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# PROCEEDING

INTERNATIONAL CONFERENCE AND WORKSHOP ON GENDER



## “WOMEN’S LEADERSHIP AND DEMOCRATISATION IN THE 21<sup>ST</sup> CENTURY ASIA”

27-28 April 2018 | Widya Graha Building LIPI Jakarta, Indonesia

Editor:

Kurniawati Hastuti Dewi, Augustina Situmorang, Widjajanti M. Santoso

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di Auditorium Utama LIPI, Lt.1 - Jakarta

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Pusat Penelitian Politik  
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PAPERS IN PANEL  
WOMEN'S LEADERS,  
DEMOCRATISATION AND  
EVERYDAY POLITICS (WOMEN)

# PROLOGUE

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This proceeding consists of papers in PANEL 1 “Women’s Leaders, Democratization and Everyday Politics” as a result of the International Conference and Workshop on Gender (ICWG) “Women’s Leadership and Democratization in the 21<sup>st</sup> Century Asia”, LIPI, Jakarta 27-28 April 2018. The aims of the panel is to provide rooms for paper which explores and presents story of women’s leaders either in political position or in everyday lives, under new challenges of democratization in the 21<sup>st</sup> Century Asia. There are 8 papers in this proceeding from previously 12 papers that was presented in the two days conference. The four papers are not included in this proceeding because of some reasons such as it had been published elsewhere, as well as could not provide the revision needed.

Basically the paper in this proceeding can be grouped into two themes: first, the paper on women’s leadership in “high politics” or formal politics especially in executive position as head of local government, as well as in everyday politics. Secondly, the paper explores participations and challenges of female politicians in legislative body across Asia.

There are three papers grouped under the first theme. The first paper by Normi B. Santos, *et.al* explores female politicians in Dasmariñas City in the Philippines focuses on demography aspect and roles. Santos’ paper shows an interesting fact that that female politicians are still minority in *barangay* (the lower government unit in the Philippines) as there are only 13 out of 75 barangay captains were women with education level from high school to college, majority were married and in the last term of office (completion of 9 years).

The second paper by Endah Kusuma Wardhani explores a good initiation of Institute KAPAL Perempuan to set up “Sekolah Perempuan” (school for women) as an alternative education for poor and marginalized women in urban metropolitan city Jakarta in order to eradicate poverty. This interesting paper shows that “Sekolah Perempuan” succeeded in educating marginal women to understand and begin to implement the concept of gender equality in their own household and community, as well as, to articulate and convey their problems and expected solutions for their community.

The third paper by Maria Cherry R. C. Ndoen explores the women-headed household cases through assessing “female-headed Household empowerment program” by NGO of PEKKA. Ndoen’s paper is really interesting in showing obstacles and the negative perception on the term of “female-headed household”, as well as by the Law on the position of women as head of a family in which PEKKA take persuasive measures in negotiating their intentions.

The paper within the first group addresses women’s political obstacles and participation in the new democratization that has facilitated substantial changes in regional and village level. All papers were written by considering local context such as cultural element, as well as, gender relations of men and women in specific regions. Through these papers, we can see that women from middle classes have more strong individual capital such as education and networks, as well as, support from family (husband) in their political career. Whereas women from lower classes, whom often becomes leaders in everyday lives (such as female-headed household) faces more obstacles and struggle to out of poverty, though managed to show their agency.

The second group of papers explores participations and challenges of female politicians in legislative body across Asia especially Indonesia, Malaysia, the Philippines. It consists of five papers. The first paper by Trias Setiawati as guest presenter, explores biography of Elyda Djazman (EJ) a prominent leader of ‘Aisyiyah (women’s wing of Muhammadiyah, Islamic reformism movement in Indonesia). Setiawati shows that EJ’s leadership was influenced by genetic and ecological factors. There are no discrimination based on gender in case of EJ, though she experienced double workload burden as housewives and ‘Aisyiyah leader.

The second paper by Luky Sandra Amalia analyses Islamic perspective of the Islamic and Muslim-based parties in Indonesia on women’s leadership namely Prosperous Justice Party (*Partai Keadilan Sejahtera*, PKS) and National Awakening Party (*Partai Kebangkitan Bangsa*, PKB). Amalia founds that PKB is more open towards women’s leadership than is PKS. PKB supports women to be leaders at any level, from president to legislators, while PKS only agrees women become local leaders and legislators, but disagrees for the presidential level.

The third paper by Haura Atthahara explains policy of political party PKS in the 2014 General Election in Indonesia, and the People’s Justice Party in Malaysia in the 2013. Atthahara founds that in PKS the Islamic ideology embraced by PKS greatly influences how the elite parties take a major role in recruiting women’s candidates for example women to be nominated as legislative members required to obtain permission from her husband. Whereas women’s wing of Wanita Keadilan of PKR plays a major role in recruiting women legislative candidate.

The fourth paper by Hamdani *et.al*, analyses the role of Nyai Khairiyah, female *ulama* in forging intellectualism amid traditional Muslim community which is represented by Nyai Khoiriyah in the Pesantren of Seblak, East Java. Hamdani paper captures the pattern of leadership of Nyai Khoiriyah in managing religious education under the male-dominated circumstance and shows her contribution in advancement of traditional Muslim women to have access to education and enhancement of religious knowledge.

The fifth paper by Silvia Laurent Elvina Putri explores effects of “Ryōsaikenbo” (means “good and wise wife”) in hindering the promotion of gender equality in Japan. Putri’s paper shows that *Ryōsaikenbo* is a stumbling block for Japanese women. It reveals that discrimination against women still exists in Japan, even though the Japanese government has publically acknowledged that the role of women in politics is an important component of domestic and foreign policy related decision-making.

The papers within the second group mainly focused on the institutional obstacles which hinders recruitment of female politician due to un-supportive political parties' policy in democratization era. By providing a comparative analysis of Muslim based political party's policy in Indonesia and Malaysia, these papers provides rich material between Indonesia and Malaysia in understanding the internal policy of political party, effect of political party ideology on women's political participation and the role of women's wing of political party in recruiting women for legislative candidates. Some papers in the second group also provides detail portrait of two exemplary female leaders of the two different Islamic organizations in Indonesia: 'Aisiyah' which associated with Muhammadiyah and '*pesantren*' which associated with Nahdlatul Ulama. Last but not least, one paper within this group has enriched our understanding of the livelihood of Japanese women under *Ryōsaikenbo*, which to some extent explains Japan's low gender balance.

Overall, I would like to congratulate all of the authors of in Panel 1 "Women's Leaders, Democratization and Everyday Politics" which successfully wrote and presented experiences of women's political leadership either in formal politics, as well as, in everyday politics. All of these papers are derived from women's experiences, and thus signifies women's personal experiences as sources of knowledge.

These papers have shown that there are different degrees of challenges faces by women from different social classes in politics to have their voices to be heard in society. It also highlighted the importance of institutional support for women in political party to compete in electoral politics. It also shows the agency plays by ordinary women in everyday politics, despites its limitation, to address various problems encouraged and assisted by vital NGOs such as KAPAL Perempuan and PEKKA.

Through these papers we have reach a better understanding that democratization in the 21<sup>st</sup> Century Asia has facilitated greater expansion of Asian women in formal politics and in everyday politics, individually and collectively. Nevertheless, obstacle of patriarchal values remains and needed to be addressed contextually and smartly. ❖



# FEMALE WORKERS VERSUS FAMILY LEADERSHIP IN MUSLIM COMMUNITY

Ulin Na'mah

Sekolah Tinggi Agama Islam Negeri (STAIN) Kediri

## Abstract

Modernity has posed challenges for female workers. On one hand, - modernity provided an opportunity of full employment for women, on the other hand, it may triggered issue on the division of gender roles in the family. Interestingly, this issue not only objected by men, but also is questioned by women. Even if a wife is working and the husband is not, the public often remains putting men as the leader of the family, i.e., a husband is considered as a sole decision maker in the family, without asking a wife's opinion. Female workers are still considered inferior and such a view has put wife in disadvantaged position. This issue needs to be addressed properly, in order to give benefits for both husband and wife in a family. To do so, in Islam we do not need to be stuck on the concept of male-female power relationship, the important issue is the main goal of a family relation should end with *saki>nah*, *mawaddah*, and *rah}mah*. Considering the fact that a family is a nation capital, a family living in *saki>nah*, *mawaddah* and *rah}mah* is a decisive for creating a peaceful and harmonious society. The term "harmony" does not mean a lazy life without any progressive target, rather a harmonious family which is far from domestic violence. Therefore it is necessary to reformulate *fiqh* dealing with family leadership. How should *fiqh* solve this problem? This question is then further discussed and analyzed.

**Keywords:** Female Workers; Family Leadership; wife; husband; *fiqh*; *saki>nah-mawaddah- rah}mah*

## 1. Introduction

Various stereotypes and social constructions that have long formed about women, make some women affected by pointing sex as a barrier. Being born as women, they are born with a limitation in realizing their dreams and hopes. Many women who still think that a woman place is in the kitchen so they do not deserve to dream anything more, it is their destiny as women.<sup>1[1]</sup> This view is may also occur among women workers, they continue to believe that a woman not suppose to work to support their families. Rather, it should be men who have the obligation to

earn a living, not women. This belief is briefly generated by the patriarchal ideology, in which men have a strong belief that only men have the right to dominate the public sphere. Although, in some circumstances, men are completely incapable of mastering it, and - women have to take over. Ironically, women who participate in the public sphere do not have bargaining position in determining family policy. It is very unfortunate and really superficial and stagnant thought. These views have brought some social difficulties and problems such as husband-wife conflicts and even the problem of high divorce rates that recently can not be lowered.

Bruce et al. –as cited by Felix M. Berardo and Constance L. Shehan- have noted several worldwide trends affecting families, including unwed motherhood, rising divorce rates, smaller households, and the feminization of poverty. They call particular attention to the rising role played by women throughout the world in providing economic support to family members. Families are becoming increasingly dependent on mothers' paid work. Indeed, social scientists generally agree that rising economic status of women, along with shifts in the gender-based division labor, has played a major role in triggering many worldwide changes in the family. In very real sense, the changing roles of women are redefining family relationships, and this ongoing process must be factored into the evolving and shifting international perceptions of family problem.<sup>2[2]</sup> It more emphasizes and seeks to analyze this problem of working women in the context of family and housekeeping from the ideological, doctrinal and social aspects. The problem also includes the high case of divorce initiated by wife in the context of the full employment opportunities for women. It is important to be analysed because of the notion that family is social construction, and therefore its definition is not limited to that posed by the political, religious, or other institutional system. It allows for variant shades of meaning, allegiance, and authority, as well as encompassing differential membership in kinship system.<sup>3[3]</sup> How about Islam with the sacred verses surrounding it that is very strong believed to be enforced in the whole life of the Muslim community? Can Islam agree on the view that family is social construction?

## 2. Research Methodology

### a. The Basic Character of Fiqh

Based on the background above, the author study it from the ideological side of the Muslim community. Of course, the ideology leads to the doctrine and teachings of Islam, precisely from the understanding of Islamic law (*fiqh*). The Muslim community is often caught up in the rigid notion that men are the leaders of the family and the public authorities, so they are the sole responsible persons for the family. In some circumstances, women in charge of the family's livelihood are often perceived as aberrations and must play double roles. There is a forgotten understanding, that life and family leadership, is a form of *mua>malah* which accepts changes according to the demands of circumstances (*ma'qu>l al-ma'na / ta'aqquli*). Family life is a multi-relationship life (*mua>malah*) that emphasizes on realizing the function of the role standardization.

The first and foremost source in the teachings of Islam is the Holy Qur'an. It covers many and varied provisions. Some of these provisions are about beliefs covered in the science of monotheism, attitude (*akhla>q*) covered in morality and tasawuf, and the practical provisions relating to the words and deeds of *mukallaf* (proficient of law) covered in the science of *fiqh* and *us}u>l al-fiqh*. While the *fiqh* coverage itself includes worship and *mu'a>malah*. The provisions on family life known as *ah}wa>l al-shakhsyah* are covered in the *mu'a>malah*.<sup>4[4]</sup>



Jasser Auda explains that the most recent United Nation Development Programme (UNDP) Annual Reports show a Human Development Index (HDI) on the lower side for most countries with majority of Muslims. The HDI is calculated based on a number of factors, which include literacy, education, political and economic participation, women empowerment, in addition to standard of living. Some wealthy Arab states, which rank exceptionally high in term of justice, women empowerment, political participation, and equal opportunity. Related UN reports also point to various forms of human right violations and corruption in most countries with majority of Muslims, as well as dilemmas with coexistence and citizenship of Muslim minorities in their societies. In summary, Muslims everywhere are currently facing major development challenge, which are posing a large number of serious questions and problems.<sup>5[5]</sup>

The similar questions and problems to the UNDP annual report above occur also in Indonesia. Specifically, they are related to the issue of women workers and family leadership. In this case the stereotype has been embedded in women in the Muslim community and has given rise to gender inequalities as well as the irony of household life. Yet, Islamic concepts and doctrines idealize the harmonious family life (*sakinah, mawaddah, and rahmah*). However, since the understanding of sacred verses through *fiqh* considered fixed and not accepting change, it leads husband-wife relationship to conflict and divorce. Thus, it can be stated that *fiqh* actually causes problems.

It is different from the above conclusion, Jasser Auda even stated that *fiqh* plays an important role to provide the solution. In this case, Auda assumes that *fiqh* (Islamic law) to be a drive for a just, productive, developed, humane, spiritual, clean, cohesive, friendly, and highly democratic society. But, he does recognize that the overall values are difficult to find in solving problems within the Muslim community anywhere. Therefore, he further questioned “where is the Islamic Law (*fiqh*)? How could it play a role in this crisis?” So that, he thinks that it must be differed whether the meaning of Islamic law is *shari’ah*, *fiqh*, or *fatwa*?<sup>6[6]</sup>

Actually –as Auda said above- having lost its role and function is not caused by the *fiqh*’s own errors, rather how *fiqh* to be handed down (in Bahasa: *difatwakan*). *Fatwa* is the application of *shari’ah* or *fiqh* to Muslims’ real life today. While *shari’ah* is the revelation that Muhammad PBUH had received and made practicing it the message and mission of his life, i.e., the Qur’an and the Prophetic tradition. While *fiqh* itself is the huge collection of juridical opinions that were given by various jurists from various of thought, in regards to the application of the *shari’ah* to their various real life situations throughout the past fourteen centuries.<sup>7[7]</sup>

The description of the phenomenon above can be seen in the tradition of *al-masail* in Nahdhiyyin (NU) Muslim community in Indonesia. They often solve or answer the problem by laying on several books of *fiqh* as a classical scholars product by taken for granted. This started from one of the decisions of the first NU Congress held in Surabaya on October 21, 1926. The decree stated about the obligation of following one of four great schools jurisprudences (*Hanafiyah, Malikiyah, Shafi’iyah, Hanbaliyah*). Furthermore, the decision of NU Congress of 1926 also received confirmation in the 14<sup>th</sup> NU Congress which was held on July 1<sup>st</sup>, 1939 in Malang. It stated that the reason for following one of the four schools of jurisprudence is the act of caution (*ihtiyati*). Precisely, it is required to follow four great schools of jurisprudences because Muslims are feared to confuse the right and wrong, slip in to wrong, or take an easy opinion.<sup>8[8]</sup>

Based on the description of the phenomenon, the dysfunctional of *fiqh* is clearly not the fault of *fiqh* or the Islamic schools of law’s wealth of heritage. There is nothing wrong, generally speaking, with juridical reasoning carried by scholars for their own environments and times. It is true that some individual scholars had made mistakes and/ or had taken controversial positions



on issues. However, this is the nature of juridical research. The role of scholars, at all times, is to correct each others and participate in the ongoing debates.<sup>9[9]</sup>

In other words, in case of *fiqh* to get its role again, it must be based on the relationship between legal theory (*us}u>l al-fiqh*) and community change. Related to the legal theory, then it should be raised what is called the aspect of the method. It becomes a necessity to gradually move on to a developed method to complement the four sources of law theory (al-Qur'an, al-Sunnah, *Ijma>'*, and *Qiya>s*). In addition, it is very important to fill the empty void that has not been fulfilled by the four sources of law. Thus, all the rigid and textual perspectives that always lead to *Qiya>s* rules are replaced by the perspective or method of *al-istih}sa>n*, *al-istis}la>h* }and *siya>sah shar'iyah*.<sup>10[10]</sup> Furthermore, it greatly avoid the reductionist and atomistic approach that fundamental methodology usually takes.

The atomistic approach often relies on one verse (*nas}s}*) to solve the cases, regardless of the view of another related verses (*nus}u>s*}{. Furthermore, criticism of the atomistic approach is inevitable. One of them is the criticism of Fakhr al-Din al-Razi. As quoted by Auda, al-Razi argues that any single linguistic evidence (*dali>l khit}a>b*) of *nas}s }*could only be "probable". This is caused by some reasons, among of them are:<sup>11[11]</sup>

- 1) There is a possibility that the ruling that we conclude from the single *nas}s}* has been restricted to certain circumstance, without our knowledge.
- 2) There is a possibility that the expression of the single *nas}s }*is metaphoric.
- 3) There is a possibility that one or more of the words of the single *nas}s}* have multiple meanings.
- 4) There is a possibility that a ruling that we conclude from a single *nas}s}* is at odds with "reason". In such case (al-Razi says), if both reason and narration are confirmed, then one of them is wrong. Moreover, reason has precedence over narrations. Thus, we should follow reason, in such cases, and not the linguistic evidence of the narration.
- 5) There is a range of possibilities for the "interpretation" of any single *nas}s}*, which affects the way we conceive its meanings and implication.
- 6) Etc.

The paradigm above –subsequently- is well packed in approach and analysis of *maqas}id shari>'ah* (purposefulness) or *maqas}idi>*. In conclusion, hence the process of *ijtihad* becomes, effectively, a process of realising *maqas}id* (purposefulness) in Islamic Law.<sup>12[12]</sup> Thus, either *shari>'ah* or *fiqh* must be handed down by validation *maqas}id shari>'ah* that it contains of, whether in it already contained *maqas}id* or not yet. Considering the effectiveness of a system measured by the level of achievement of its purpose, then the effectiveness of Islamic legal system is judged by the level of achievement of its *maqas}id shari>'ah*. In other words, how far its problem solving is geared towards the certain problems: whether it is more effective, more efficient, and leads to greater benefits for the people and humanity.<sup>13[13]</sup>

A *maqas}idi >*or *maqas}id shari>'ah* approach to *fiqh* is a holistic approach that does not restrict itself to one narration or partial ruling, but rather refers to general principles and common ground. Implementing the "higher" purposes of unity and reconciliation of Muslims has a higher priority over implementing *fiqh* details. A *maqas}idi* approach takes the issues to a higher philosophical ground and, hence, overcomes differences over the political history of Muslims and encourages a much-needed culture of conciliation and peaceful co-existence.<sup>14[14]</sup>

The implications of the *maqasid shari'ah* approach are no doubt that Allah's revelation covering the sacred verses or His scriptures, laws, and His purposes are well-preserved from all faults and inaccuracy (*ma'sum*). However, the activity of understanding and taking the law (*istinbat*) from His is not preserved from error and inaccuracy. On the contrary, such activity is a form of endeavor and earnest (*ijtihad*) as well as a mere human effort that may be right or wrong. Furthermore, these activities produce what is called *fiqh*. Thus *fiqh* is a product resulting from a combination of revelation, the condition of the society at that time, and the condition *faqih* who did *ijtihad* and *istinbat* at a moment's notice. It is possible that the results of the same scholars at different times also result in different laws. Therefore, a *mujtahid* and *faqih* are required to constantly review their *ijtihad* products (*fiqh*), in order to meet the level of problem solving on certain issues by always considering its *maqasid shari'ah*.<sup>15[15]</sup> Thus, it can be emphasized that the basic nature of *fiqh* is ability to accept change, in accordance with the rule of *al-hukm yadu'ra ma'ala illah wujudana wa adama*.

## b. Ideology and Social Change

Various aspects of thought in ideology affect someone's opinion of a thing, especially about social life and social concepts. In general, the concept of ideology influences social, cultural, science and knowledge, as well as material and non-material views. Such aspects are influenced by personal idealism applies to oneself, not to others. This self-opinion is based on ideology itself, in other words, ideology forms opinions and views on various aspects of life.<sup>16[16]</sup>

As for something quite broad is the social aspect, in which the social concept of a personal's self is fully based on his/ her idealism. His idealism derives from his own thinking, which is his own thought as a compatible thought with the creator of the related idealism. Because the thinking of every human being is clearly different from each other, there are no two identical and similar idealisms. Differences in ideological views are unavoidable, and a mismatch between idealism itself is inevitable.<sup>17[17]</sup>

The embedding of ideology and self-idealism is often done by a person to change his social aspect, so it is in accordance with the concept embraced by the idealism whisperer itself. The embedding of this idealism is a form of compulsion and inappropriate. This is because the distinction between each idealism is unique, and that difference cannot substitute someone's position of idealism or alter it except by the free and unanimous agreement between the two sides.<sup>18[18]</sup>

Along with the role of "purposefulness" (*maqasid*) in determining *fiqh* capacity of problem solving, so the workless rules of *fiqh* is also influenced by the ideological mismatch. As it is realized that in the social aspect, many ideas are circulated and are therefore often colored by differences and debates. Furthermore, the differences and debates are worthy to be researched by ideological theory.<sup>19[19]</sup> Fundamentally, ideology relates to the process of justification of power relations that is not symmetrical and related to the process of the justification of domination. Such meaning is called the "conception of critical ideology". Nevertheless, ideology can bring a positive spirit if it is in the context of a more general social theory.<sup>20[20]</sup>

As it is quoted by Margaretta Tobing, the social change according to Kingsley Davis is a change that occurs in the structure and function of society. For example, the organization of labor causes changes in the relations of workers and employers. Meanwhile, according to Mac Iver, social change is a change in social relationships or as a change to the equilibrium of social relations.

In addition, according to Gillin and Gillin, social change is a variation of accepted ways of life, either because of changes in geographic conditions, material culture, population composition, ideology and diffusion or new discoveries in society. Thus, it can be concluded that social change is a normal and universal shift. It means that change is important and inevitable in any society and elsewhere as a variation of accepted ways of life, either due to changes in geographical conditions, material culture, population composition, ideology or diffusion or new discoveries in society.<sup>21[21]</sup>

However, sometimes social changes related to ideological factors are not directly proportional to social change or vice versa. When this happens, then some forms of deviation –as social change- are inevitable. Social change could have a positive and negative impact. The positive impacts of social change include the existence of new values and norms that are in line with the development of the times; the existence of new and more humane structures and new social relationships; the existence of new social institutions that are more likely to meet the needs of life in accordance with the demands of development era; and the existence of various advances in the field of social, economic, political and cultural. While the negative impacts include the disorientation of values and norms; the emergence of both vertical and horizontal conflicts; the non-functioning of normal existing social institutions; the occurrence of various environmental damage; and the emergence of multidimensional crisis (social, economic, political, cultural and security) resulting in a process of impoverishment and the fading of the legitimacy of political community leaders.<sup>22[22]</sup>

Many people say that the conversation of ideology is considerably out of the date because it is no longer a time filled with ideological struggles like the 20<sup>th</sup> century. It is also mentioned that ideology is dead, and now man has entered a new age in which absurdity and moderatism become the empirical single principle. Of course, this opinion is not absolutely the truth.<sup>23[23]</sup> Especially in the sphere of family life, ideology is very influential on the form of family relationships with the risk of conflict that must be borne by a family. Hoschild –as quoted by DeBiaggi- says that gender ideology has indeed permeated husband and wife relations. Some ideologies of marital roles can be formulated as follows:<sup>24[24]</sup>

- 1) *Pure Traditional* –the woman wants to identify with her activities at home while her husband is concerned with work (*men are the sole family breadwinners*); she wants less power than him and the man aggres. In this case, the value of patriarchy has been internalized by woman.
- 2) *Pure Egalitarian* –some couples might want to be jointly oriented to the home, others to their careers, or both of them to jointly hold some balance between the two.
- 3) *Transitional* –a typical transitional woman wants to identify both with caring for the home and helping her husband earn money but wants her husband to focus on earning a living. A typical transitional man is an favor of his wife working but wants her to take the main responsibility at home.

The current phenomenon is –though unnoticed- the phenomenon of married life based on transitional ideology, since traditional ideology is *de jure* still firmly expressed as an ideology believed. The phenomenon of marital relationship that has little to accept the pattern of modern life is not accompanied by a change of beliefs between husband and wife. It should be the pattern of modern relations or lead to a modern pure egalitarian ideology. Otherwise, multiple roles and burdens will often cause tension problems and even marital rift. Thus, it lies the linkage between ideology and social change in question. Furthermore, the question that can be raised is how to

overcome the mismatch between ideology and social change ? How to embed an ideology that should be embraced? What process might be done? Considering the high rate of divorce –as a problem of gender relations in family life- in Indonesia is already at an emergency.

### 3. Research Highlight

#### a. The concept of “Obligatory” in the provision of family livelihood

A family’s livelihood is an obligation (*wa>jib*) that is placed solely on the husband and it is absolute. This conclusion is derived from the *fiqh* understanding based on several verses on family living. Some of these verses have been concluded to contain the husband’s obligation which means that if not executed, then the wife may sue. The conclusion “*wa>jib*” begins with the command word (*al-amr*) in those verses. Speaking of the meaning of command in the Qur’an, there are several kinds, including: *wa>jib*, *sunnah*, may (*muba>h*}), threats (*tah}di>d*), clues (*irsha>d*), attenuation(*ta’ji>z*), prayer, and so on.<sup>25[25]</sup>

The existence of some meanings of command above also get into the debate among the scholars. In order to be able to define a particular meaning to the command, it requires the existence of supporting evidence (*qari>nah*) that lead to that one meaning. In other words, whether do the command have a real meaning or not? However, it can ultimately be agreed that the meaning contained in the command is not the true meaning (metaphoric meaning) if the intended meaning is other than meaning of must (*wa>jib*), recommended (*sunnah*), dan may (*muba>h*}). Thus, there is still a debate in the determination of the meaning of command to *wa>jib*, *sunnah*, and *muba>h*}. Does command contain all three meanings (*wa>jib*, *sunnah*, *muba>h*}) at once, or in part, or one meaning expressly?<sup>26[26]</sup>

The opinion of the scholars split into 4 kinds, as follows:<sup>27[27]</sup>

- 1) That command implies together (*mushtarak*) among the obligatory, *sunnah*, and *muba>h*}. Therefore, they must choose one of the three very accurately. Such as in the character of the term *mushtarak* (one term contains more than one meaning).
- 2) That command implies together (*mushtarak*) ) between the obligatory and the *sunnah*. Furthermore, it should be chosen its exact meaning based on *qari>nah* (supporters) that exist.
- 3) Al-Ghazali –one of them- argues that it can not be understood for certain whether only *wa>jib*, or *sunnah*, or whether they are together which is the true meaning. Furthermore, under such conditions it can not be expressed (*mawqu>f*/ being suspended) the legal meaning contained by a command verse, unless there is a *qari>nah* that can lead to the selection of one of the meanings contained. Under such conditions, the verse containing “orders” that contains several possible meanings is categorized as the *mujmal* verse (not detailed in detail).
- 4) The majority of scholars are more inclined to argue that command has only one true meaning, the meaning is *wa>jib*. The other meanings are categorized as metaphoric meaning. In addition, the other scholars argue that the true meaning is *sunnah*, and the others opinion, is *mubah*.

From the explanation of the different opinion of scholars in understanding the meaning of command contained by a verse above, so it is very few verses that do not contain some choices

of meaning. It is appropriate to use the *maqa>s}idi>* approach in choosing one of the possible meanings in order not to deviate from the universal values contained by the Qur'an and to perform its role as *problem solving*.

As for understanding the livelihood of the family, it must first be known about the categorization of obligation. It must be reviewed in terms of whether or not the provisions have the level and limitations. Based on that categorization, it is known as *wa>jib muh}addad* and *wa>jib ghair muh}addad*. *Wa>jib muh}addad* is an obligation that the limits of the execution and the provisions of the levels are affirmed by Allah SWT, such as the obligations of *zakat*, trade, *diyat*, and so on. The implication of the obligation of *muh}addad* is the existence of *dhimmah* (bail), in fact that someone –who is entitled- may ask for *dhimmah* fulfillment without depending on the existence of permission or judge decision or agreement between them. Likewise, someone can not be free from the *dhimmah* that it bears, even if the person entitled to it has given it away. In other words, a *mukallaf* (proficient of law) can only be freed from the bail (*dhimmah*) by performing or fulfilling the *dhimmah* in accordance with the provisions and decrees of Allah SWT.<sup>28[28]</sup>

While the *ghair muh}addad* obligation is the obligation which the level and limitations of its implementation are firmly not determined or declared by Allah SWT. The implication of the obligation of the *ghair muh}addad* is that the rightful person has the right to demand the fulfillment of the *dhimmah* owed after obtaining a consent or judge's decision and or agreement between the two sides. In other words, a *mukallaf* can not be declared to have a *dhimmah* before it is decided by a judge or before an agreement on the degree and boundaries between the rightful and the *dhimmah* stakeholders. Similarly, a person can be freed from *dhimmah* only by the willingness of someone who is entitled to it. This is all due to the level of *dhimmah* that must be met in each person is different.<sup>29[29]</sup> What need to be underlined in the explanation of the obligations of *ghair muh}addad* is the existence of a law hanging on the agreement between the two parties involved.

According to H{anafiyah, the role of family livelihood in a family carried by a husband is a form of obligation *ghair muh}addad*. In this case, Allah SWT does not determine how much a living cost should be provided to the child and his wife. Meanwhile, according to other view, as Sha>fi'iyah, the livelihood obligations lay on the husbands is the form of *muh}addad* obligation. Therefore, if the livelihood stops, then instantly it becomes debt and *dhimmah* that must be remain paid unlimited time. This is due to the argument that the extent and limits of livelihoods have been determined, i.e., limited to the ability of the husband.<sup>30[30]</sup>

In fact, between the arguments of H{anafiyah and Sha>fi'iyah can be combined with the understanding that the obligation of living on the shoulders of the husband is a form of obligation *ghair muh}addad*. It is because the obligation of living depends on the husband's spaciousness condition that the level of spaciousness is also still abstract (there is no limit). Thus, in this family living subsection is very appropriately approached with the *maqa>s}idi>*.

The *maqa>s}idi>* approach on some verses of living is to relate them to the universal verses that underlies the formation of a family life which is *sunnatulla>h*. Some of the universal verses are as follows:



- ومن آياته أن خلق لكم من أنفسكم أزواجا لتسكنوا إليها وجعل بينكم مودة ورحمة إن في ذلك لآيات لقوم يَتَفَكَّرُونَ (الروم: 21)
- ...ولهن مثل الذي عليهن بالمعروف، وللرجال عليهن درجة، والله عزيز حكيم (البقرة: 228)

Based on QS. al-Ru>m (30): 21, the purpose of God made man in pairs is to create peace and compassion for one another. While based on QS. al-Baqarah (2): 228, it is explained that both husband and wife have rights and obligations that are equal to each other by ma'ru>f (good or in accordance with'urf/ prevailing habits).

In addition, some verses of livelihood should not be understood as containing of the meaning wa>jib absolutely. This is because –based on QS. al-Ru>m (30):21 and al-Baqarah (2): 228- the division of duties of each husband and wife is done according to good practice. As explained that the husband has one level (*darajah*) is a bit higher than women in QS. al-Baqarah (2): 228, according to Quraish Shihab is the husband's spaciousness to his wife to ease some of the wife's obligations. The point is a suggestion for husbands to treat their wives with praise, in order that their husbands can attain that level.<sup>31[31]</sup> Some of these subscriptions are as follows:

- لِيُنْفِقَ ذُو سَعَةٍ مِّن سَعَتِهِ، وَمَن قَدِرَ عَلَيْهِ رِزْقُهُ، فَلْيُنفِقْ مِمَّا آتَاهُ اللَّهُ، لَا يُكَلِّفُ اللَّهُ نَفْسًا إِلَّا مَّا آتَاهَا، سَيَجْعَلُ اللَّهُ بَعْدَ عُسْرٍ يُسْرًا (الطلاق:7).
- وَالْوَالِدَاتُ يُرْضِعْنَ أَوْلَادَهُنَّ حَوْلَيْنَ كَامِلَيْنِ لِمَن أَرَادَ أَنْ يُتِمَّ الرَّضَاعَةَ، وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ (البقرة: 233)
- أَسْكِنُوهُنَّ مِّنْ حَيْثُ سَكَنْتُمْ مِّنْ وُجْدِكُمْ وَلَا تُضَارِرُوهُنَّ لِتُضَيِّقُوا عَلَيْهِنَّ (الطلاق: 6).

Based on QS. al-T{ala>q (65): 7, it is explained that the livelihood is adapted to the gift of the giver, for God does not give the burden/ dhimmah beyond the limits of his ability. While QS. al-Baqarah (2): 233 describes the division of roles between husband and wife. Contextually, the wife takes on the role of breastfeeding (ASI) to her children and the husband assumes the role of logistics provider (nafaqah) based on good habits. So, QS. al-Baqarah (2): 233 should not be understood as the originator of the rights and obligations, but rather the division of roles for the sake of the realization of a harmonious family life, saki>nah, mawaddah, and rah}mah. Similarly in QS. al-T{ala>q (65): 6, it is explained that the provision of a house or facility for the wife is also performed in accordance with the ability of the husband.

The existence of QS. al-Nisa>' (4): 34, الرَّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ، عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ, which often leads to an understanding that husbands as the family living provider and wives as housewives, are merely giving exemplary patterns of family life roles. This is because in time later when the husband cannot become qawwa>m (managerial leader) because no longer able to provide a living, it will be replaced by his wife. In a sense, married couples must carry out housekeeping duties together, not charged to one person alone (husband or wife only).

With cooperation, each other can have a sense of belonging, bound and soul, so saki>nah, mawaddah and rah}mah can easily cover their family life. In other words, the division of the household roles is a medium to foster the existence of saki>nah, mawaddah and rah}mah. On the other hand, it is not to trigger a conflict by being stuck on the demands of the fulfillment of rights

and the enforcement of rigid and non-contextual obligations. In fact, the obligations contained in the verses above are *ghair muh}addad* that demands the determination of the limits of the implementation of burden (*dhimmah*) contained in. The determination of such limits depends on the consent or decision of the judge and/ or by agreement between husband and wife. In other words, the content of the obligation is not absolute and more on the division of roles contextually.

### **b. The Phenomenon of Household Life of Female Workers**

In the previous study, the author has made one conclusion that the standardization of the roles of husband as family living provider, has led to high divorce rates initiated by women.<sup>32[32]</sup> In a husband-wife relationship, as an economic relationship, the wife can manifest her power. In a sense, both through traditional and transitional ideologies, women may well use the identity of the husband as a family living provider to dominate and oppress men. This form of dominance appears when –in conditions of economic difficulty- the wife demands her husband to be able to immediately meet the needs of the livelihood in accordance with her wishes. At the same time, it turns out that the husband cannot meet the demands of the wife, then –subsequently- there will be a conflict that is coloured by forms of psychological function and also resistance, until finally the relationship breaks (as the peak of unresolved conflict). Unlike the case, if the relationship is coloured by egalitarian ideology, then if there is family economic difficulties will not threaten the husband-wife intimate relationship. Indeed, each will be hand in hand with each other, because in this context the livelihood is not the obligation of one partner, but the contextually mutual obligation of married couples, so there is no mutual action demands rights and obligations or mutual domination and oppression.<sup>33[33]</sup>

In addition, the author also find the fact that the working women in their status as wives has been blamed for causing high divorce from the wife side. In this case can be raised the question of *Kediri Jaya* which charged to the Task Force Chief Section Islamic Religious Affairs *Kemenag* Kediri, Mr. Muamal, related to the dominance of divorce occurred among the civil servant (*PNS*) in Kediri that whether the “increase in divorce rate is related to the increase in wife’s income of the certification allowance?”<sup>34[34]</sup> Besides, there are also some headline media titles, such as “Women’s Officer Asked for Divorce”<sup>35[35]</sup>, “Happening Rush, Professional Teacher Initiate Divorce to Husband”,<sup>36[36]</sup> and “Masya Allah, Many TPP Teachers Files for Divorce”.<sup>37[37]</sup> All such questions or statements, indirectly allege a woman’s career as the cause of the divorce, by denying the existence of non-working women who are also not few –though not dominating- have filed for divorce or by mentioning the status of a particular employment (*PNS*) of the woman of the divorce initiation. This is considering the assumption that women should have their own source of income, so that it can add bargaining power in their family life. This assumption is in accordance with the media statement *Radar Kediri*: “The divorce rate of civil servants in Kediri Regency is dominated by teachers. One of the causes is influenced by the certification allowance.”<sup>38[38]</sup> The statement continued by quoting *Kasi Urais Kemenag* of Kediri Regency, Mr. Muhammad Hamzah: “Emancipation of women without being balanced with awareness to foster family life is also the cause of disharmony. Working is okay, but domestic affairs, especially for women, must not be abandoned.”<sup>39[39]</sup> However, the author has only examined it in terms of the meaning of women towards their careers.<sup>40[40]</sup> For that case, on this occasion, the author tries to study it from the ideology of Muslim society associated with family leadership that goes hand in hand with the concept of Islamic law (*fiqh*) empirically sociologically through *maqasidi* approach.

In general, Working Recruitment Participation Rate or TPAK (in Bahasa: Tingkat Partisipasi Angkatan Kerja), women's employment rate in Indonesia shows an increasing trend from year to year, from 36.8% in 1980 to 44.2% in 1990, to 46, 9% in 1995, and to 51.6% in 2000. Based on the data on the development of women's TPAK shows an indication of women's significant existence in the world of work.<sup>41[41]</sup> Moreover, if it is assumed that the number of female population in Indonesia is bigger than the male population, then the female TPAK also shows the dominance of women in the job field.

The condition of women's TPAK is influenced by many factors, such as the value of market time, that is because education increases, the demand for female workers increases, and overall productivity increases. In addition, it is also influenced by non-market time values associated with the availability of substitution needs, urbanization, demographic trends (reduced number of children), husband's income, aspiration to maximize family welfare, and shifting cultural structures.<sup>42[42]</sup>

Data from the Central Bureau of Statistics (BPS) 2010 stated that 14% of family life in Indonesia, or about 9 million family life are headed by women. The National Secretariat for Women's Empowerment of Heads of Families believes that the data is an iceberg phenomenon, in a sense the reality of numbers in the field is much higher. There are three reasons underlying this belief. *First*, the definition of the head of the family that refers only to the gender of men, which can make bias in its application in the field. BPS defines that the head of the family is the family living provider in the family or someone who is considered the head of the family. It is ambiguous in this definition to be one of the contributors to the low data of female headed family life of the current version of BPS. Imaginable and almost certain –when the survey process on whom the head of the family- will mostly be the father who is culturally referred to as the head of the family. The woman's name as the head of the family will only show up if it is clear that the family has officially lost a male figure, perhaps due to death or divorce. *Second* is Law no. 1 of 1974 concerning Marriage, Article 31, Paragraph 3 which reads “The husband is the head of the family and the wife is the housewife”. The unequivocal division of husband and wife roles and responsibilities in this law has denied the existence of women who are forced or not to become “de facto” family heads. *Third* is patriarchal values in the social construction process of society which divides the role of men in the leader position has become a strong belief, even women themselves believe it, that no woman can become head of family.<sup>43[43]</sup> On the contrary, it has also become a firm belief that women are the only sides responsible for the management of family life in domestic area.<sup>44[44]</sup>

PEKKA (Women Head of Family) –based on data from 2000 to 2010- organized itself at the grassroots level, in 450 villages in 19 provinces in Indonesia. PEKKA finds women to be heads of families for various reasons. Some of the reasons for this were that the dead of the husband had (39%), divorced (13%), left unwillingly by husband (7%), the husband had wandered for long time (9%), polygamous husband and neglected (3%), disabled or chronically ill (5%), and single women who are the family life provider (11%). Actually, in reality on the ground that figure should also be significant –but not yet disclosed radically- is a married woman but must be the main family life provider and take care of his family, because the husband does not have a job or has a temporary job with a temporary income. In the PEKKA community, 2% of its members fall into this category.<sup>45[45]</sup> This last category often leads to the problems and conflicts of leadership in the family life, because –based on the latest phenomenon- both husband and wife work together,



even though the husband's income is less than the wife's income. In addition, it is also considering the full employment opportunities currently are focused on women.

In fact, Islam never forbids women to get job for permissible purposes.<sup>46[46]</sup> On the other hand there is indeed a ban on women to present themselves in the areas of *ta'abbudiyah* (*mah}d}ah* worshipping), such as the leader of praying and marriage guardians, the obligation of living the *'iddah* and *ih}da>d* period to delay the wish of getting married again until the completion of the *'iddah* period. But, family leadership is also often regarded as the field of *ta'abbudiyah*, where women can never and may never be allowed to participate in performing their roles and functions in family leadership.

In this case, one form of family leadership is the obligation of the family living provider . During this time, some men do not mind if the wife work to earn a living, but they reject if so many women also referred to as family leaders . In a sense, they do not want if the wife is also involved or given the right to set family policy together with her as an equal partner. Men never want and allow women to speak for justified purposes. Even when it is said that "family livelihood obligations are not only men's obligations but the obligations of both husband and wife," the men loudly reject them. It is because they are reluctant to distinguish areas of *mah}d}ah* worshipping leadership with family leadership. The difficulty of men –and even some women- receives the participation of women in family leadership, because –in accordance with Max Weber's leadership division-<sup>47[47]</sup> family leadership is included in "traditional leadership". This is motivated by the model of relationship between superior men and inferior women that this has been going on for so long and even become an ideology (patriarchy). Weber explains that traditional leadership differs from legal authority in the absence of a system of rules and structural organization. Indeed, there are staffs or servants in the traditional leadership. But the relationship between servants and leaders is not impersonal and objective as bureaucratic authority. Nevertheless, subordinate servants in traditional leadership remain loyal to their leaders because they are already trusted by local traditions to occupy that position.<sup>48[48]</sup>

Moreover –behind the strong "traditional leadership" in the Muslim family environment- there is the traditional ideology of marital relationships supported by the understanding and implementation of *fiqh* which is detached from its basic character. So that, sometimes the wives behave unsupportive and not objective. Although, there is multiple role issue, but due to the demands of working hours, it is impossible for domestic work to be completed. Domestic work includes not only cooking and washing, but also child care, and husband's assistance. The child whose mother is a female worker is left to Child Care Center (*Tempat Penitipan Anak* or TPA).

Furthermore, when a husband-wife conflict occurs because of something –which causes a wife to file a divorce- the reason for filing a divorce allegation used by a wife is being unpaid by her husband. In fact, the wife was able to support herself and also her entire family. This is a form of female unfair that is often ignored by women activists under the pretext of female mainstreaming and multiple roles. Obviously, the such mindset thus still follows the frame work of the classical *fiqh* completing with its traditional ideology. In the classical *fiqh*, if women cannot accept the conditions of a little living or even not provided, the solution offered is allowing the wife to file a divorce and then the divorce decision will easily be dropped by the judge .

It is fully realized –in this case- not a classical *fiqh* error. The existence of classical *fiqh* at the time coincided with the condition of women who really only do the role of domestic only and do not have the opportunity or skill to be and force themselves to take a public role. So it can be

assumed, women should be divorced from their husbands soon and then be able to remarry with responsible men, in order to avoid starvation that can lead to death.

At this time, the conditions are completely different from the conditions in which the classical *fiqh* is triggered. In addition, it has become the basic character of *fiqh*, that must always be in the review as the times change. Therefore- there must be an ideological renewal in accordance with social change through the reconstruction of *fiqh*. Thus, it is hoped that there will be renewal of ideology from pure traditional to pure egalitarian.

#### 4. Conclusion

It is considerably agreed that women workers also have roles in family leadership. This is because many family - depend on women's salary to provide family - financial needs. Therefore when the working wife makes a decision, that is not necessary a form of authoritative power. Rather, it is need to be considered as a way to help family in providing financial needs in order to have a harmonious family, *saki>nah*, *mawaddah*, and *rah}mah*. In other words, working women also have the responsibility of maintaining the continuity of family life activities today, tomorrow, the future. Likewise, the husband need to understand the duties and role of housekeeping as a form of responsibility in creating a harmonious family life, *saki>nah*, *mawaddah*, and *rah}mah*. The husband should not understand his duties and roles as an exclusive authoritative power. Furthermore, it is expected that the division of roles and family life's duties can contextually lead to the development of pure egalitarian ideology. In addition, this can also be a problem solving in the face of any difficulties that arise in household life.

In the modern era, the family leadership must be moved from the pure traditional to pure egalitarian. However, in the reality, it still stops at the transitional ideology –even unknowingly- that is confusing and always leaves conflict. Based on the *fiqh* concept, the indulgence of the traditional ideology (patriarchy) to this egalitarian ideology has a strong reference in the universal verses of The Holy Qur'an –because it contains the obligations of *ghair muh}addad*- through *maqa>s}idi>* approach. However, wether men or women often stop at a general or *mujmal* verse and interpret it atomistically. It should not be understood atomistically, due to this verse “*al-rija>l qawwa>mu>n 'ala> al-nisa>*” is multi interpretation. There are many other universal verses that should be read.

As a logical implication of the above discussion, it is indeed difficult to change the ideology of family leadership within the Muslim community, because they do not shift from classical *fiqh* yet. However, there is still an opportunity to change it. In this case, it can - start at the beginning of marriage registration at Religion Affairs Office (KUA) with SUSCATIN (Wedding Candidate Course) program . It was from the beginning designed to equip married couple in order to faces no conflict, especially conflict of this power. However, this SUSCATIN program has not been able to proceed as expected, due to the absence of clear regulation and technical guidance.

It should be realized that the mainstreaming of women have caused women activists to be no longer objective in looking at the facts of marital relations in the family life. The spirit of the demands of justice by women must remain objectively conveyed in order to find the common ground of the problem. In other words, it still requires a wide gender insight fairly and objectively. It is not meant to attack women, but rather to focus on equality between men and women. It is more emphasized on the principle of balancing the household role contextually in order to provide an alternative solution to the high rate of divorce in the Muslim community.

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