

THE FUTURE STUDIES OF WOMEN IN ISLAMIC JURISPRUDENCE

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Abstract

There are many studies about women which have been done by Muslim scholars. The issue of women working outside home and holding public office positions is also still being debated by Muslim scholars nowadays- in fact it seems as a never ending issue in the Muslim world. Researchers have concluded in their research that a woman is permissible to work outside home as well as to hold some public office positions as long she follows Shar‘a guidelines. In fact, a truly Islamic society actually must comprise of women who join the working forces. A part of discussing those Islamic guidelines; this paper also will highlight some future studies of women that scholars should focus in moving towards a better nation and Muslim civilization.

Keywords: Women, future studies and Islamic jurisprudence

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Introduction

It is accepted norm for Muslims that *Shar‘a* is valid for every time, place, custom and situation. Its validity has been indicated by Allah in His verse: “*today I have completed your religion (Islam), My favour on you and I have chosen Islam as your religion*” (al-Qur‘an, al-Maida, 5: 3). The debate about women going outside home to work or to hold any public office positions is still on-going. Basically, there are two main opinions of the issue; they are 1- the opponents and the other is 2- the proponents or the supporters of the idea that women go out home to work. Analytical review of the literatures done by the researchers found that the on-going argument is much related to fanaticism among the adherents of *madh hib*

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(Muslims sections of *fiqh*), current patriarchal culture and lack of profound understanding of the related texts (Asar AK, et.al, 2015).

Researchers have concluded in their research⁴ that there are slip records in the arguments of the opponents and proponents. They are as follows:

Opponents' slips (errors)

1. They focus a lot on *qiw ma* verse⁵; whereby the verse indicates the *qiw ma* of husbands to their wives. They don't discuss much about other verses that relate to the leadership such: i. The story Ṭālūt who had been chosen by the God because his knowledge and physical strength⁶ and ii. The story of prophet Shu'aib's girl who asked her father (Shu'aib) to hire prophet Mūsā who was trustworthy and strong person⁷.
2. They circulate rule preventing women from all types of leadership positions according to the ḥād ḥadīth which refers to Caliphate or the highest position in a country; does not be consistent with the spirit of Islām.
3. They do not look at the reality in the Muslim community and other communities in the world. They have forgotten the *maṣlahah* concept of the nation due to their exaggeration in exercising *sad al-dhar'ī*.

Proponents' slips (errors)

1. They do not discuss the nature and specific circumstances of women, as if the women are like men in all things. This error is clear and sane imagined.
2. They argue with some weak possibilities, to the extent they compare a just female leader to an unjust male leader. Such reason is not being accepted since its well known to all Muslim scholars that necessity permits prohibitions.
3. They do not understand the story of the Queen of Saba' Balqīs in a real way.
4. They do not discuss the verses of al-Qur'ān that related to the story of Ṭālūt and prophet Shu'aib's girl.
5. Most of the evidences provided by the proponents are based on reason; they are not strong enough to cope with texts from the Qur'ān and Sunna, which provided by the opponents. In fact, there is no need to hold to the reasons by leaving the revelation evidences.

The main finding from the research is that a Muslim woman is permissible to work outside home as well as to hold some public office positions as long as she follows *Shar'ā* guidelines (Asar AK & Bouhedda, 2015). The highest positions in a country or state such as "Agong" and "Prime Minister" for Malaysia; or "Sultan" or "Menteri Besar" (Chief Minister) for its states; should be avoided since there are clear legal texts that forbid women from taking such positions. Same also those positions that require manhood and great physical strength such as Defence Minister and War Commander; a woman should avoid from taking those jobs which contradict to the nature of women and the jobs themselves. These findings also supported by the survey conducted by the researchers as follows:

⁴ PhD dissertation which is entitled: "An Analytical Study of Women's Public Office Positions in Islamic Jurisprudence: The Case of Malaysia" (in Arabic).

⁵ Al-Qur'ān, sūra al-Nisā', 4: 34.

⁶ Al-Qur'ān, sūra al-Baqara, 2: 247.

⁷ Al-Qur'ān, sūra al-Qaṣaṣ, 28: 23

Table 1: Descriptive statistics of the respondents who agree that a woman can be appointed as “Agong”

| | | Male | Female | Total (Frequency) | Percent | Total Percent |
|--------------|-------------------------|------|--------|-------------------|---------|---------------|
| Agong | Strongly Does Not Agree | 116 | 96 | 212 | 57.5 | 90.6 |
| | Does not Agree | 48 | 74 | 122 | 33.1 | |
| | Not Sure | 6 | 18 | 24 | 6.5 | |
| | Agree | 3 | 7 | 10 | 2.7 | |
| | Strongly Agree | 0 | 1 | 1 | .3 | |
| Total | | 173 | 196 | 369 | 100.0 | |

Source: A sample data collection of 369 respondents

Table 2: Descriptive statistics of the respondents who agree that a woman can be appointed as Prime Minister

| | | Male | Female | Total (Frequency) | Percent | Total Percent |
|----------------|-------------------------|------|--------|-------------------|---------|---------------|
| Prime Minister | Strongly Does Not Agree | 111 | 79 | 190 | 51.5 | 88.9 |
| | Does not Agree | 51 | 87 | 138 | 37.4 | |
| | Not Sure | 6 | 15 | 21 | 5.7 | |
| | Agree | 5 | 11 | 16 | 4.3 | |
| | Strongly Agree | 0 | 4 | 4 | 1.1 | |
| Total | | 173 | 196 | 369 | 100.0 | |

Source: A sample data collection of 369 respondents

Table 3: Descriptive statistics of the respondents who agree that a woman can be appointed as “Sultan”

| | | Male | Female | Total (Frequency) | Percent | Total Percent |
|--------|-------------------------|------|--------|-------------------|---------|---------------|
| Sultan | Strongly Does Not Agree | 119 | 95 | 214 | 58.0 | 93.8 |
| | Does not Agree | 48 | 84 | 132 | 35.8 | |

| | | | | | | |
|--------------|----------------|-----|-----|-----|-------|--|
| | Not Sure | 3 | 11 | 14 | 3.8 | |
| | Agree | 3 | 6 | 9 | 2.4 | |
| | Strongly Agree | 0 | 0 | 0 | 0 | |
| Total | | 173 | 196 | 369 | 100.0 | |

Source: A sample data collection of 369 respondents

Table 4: Descriptive statistics of the respondents who agree that a woman can be appointed as “*Menteri Besar*” or Chief Minister

| | | Male | Female | Total (Frequency) | Percent | Total Percent |
|------------------------|-------------------------|------|--------|-------------------|---------|---------------|
| “Menteri Besar” | Strongly Does Not Agree | 112 | 79 | 191 | 51.8 | 87 |
| | Does not Agree | 50 | 80 | 130 | 35.2 | |
| | Not Sure | 5 | 13 | 18 | 4.9 | |
| | Agree | 6 | 23 | 29 | 7.9 | |
| | Strongly agree | 0 | 1 | 1 | .3 | |
| Total | | 173 | 196 | 369 | 100.0 | |

Source: A sample data collection of 369 respondents

Table 5: Descriptive statistics of the respondents who agree that a woman can be appointed as Defence Minister

| | | Male | Female | Total (Frequency) | Percent | Total Percent |
|-------------------------|-------------------------|------|--------|-------------------|---------|---------------|
| Defence Minister | Strongly does not agree | 101 | 70 | 171 | 46.3 | 88.3 |
| | Does not agree | 56 | 99 | 155 | 42.0 | |
| | Not Sure | 8 | 12 | 20 | 5.4 | |
| | Agree | 8 | 14 | 22 | 6.0 | |
| | Strongly agree | 0 | 1 | 1 | .3 | |
| Total | | 173 | 196 | 369 | 100.0 | |

Source: A sample data collection of 369 respondents

However, those positions that do not need a lot of body strength, majority of the respondents does not object appointing a woman to hold such positions such as follows:

Table 6: Descriptive statistics of the respondents who agree that a woman can be appointed as Judge

| | | Male | Female | Total (Frequency) | Percent | Total Percent |
|--------------|-------------------------|------|--------|-------------------|---------|---------------|
| Judge | Strongly does not agree | 26 | 18 | 44 | 11.9 | 30.3 |
| | Does not agree | 25 | 43 | 68 | 18.4 | |
| | Not Sure | 58 | 39 | 97 | 26.3 | 26.3 |
| | Agree | 63 | 89 | 152 | 41.2 | 43.4 |
| | Strongly agree | 1 | 7 | 8 | 2.2 | |
| Total | | 173 | 196 | 369 | 100.0 | |

Source: A sample data collection of 369 respondents

Table 7: Descriptive statistics of the respondents who agree that a woman can be appointed as University Vice Chancellor

| | | Male | Female | Total (Frequency) | Percent | Total Percent |
|-----------------------------------|-------------------------|------|--------|-------------------|---------|---------------|
| University Vice Chancellor | Strongly does not agree | 9 | 9 | 18 | 4.9 | 20.6 |
| | Does not agree | 33 | 25 | 58 | 15.7 | |
| | Not Sure | 31 | 31 | 62 | 16.8 | 16.8 |
| | Agree | 100 | 122 | 222 | 60.2 | 62.6 |
| | Strongly agree | 0 | 9 | 9 | 2.4 | |
| Total | | 173 | 196 | 369 | 100.0 | |

Source: A sample data collection of 369 respondents

Meanwhile, the prohibiting *fatw* or opinion for women to work outside home given by some Muslim scholars is merely baseless and it contradicts to the Prophetic traditions, the *Sunna* of the Prophet Muḥammad and the practice of *Ṣaḥābā* (companions of the Prophet). In fact, a survey done by the researchers, shows that most of Muslim community in Malaysia (61.3%) approves of women going out to work.

Table 8: Descriptive statistics of the respondents who agree that women have to work.

| | | Male | Female | Total (Frequency) | Percent | Total Percent |
|--------------|-------------------------|------|--------|-------------------|---------|---------------|
| Women work | Strongly Does Not Agree | 7 | 6 | 13 | 3.5 | |
| | Does not Agree | 47 | 17 | 64 | 17.3 | |
| | Not Sure | 33 | 33 | 66 | 17.9 | |
| | Agree | 74 | 113 | 187 | 50.7 | 61.3% |
| | Strongly Agree | 12 | 27 | 39 | 10.6 | |
| Total | | 173 | 196 | 369 | 100.0 | |

Source: A sample data collection of 369 respondents

2. Isl mic guidelines for women to work outside home and to hold public office positions

Women are different from men by nature and culture. A woman will undergo deficiencies in certain periods, where the mood is incomplete and dysfunctional equilibrium such in the menstruation, pregnancy and postpartum. Isl m does not oblige a woman to be the breadwinner for herself nor her family. Her main roles are connected more at home, i.e. becoming a good daughter, wife and mother (Abu F ris, 1420H/ 2000M). A Muslim woman should value thoroughly all the advantages and disadvantages of her work outside home; does it really worth to work outside home or to hold those pubic positions?

In general, the Isl mic guidelines for women to work outside home could be categorized into three main sections, they are (Asar AK & Bouhedda, 2016): **Those guidelines that related to women themselves;** they are: 1- it should be out a permissible need in Shar ‘a as what has been explained by al-Qar d w (1418H/ 1998M). 2- The permission of the husband or guardian. 3- Adhering to the Shar ‘a rulings related to Muslim women outside home. **B- Those guidelines that related to work itself;** they are: 1. The work must be permissible under Shar a . 2. The work must not prevent her from fulfilling the rights of the husband and children. 3. The work must not lead her to travel without a *mahram* or believing women. 4. Work that is suitable for the nature of the woman. **C- The community/ society environment is Isl mic or friendly with Isl m.**

For those Isl mic guidelines for women to hold public office positions; apart of not holding the highest position in a country or state and it’s a like, nor holding those positions related to the strength of manhood; she must also concern about the approval of the majority of her Muslim community/ society. This is to make sure that there is no *fitna* (disunity) will emerge from women holding such positions. At the end, her society also will approve a woman to hold such controversial positions: if the society does not approve that, then it is pointless for her to take them. Hence, educating society is a must for any new changes, particularly those changes that seem to contradict or challenge the normal practice of the society. In reality, the issue of appointing women to hold public office positions is *shubha* (unclear); due to no valid prohibiting or approving legal text of Shari’a for both opinions, except those positions that have been mentioned before. The *fatw* or legal ruling law for this issue must also be based on the custom of the people. Custom or practice of the majority is the fifth maxim in Isl mic Laws known as “Custom shall have the weight of law” (“*al- da mu kama* ”) (Al-Nadaw , 1432H/ 2011M).

3. The future studies of women for Muslims

Even though Islam admits that women have some similarities with men in some aspects; both sexes are still different in many aspects particularly in biology, psychology and sociology. Neglecting or denying those differences may lead to the creation of many problems related to relationship between men and women, even between spouses (John Gray, 1992). Even, the survey done by the researchers also shows that most of Muslim community in Malaysia (88%) believes that women are more emotional than men.

Table 9: Descriptive statistics of the respondents who agree that women are more emotional than men

| | | Male | Female | Total (Frequency) | Percent | Total Percent |
|------------------------|-------------------------|------|--------|-------------------|---------|---------------|
| Woman_emotional | Strongly Does Not Agree | - | - | - | - | |
| | Does not Agree | 2 | 12 | 14 | 3.8 | 3.8 |
| | Not Sure | 10 | 20 | 30 | 8.1 | 8.1 |
| | Agree | 73 | 136 | 209 | 56.6 | 88% |
| | Strongly Agree | 88 | 28 | 116 | 31.4 | |
| Total | | 173 | 196 | 369 | 100.0 | |

Source: A sample data collection of 369 respondents

Current surrounding has proved that a woman who does not accept her differences from a man keep facing many problems which related to job, work-place, psychology, communication, family, etc. Shari'ah texts have stated that women are different from men, Allah says in the Qur'an: *"So when she brought forth (the baby), she said: My Lord! Surely I have brought it forth a female and Allah knew best what she brought forth. And the male is not like the female and I have named her Maryam (Mary) and I commend her and her offspring into Your protection from the accursed Satan"* (Surah Al-Imran, 3: 36). Since Allah has stated clearly that women are different from men; the difference also may be seen in women's suitability in holding various works. However, man and woman are completing each other, each has his or her own strength; there is no such thing to compete against each other as what is being promoted by some movements nowadays.

The main issue here is giving the right person with the right position/ job; this is the essence of this issue. A man is stronger in his physical body compared to a woman, even in the world of animals. However, a woman is naturally more eligible than a man to the feelings of others. That is why we find women are more superior than men in those works which related to nursing, educating, health and social work activities. This is a gift that Allah gives to all women in her nature. For this reason, we see most of the Malaysian women involves in the field of education and welfare and social service as shown by Department of Statistics Malaysia (2014)⁸.

⁸ Department of Statistics Malaysia, *Labour Force Survey Report 2013* (Putrajaya: Jabatan Perangkaan Malaysia, 2014), pg. 84-85.

Hence, the urgent future studies of women that Muslim scholars should focus in detail are those related to the jobs which suit the nature of women and how the government or her society could help them to work and deliver their best. The studies must concern about a woman's responsibilities as a wife to her husband and a mother to her children, in order to give complete guidelines for each job or profession. Those studies could be as follows:

- 1- The study of the ability of a woman in holding certain jobs or positions with objective evaluation from experts and workers of the jobs.
- 2- The study of the positive and negative effects on the woman and her family based on respective Muslim societies, each society has a different environment.
- 3- The study of all state current laws and guidelines which related to women for each job in Islamic perspective.
- 4- The study of those needs and facilities that a society or a government should provide for a woman to work outside home.
- 5- The study of those halal doubtful jobs for a woman in Islam such as make-up or saloon artist, actress, stewardess/ flight attendants, waiters, etc.

Conclusion

Being a Muslima, a woman should be grateful with her own sex or gender that Allah has bestowed; she must focus on her main roles that are connected more at home, i.e. becoming a good wife to her husband and a good mother to her children. It is pointless for a woman to get money or to get her dreamed job/ position/ status in stake of her children. Muslims Umma does not benefit much from those problematic generation resulted from their busy parents especially from the busy working mothers. This is one of the main problems faced by Western nowadays. However, we also do not deny those problems made by irresponsible men (husbands) and the current high cost of living that gives no option for a woman except to work outside home in order to get a better life. A woman actually needs her man to take care her; while a man needs her woman's to have confidence in him (John Gray, 1992).

In conclusion, a Muslim woman is permissible to work outside home as well as to hold some public office positions as long as she follows *Shar'ah* guidelines as what have been discussed by the researchers before. The main issue is giving the right job to the right person. Anyway, there is no generalization a fatwa to all Muslim world since each country has its different environment, situation and priority. Some countries may not suit for women to work outside home nor to hold public office positions due to some conditions such security, war, etc... Hence what really matters to Muslims and people all over the world is to study on how women can work outside home and hold those public positions in the best way.

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