

GENDER EQUALITY VS. GENDER JUSTICE: AN ISLAMIC ETHICAL PERSPECTIVE

¹Dr Muhammad Ismail Aarifi, ²Muhammad Harris Suhaib

¹Associate professor, chairman department of Usool Uddin, Faculty of Islamic studies, University of Karachi, Karachi

²Scholar, Department of Islamic Studies, Al Ghazali University, Karachi.

¹drismaailaarifi@uok.edu.pk ²harrissuhaib1999@gmail.com

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Corresponding Author: *

Abstract

This paper distinguishes gender equality (often framed as sameness of treatment) from gender justice ('adl/qist' as equity and right placement) and argues that the Islamic moral legal tradition is primarily oriented toward justice rather than strict sameness. While liberal egalitarian approaches typically treat sex based differentiation as presumptively discriminatory, the Qur'an frames men and women as equal in spiritual worth, moral responsibility, and access to divine reward, while allowing limited role differentiation in some family-related duties. The paper highlights Qur'anic passages affirming equal moral agency and recompense for both genders. It examines how Islamic jurisprudence links differentiated rules—especially those concerning family maintenance and household responsibility—to welfare and accountability rather than to superiority. Drawing on Maqasid al Shari'ah (the higher objectives of Islamic law), the paper evaluates contested areas such as qiwamah (family responsibility/maintenance) and inheritance, arguing that justice requires interpreting these rulings within an integrated ethical system grounded in dignity, mercy, and the prevention of harm. The paper also engages feminist critiques by separating revelation from patriarchal cultural practices and by emphasizing interpretive principles that prioritize justice and human well-being. Ultimately, it contends that Islamic gender ethics can support robust protections for women's dignity and rights without collapsing into a "sameness" model, provided responsibilities are enforced, and harmful applications are rejected.

Introduction

Debates about women's status in religion and law frequently hinge on what "equality" is supposed to mean. In much contemporary policy language, gender equality is framed as sameness: men and women should have identical rights, opportunities, and social expectations, and any distinction that tracks sex is treated as presumptively unjust (Mill, 1869/2006; Nussbaum, 2000). Liberal feminist theory—shaped by Enlightenment emphases on individual autonomy and formal legal neutrality—often regards gendered role differentiation as a residue of patriarchy rather than a morally relevant feature of human life (Okin, 1989; Phillips, 1991). By contrast, many Muslim scholars and ethicists prefer the language of gender justice ('adl) or equity (qist), emphasizing that fairness is not always achieved by identical treatment. Islamic moral reasoning ties justice to placing responsibilities and rights "in their proper place," so that outcomes preserve human dignity, family welfare, and social harmony (Auda, 2008; Kamali, 2002, 2008).

This paper expands the earlier discussion of "Gender Equality vs. Gender Justice" into a fuller, research-grounded argument. It (a) contrasts the philosophical foundations of liberal feminism and Islamic ethics, (b) analyzes Qur'anic and Prophetic texts that affirm equal spiritual worth alongside differentiated responsibilities, (c) engages feminist critiques especially around qiwamah (family responsibility/leadership) and inheritance—while distinguishing normative doctrine from cultural misuse, and (d) applies Maqasid al Shari'ah (higher objectives of Islamic law) to show how gender justice can be understood as protecting dignity (hifz al 'ird) and well being (hifz al nafs), among other goods (Auda, 2008; Kamali, 2008; Mir Hosseini et al., 2013).

Conceptual Foundations: Liberal Equality and Islamic Justice

Liberal feminism is diverse, but a central strand defines justice as the elimination of gender based barriers in law and social practice, pursuing equal citizenship and equal opportunity (Okin, 1989; Phillips, 1991). John Stuart Mill's classic argument against the legal subordination of women stresses that sex is morally irrelevant to civil rights; any restriction based on sex is unjust

discrimination (Mill, 1869/2006). Contemporary human rights and capabilities theorists share this instinct for neutrality, aiming to secure comparable life chances regardless of gender (Nussbaum, 2000). Under this approach, role differentiation, particularly in family structures, often appears suspicious because it can harden into a hierarchy where men control resources and decision-making (Okin, 1989).

Islamic ethical discourse uses different conceptual anchors. The Qur'an repeatedly depicts justice as a divine command and a social obligation: believers are told to "stand firmly for justice" even when it runs counter to self-interest or social pressure (Qur'an, 4:135).

يَا أَيُّهَا الَّذِينَ ءَامَنُوا كُونُوا قَوَّامِينَ بِٱلْقِسْطِ شُهَدَاءَ لِلّٰهِ وَلَوْ عَلَىٰ
أَنفُسِكُمْ ءَوِ ٱلْوَٰلِدَيْنِ وَٱلْأَقْرَبِينَ

Justice ('adl) and equity (qist) are not mere procedural neutrality; they are moral judgments about what is due to persons in relation to responsibilities, vulnerabilities, and social roles (Kamali, 2002). Islamic anthropology also includes fitrah—human nature or natural disposition—as morally relevant. Fitrah is not a crude biological determinism; rather, it is an account of human flourishing that includes embodied realities (pregnancy, nursing) and social needs (stable families, care for dependents) as part of what law and ethics should acknowledge (Auda, 2008; Kamali, 2008). In this view, treating unlike cases as identical can itself become unjust.

A helpful way to distinguish the paradigms is to separate equality of worth from sameness of function. Islamic sources are explicit that women and men share a single human origin and moral status: "He created you from one soul and created from it its mate" (Qur'an, 4:1).

يَا أَيُّهَا النَّاسُ اتَّقُوا رَبَّكُمُ ٱلَّذِي خَلَقَكُمْ مِن نَفْسٍ وَاحِدَةٍ وَخَلَقَ مِنْهَا
زَوْجَهَا

The Qur'anic language of mutuality, "you are of one another" (Qur'an, 3:195), supports an account of equal dignity, while leaving room for functional differentiation in limited legal domains.

فَاسْتَجَابَ لَهُمْ رَبُّهُمْ أَنِّي لَا أُضِيعُ عَمَلَ عَامِلٍ مِّنْكُمْ مِّمَّنْ ذَكَرَ ٱلرَّبَّ
أَنَّهُ يَكْفِيكُمْ مِنْ عَذَابِ ٱللَّهِ عِزًّا

Textual Foundations: Equality in Spiritual Worth and Moral Agency

The Qur'an's clearest egalitarian affirmations concern spirituality, moral responsibility, and access to divine reward. In one frequently cited

passage, the Qur'an lists believing men and believing women in parallel, attributing to both the same virtues and the same promise of forgiveness and reward (Qur'an, 33:35).

إِنَّ الْمُسْلِمِينَ وَالْمُسْلِمَاتِ وَالْمُؤْمِنِينَ وَالْمُؤْمِنَاتِ ... أَعَدَّ اللَّهُ لَهُمْ مَغْفِرَةً وَأَجْرًا عَظِيمًا

Another verse states that God will not let the work of any person go to waste “whether male or female” (Qur'an, 3:195).

These verses reflect a theological principle: the criterion of moral excellence is taqwa (God consciousness), not gender (Qur'an, 49:13).

يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنثَىٰ ... إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ تَقْوَاهُ

Prophetic reports reinforce this default equivalence. A widely cited hadith states, “Women are the counterparts (twin halves) of men” (Abu Dawud, n.d./2008).

إِنَّمَا النِّسَاءُ شَقَائِقُ الرِّجَالِ

Classical commentators read this as supporting a presumption of parity in general religious obligations unless an authentic textual basis indicates specific differentiation (Ibn Hajar, 2000). In early Islamic history, women acted as public moral agents, asked legal questions, and participated in communal debates, an important reminder that women's reasoning was treated as legitimate within communal life (Ahmed, 1992; Al Dabbagh et al., 2019).

These textual emphases are especially significant in comparison with pre-Islamic practices of denying women property rights and normalizing infanticide. The Qur'an condemns the killing of infant girls (Qur'an, 81:8-9).

وَإِذَا الْمَوْءُودَةُ سُئِلَتْ بِأَيِّ ذَنْبٍ قُتِلَتْ

It also prohibits forcing women against their will and commands ethical treatment in marriage and divorce (Qur'an, 4:19).

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا يَجِلُّ لَكُمْ أَنْ تَرْتُوا النِّسَاءَ كَرَاهًا ... وَعَاشِرُوهُنَّ بِالْمَعْرُوفِ

Differentiated Rights and Duties: Family Responsibility, Maintenance, and Social Welfare Islamic law distinguishes certain rights and obligations in the family, especially regarding financial maintenance and the allocation of responsibilities. The Qur'an describes men as qawwam un over women (Qur'an, 4:34), often translated as “maintainers/protectors” responsible for providing for them.

الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ ... وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ...

Classical jurisprudence links this responsibility directly to men's enforceable duty of maintenance (nafaqah), while preserving women's independent property rights (Ali, 2010). This is central to the argument that gender justice in Islam functions as a package: additional obligations accompany any differentiated responsibilities.

The Sunnah adds an ethical dimension: role responsibility is bounded by accountability, not privilege. A widely reported narration states that each person is a shepherd (guardian) responsible for their flock (al Bukhari, n.d./2002).

أَلَا كَلُّكُمْ رَاعٍ، وَكَلُّكُمْ مَسْئُولٌ عَنْ رَعِيَّتِهِ ... وَالرَّجُلُ رَاعٍ عَلَى أَهْلِ بَيْتِهِ ... وَالْمَرْأَةُ رَاعِيَةٌ عَلَى أَهْلِ بَيْتِ زَوْجِهَا وَوَلَدِهِ...

This frames household roles as duties and moral trust (amanah), rather than as a license for domination (Brown, 2014).

Maqasid al Shari'ah and Gender Justice

Maqasid al Shari'ah—often summarized as preserving religion, life, intellect, lineage/family, and property offers an evaluative lens for interpreting legal rules and resolving new questions (al Ghazali, 1997; al Shatibi, 2005; Kamali, 2008; Auda, 2008). Contemporary maqasid theory emphasizes dignity, justice, and the prevention of harm as guiding purposes (Auda, 2008). These aims are especially important when gendered rules are applied in contexts where cultural abuse or weak enforcement may produce injustice.

From a maqasid perspective, any practice that results in coercion, deprivation, or harm violates the ethical objectives of the Shari'ah, even if defended with religious rhetoric (Abou El Fadl, 2001; Chaudhry, 2013). This provides an internal Islamic basis for reform and accountability.

Feminist Critiques and Islamic Responses

Feminist scholarship argues that patriarchal interpretations sometimes became institutionalized in Muslim legal culture. Muslim feminist thinkers contend that patriarchy is not inevitable from the Qur'an but often arises from interpretive practices and male-dominated institutions (Barlas, 2002; Wadud, 1999; Mernissi, 1991). Historians similarly show that women's experiences have varied significantly across Muslim societies and periods, and that cultural norms often blended with religious claims (Ahmed, 1992). Postcolonial critiques

warn against simplistic narratives that treat Muslim women as a single category needing rescue, which can obscure local agency and complex ethical debates (Spivak, 1988).

A careful Islamic response distinguishes revelation from implementation: Qur'anic ethics (justice, mercy, ma'ruf treatment) remain stable, while social practice may contradict them (Hallaq, 2009). Reform movements such as Musawah argue that the Qur'anic ethos supports justice and that some legal applications require reevaluation in light of changed circumstances and ethical objectives (Mir Hosseini et al., 2013). An Na'im (2008) also argues that legal reforms can be pursued through principled reinterpretation without abandoning Islamic commitments.

Case Study 1: Inheritance as Equity Rather Than Sameness

The Qur'anic "two to one" inheritance rule is commonly referenced from Qur'an 4:11 in specific family configurations;

يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثِيَيْنِ...

However, inheritance in Islamic law is not an isolated financial distribution. It is part of a broader welfare structure that includes men's compulsory maintenance duties, women's protected property rights, dower obligations, and family-based financial responsibility (Ali, 2010; Dar al-Ifta, n.d.; Kamali, 2002). The justice question, therefore, is not simply whether men and women always receive numerically identical shares, but whether the overall system produces equitable welfare after distribution, especially for dependents (Mir-Hosseini et al., 2015).

In this framework, a woman's inheritance is generally protected from compulsory household expenditure. Before marriage, her maintenance, education, residence, upbringing, and general welfare are the responsibility of her father or guardian. After marriage, these responsibilities shift to her husband. Thus, the wealth she receives through inheritance remains her personal property and financial security. She is not primarily obligated to spend it on her parents, husband, children, or other relatives. By contrast, the male heir's larger share in some cases is linked to his financial liabilities, including maintenance of wife and children, support of parents when needed, dower, and in

some cases support of needy relatives (Dar al-Ifta, n.d.; Kamali, 2002).

Therefore, the Islamic inheritance system should be analyzed as a model of responsibility-based justice rather than simple numerical sameness. In some cases, men and women inherit equally; in other cases, women may inherit more than men; and in some situations, a woman may inherit while a comparable male relative receives nothing. Dar al-Ifta (n.d.) explains that the "male double female" formula is not a universal rule for all inheritance cases, but applies in limited configurations where relation, generation, and financial responsibility intersect.

This can be explained through a rational comparison. Suppose one employee receives a salary of 30,000 but is also provided free housing, food, medical care, education, and other essential facilities. Another employee receives 60,000 but must pay for housing, food, medical care, education, and family expenses independently. Although the second employee receives a larger salary, his actual burden is heavier. The first employee may receive less cash, but because major expenses are already covered, his financial position may be more secure. Similarly, a woman may receive a smaller numerical share in some inheritance cases, but she is not assigned the same compulsory financial responsibilities. A man may receive a larger share, but he is also required to spend on others.

Thus, Islamic inheritance should not be reduced to the question of sameness at the point of distribution. Its legal and ethical logic must be read together with maintenance, dower, family responsibility, and women's protected ownership. From this perspective, inheritance reflects equity rather than inequality, because the law distributes not only wealth but also financial obligations.

Case Study 2: Qiwamah, Mutuality, and Accountability in Family Life

Qiwamah is often misread as absolute male authority or domination. However, Qur'an 4:34 explicitly links qiwamah with responsibility and financial maintenance:

الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ
وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ...

When this verse is read alongside Qur'anic descriptions of marriage as tranquility, affection,

and mercy, the ethical meaning of qiwamah becomes closer to stewardship than domination:

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ
بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً...

The Qur'an also commands ethical treatment within marriage: "live with them in kindness" (Qur'an 4:19). Therefore, qiwamah should not be framed as privilege without accountability. Rather, it should be understood as responsibility-based leadership within the family institution. The family is not merely a private emotional arrangement; it is a social institution that carries duties, rights, disputes, crises, and decision-making needs. Just as every institution requires some structure of responsibility and final decision-making, the family also requires an organizing principle to maintain stability and resolve conflict.

In the Islamic model, this responsibility is assigned to the husband because he carries the primary financial burden of the household. His role is connected to maintenance, protection, service, and accountability. Therefore, qiwamah does not mean that a woman's opinion is ignored or that male authority is unrestricted. Consultation, kindness, mutual respect, and justice remain essential Qur'anic and Prophetic principles of family life. Any interpretation of qiwamah that legitimizes harm, cruelty, or humiliation contradicts the broader Islamic ethic of mercy, justice, and the no-harm principle emphasized in Islamic moral reasoning (Abou El Fadl, 2001; Brown, 2014; Chaudhry, 2013; Kamali, 2002).

The concept of qiwamah should also be connected with the wider Islamic ethic of service. Men are not merely granted authority over women; they are obligated to serve, maintain, protect, and honor women at different stages of life. Before marriage, the father is responsible for the daughter's upbringing, education, protection, and maintenance. After marriage, the husband becomes responsible for the wife's financial support and marital rights. In old age, children, especially sons, are commanded to honor and serve their mother. The Prophetic tradition gives the mother a uniquely elevated status, as seen in the hadith where the Prophet repeatedly identifies the mother as most deserving of good companionship before mentioning the father (Sahih Muslim 2548b). Another narration states,

"Paradise is beneath her feet," emphasizing the spiritual honor attached to serving one's mother (Sunan al-Nasa'i 3104).

This intergenerational structure shows that Islamic family law is not a one-sided system in which women are simply placed under male control. Rather, it creates a network of care around women: the father cares for the daughter, the husband maintains the wife, and the son honors and serves the mother. Qiwamah must therefore be understood within this wider family system, where authority is tied to responsibility and responsibility is expressed through service.

Some modern feminist critiques view traditional family structures mainly through the lens of dependency and subordination. However, the Islamic perspective presents family dependency not as humiliation, but as a moral and legal system of mutual support. The concern with highly individualistic models is that when family bonds weaken, individuals, especially elderly women, may become more vulnerable to loneliness, economic insecurity, and emotional isolation. In contrast, the Islamic model seeks to preserve family bonds so that women are not abandoned to individual struggle at any stage of life.

Therefore, qiwamah should be interpreted as a stabilizing principle of family life. It does not establish male superiority; rather, it links leadership with maintenance, protection, service, consultation, mercy, and accountability. In this sense, qiwamah represents responsibility-based leadership, not domination.

Conclusion

The contrast between gender equality and gender justice reflects different moral theories of fairness. Liberal feminist equality often treats sex based differentiation as inherently suspect, aiming to neutralize gender in law and public life (Mill, 1869/2006; Okin, 1989). Islamic ethics grounds justice in a holistic vision of flourishing, affirming equal spiritual worth and moral agency while allowing limited differentiation where a welfare rationale exists (Qur'an, 33:35; Qur'an, 4:34). When interpreted through maqasid and constrained by strong ethical guardrails no harm, dignity, accountability the Islamic framework can support robust protections for women's rights without collapsing into a strict "sameness" model

(Auda, 2008; Kamali, 2008; Abou El Fadl, 2001; Chaudhry, 2013).

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