experience of confronting injustice must be treated as part of the evidential base in legal decision-making. If Islamic law aims to realise public welfare (*maslahah*), that welfare must be experienced equally by all genders (Umar, 2021).

Without the active participation of women in religious authority, *istinbath* methodology will remain epistemologically defective. Diversifying the subjects of *ijtihad* will bring a more empathetic and just character to legal products. The inclusion of women's experience is not merely a political demand but a methodological necessity for arriving at a more complete legal truth.

4. Proposed Reconstruction: A Methodology Grounded in *Maqashid* and Substantive Justice

As a remedy for gender bias, a paradigm shift is required from a textual-atomistic approach towards a holistic *maqashid sharia* approach. *Maqashid sharia* holds that every ruling must lead to the protection of basic human rights, including equality and justice for women (Auda, 2020).

This reconstruction involves integrating *bayani* reasoning (text), *burhani* reasoning (reason and science), and *irfani* reasoning (intuition and ethics). By drawing on the social sciences and the humanities, *mujtahids* can understand the position of women more objectively and scientifically. Law is then based not only on the wording of a verse but on the higher purpose behind it, namely substantive justice.

In addition, equality must be established as a foundational principle of *usul al-fiqh* rather than a mere supplement. Any *istinbath* method that produces discriminatory rulings must have its validity re-examined epistemologically. If a ruling is shown to harm or degrade human dignity, it has lost the spirit of the sharia (Zulyadaini, 2022).

Implementing this gender-responsive methodology will yield a more dynamic Islamic law. Law ceases to be a shackle and becomes a solution to humanitarian problems. In this way, Islam can truly be *rahmatan lil 'alamin*, a mercy to all the worlds that guarantees the rights of every individual without gender-based discrimination.

5. Deconstructing Power Relations in the Household

Classical Islamic legal constructions often frame the relationship between husband and wife as one of rigid leadership and obedience (*qiwamah* and *ta'ah*). Epistemologically, this understanding derives from a hierarchical reading of Qur'anic verses in which men are positioned as the sole holders of control over both domestic and public rights. The result is an *istinbath* methodology that legitimises the subordination of women in the name of religious obedience, which in many cases fuels unequal power relations.

This imbalance rests on the assumption that men possess an absolute natural superiority, whereas that advantage was often tied to economic functions and physical protection in the past. When legal methodology disregards the changing social roles of women, many of whom are now economically independent, the resulting rulings become anachronistic. This way of thinking must be critically deconstructed so that leadership in the family shifts from domination to equal partnership, or *mubadalah*.

From the standpoint of contemporary law, gender bias in household relations often becomes a gateway to symbolic as well as physical violence. When a wife is regarded as an object that must submit completely, her human right to make decisions is frequently ignored. Epistemological analysis must therefore expose the patriarchal interests that shroud interpretations of obedience, so that every legal product genuinely reflects justice for both parties.

Reconstructing these power relations requires the courage to reinterpret texts through a socio-anthropological approach. The principle of *mu'asyarah bil ma'ruf* (living together in kindness) must stand as the main pillar, transcending technical texts on obedience. By shifting the paradigm from hierarchy to equality, *istinbath* methodology can produce family law formulations that are healthier, more inclusive, and uphold the dignity of women as sovereign legal subjects.

CONCLUSION

Based on the epistemological analysis conducted, this study concludes that gender bias in Islamic *istinbath* methodology is rooted in the dominance of rigid and literal *bayani* reasoning and in the strong influence of patriarchal culture during the codification of law. The structure of knowledge built by the classical *fuqaha* frequently positioned men as the primary standard of the legal subject, while women occupied a subordinate position. This condition was aggravated by the marginalisation of women's experience in the process of *ijtihad*, so that the resulting legal products tended to overlook substantive justice for women and to privilege masculine authority.

To address this problem, *istinbath* methodology needs to be reconstructed by moving from a textual-atomistic approach towards one grounded in *maqashid sharia* and universal justice. Integrating religious texts with modern knowledge and involving women's perspectives in interpretive authority are indispensable conditions for this shift. By placing gender justice as a fundamental principle of Islamic legal reasoning, Islamic law can yield products that are more inclusive, dynamic, and relevant to the spirit of the times, and can thereby realise public welfare for all of humanity. The area in which this reconstruction is most pressing is family law, where hierarchical readings of *qiwamah* and *ta'ah* continue to shape relations between husbands and wives; applying the principles of *mubadalah* and *mu'asyarah bil ma'ruf* to this area is a natural direction for further study.

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