



Working Women: In the Perspective of History, Arabic Language and Law

Akmaliyah¹; Setia Gumilar¹; Yadi Janwari¹; Hendar Riyadi¹; Sumiati¹; Dian Rachmat Gumelar¹;
Putri Diesy Fitriani¹; Khomisah¹; Yuyun Yuningsih¹; Yasir Hudzaifah²

¹ Sunan Gunung Djati State Islamic University of Bandung, Indonesia

² Pontianak Muhammadiyah University, Indonesia

E-mail: akmaliyah@uinsgd.ac.id

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Abstract

In this modern era, the issue of working women is still a topic of discussion and debate in society. Working women are not only a matter of women as individuals, but also a matter of the family and society. This is because the benefits of working women are not only felt by individuals, but also by families and communities. This connection certainly involves socio-economic and psychological values in the activities of working women. However, in practice there is still a mindset in society that views women as having no right to work in the public sector, but only suitable to work in the domestic sector. Therefore, public awareness and women as individuals need to be strengthened with knowledge and understanding of the meaning of the term "work" in historical, linguistic and legal dimensions. This paper explains the urgency of mastering the language, in this connection is Arabic to gain a better understanding of the Al-Qur'an and Al-Hadith as well as other sources of Islamic law written in Arabic, as well as to gain a better and correct understanding of law works for women. In addition, this study also reveals the historical conditions of working women since the time of the Prophet, to the arrangements for working women in this modern era and the laws that underlie them.

Keywords: *Arabic Language; History; Law; And Working Women*

Introduction

Amidst this modern era, working women are becoming more common and acceptable. This situation is also supported by the fact that women's educational background is much higher or in other words they can compete with men's education compared to before the modern era. The very rapid development of technology allows working women to not only work in offices, limited in time and space, but also to work through technology such as online business, or other forms of online work that do not limit their time and space, in an effort to self-actualize.

There is a saying among people which stated that the nature of women is to work within domestic sector. In fact, working women is also being concerned for neglecting their responsibility towards their family. This mindset is supported by the way that the society is leaning their arguments to The Holy Quran and Hadiths, though in the end this also resulted in various concepts. Such a mindset has limited the space for women to work, especially in the public sector, making them choose to work in the household sector or just in online businesses. Through online business, working women is able to concentrate on both the work and the family without violating the rules and the views of the society which labelled working women as a mistake. However, there are still plenty of women who work within public sector which requires them to do the work outside of home, such as in the office, market, etc. In 2018, women's workforce is counted as many as 51, 88% which is still lower than the number for men's workforce. The low rate of women in labor force is caused by a number of aspects such as the lack of information, the view that women is fully responsible in the house only, gender discrimination, as well as the high expenses (Statistik, 2020).

In addition, the role of women in the world of work is generally perceived mostly as informal jobs such as household help or other similar jobs. In this case it is necessary to make a regulation to guarantee welfare, because it is known that the informal sector offers very minimal wages and almost does not provide a system of guarantees and protection. According to *Bappenas* (National Development Planning Agency), women can be the main contributors to the Indonesian economy. If only, the total participation of women in the labor force could reach 64%, it would produce 20 million workers for half of the younger generation in the area. Labor force participation is able to continue to increase because of the large amount of potential that can be dedicated to the development of this nation. This is a challenge for politicians to increase TPAK (Labor Force Participation Rate) by opening up more job opportunities in various sectors, regardless of gender issues.

Therefore, the mindset of society towards this issue is very interesting for further study, regarding women working in the perspective of Arabic and Islamic law. The Arabic perspective is used to find the root words of the verses of the Al-Qur'an and Al-Hadith as the foundation of Muslims who describe the term work. Meanwhile, a variety of thoughts on this issue can be studied using the perspective of Islamic law. Thus, the analysis of Arabic can then be compared with existing products of Islamic law. In other words, this study indicates how the study of gender and language (read; Arabic) can formulate a study of Islamic law on women's activities in the public space.

Methods

This study uses a type of qualitative-descriptive research related to the construction of career women with the perspective of Arabic as a medium for searching for meaning or interpretation in the perspective of Islamic law as well as tracing the constructs of career women in the perspective of Islamic history. Creswell (2014) in explaining that qualitative research design is a research process and methodological understanding that examines social phenomena in all human problems. This research uses secondary data through literature studies from books, journals, and online media, as well as other reference materials that are relevant in this research.

Result and Discussion

1. Law and Arabic Language

Language grows and develops along with the times. It is undeniable, that every individual must be able to speak multiple languages to survive in the modern world. Language is a human need to convey ideas, arguments, and thoughts both verbally and nonverbally with the intention of being understood by

others. Each language has its own uniqueness, and is different from one another, which refers to certain meanings.

Arabic Language also has its own characteristics which distinguish it from other language. In its geographical aspect, Arabic Language grows in a very dry environment and the majority of its speaker is dark-skinned people. Other than the product of Arabic cultures, Arabic language is also categorized as the language of the Holy Quran for Muslims. Therefore, Arabic language is used not only for the purpose of communication between human being, but also with Allah as their god. Furthermore, Arabic language has a wide range of dialect variation, diglossia, and a complex morphology (Rakhlin, Aljughaiman, and Grigorenko, 2019). Historically, Versteegh stated that Arabic language and its speaker was not widely recognized by the world's society until the 7th century (Kees Versteegh 2017). At last in the 19th century, Arabic language appeared as new variety and is started to be used as a formal language in Arab country (Al-Huri, 1997). Beside that, Arabic language is a family of Semitic languages which appeared in the Arabian Peninsula and is known as the language with the largest speaker and has the most vocabularies (Ridwan, 2019).

Arabic language is the language of Holy Quran which is used as the highest source for the Muslims in establishing Islamic laws. There are also Hadith, Ijma, and Qiyas, as well as *Istihsan*, *Istislah* and '*Urf* which is used as secondary source after Quran. Therefore, in order to fully comprehend Islamic laws, it is necessary to master Arabic language deeply. Furthermore, Septi Aji explained that Islamic law is referring to the primary source (Quran) and secondary source (Hadiths) (Jaya, 2019). It is also stated in the Quran that Islamic law is a law which covers every aspects of life with no exception, as mentioned in surah Al-An'am verse 38 which means: "... We have left nothing out of the record..." This shows the urgency of learning Arabic language in order to understand the substance of Quran and other source of law which is loaded with meaning (Abunawas, 2012).

A word in Arabic language can be changed and modified in accordance with the situation in which the word is located. Arabic language has a particular system for verb (فعل) which is different from other language. Arabic language is categorized as the theme pro-drop language which is able to express pronoun, quantity, gender, tense, aspect in a verb meaning that in one verb it is possible to hold a rich and complex meaning (Alasmari, Watson, and Atwell, 2017). For instance, for the tense aspect for the verb "perfect" (فعل ماض) does not always show past meaning, and for the verb "imperfect" (فعل مضارع) does not always show has not been done/is in progress/will be doing something. This kind of situation is often seen in the Quran as *`udul* (عدول), one of which used to show the beauty of language and the deep meaning owned by Arabic language (Abdelaziz and Mahmoud 2018). Even for Noun (اسم), for instance in the field of the word colors, there are many variations and terms in Quran which is related to colors. One of the study which discussed about this is the study conducted by Al-Shraideh and Ahmad El-Sharif investigating colors and word variation for it in Quran based on Semiotic (Al-Shraideh and El-sharif, 2019).

Arabic language holds an important role as a tool or media to understand laws in the Quran and Hadiths. Ibnu Taimiyyah stated that the knowledge in Quran could not be understood without understanding Arabic language first, thus learning Arabic language is a mandatory for every Muslims. Moreover, Ibnu Taimiyyah also mentioned that interpreting Al-Quran and Sunnah is one of many ways to deepen the understanding of the religion itself, and this only possible if a Muslim understood Arabic language. Al-Zarkasyi claimed that "Note that for those who are not proficient in Arabic language and its science, are not allowed and also not eligible to interpret The Quran, as a word could hold two or more meanings (homonym/polysemy) and it is possible that they only know one meaning out of many others." Universities in Malaysia even use Arabic language as a media to learn sharia sciences, this is meant to help the students to have a better and in-depth understanding on the meaning of The Holy Quran (Alhirtani, 2018).

One proof on how deep the meaning of Arabic language in Al-Qur'an is shown in the study conducted by Al Ananzeh which explains that there are many aspects that were deducted in the process of translating Al-Qur'an into English (Ananzeh, 2015).

To understand Islamic law, is that in Arabic terminology there is something known as *al-qawaid al-lughawiyyah* which means linguistic rules formulated by ulama in order to be able to understand the purposes and intentions of Arabic expressions commonly used by native speaker which indirectly, in understanding laws within Islamic laws also means to pay attention to the language style (Sofwan, 2018).

One example from Al-Qur'an which contains the meaning issue in Islamic law is the word "قروء". There are different views between ulama on the meaning of the word "قروء" some of which are the meaning of showing one period when something happened, and is clean from menstruation. This is what caused the ambiguity in understanding a word in Arabic language. Therefore, there is something called semantic which studies *Musytarak lafzhi* that is to have two meanings in one word (Abunawas, 2012) Some of the cause of *Musytarak lafzhi* in Arabic language is as follow:

- 1) The difference in giving meaning to the language. This happened to a number of Arab tribes which have different way of giving meaning to a word caused by different period with other tribes;
- 2) The similarity of two meanings which caused forgetting the first meaning as time goes by;
- 3) The popularity of figurative language meaning which caused denotative meaning is becoming more pushed aside with the presence of connotative meaning;
- 4) Habit and new terms made by the people along with the times;
- 5) Sharia's terminology.

2. The Role and Purpose of Working Women

The law of women works closely related to the understanding and mastery of the Arabic language to interpret the sources of Islamic law, namely the Al-q-Qur'an and Al-Hadith. Women who have to work outside the home can be seen as someone who contributes actively to the public sector. The public sector can be divided into 2 types: formal and informal sector. People who work in the informal sector are those who work with the status of having their own business with the help of unpaid labour, self-employed or family labour. In other words, those who run private or family businesses on a small scale and are not bound by competitive market mechanisms as is usually the case in a company. Some of these businesses are street vendors, fishermen, farmers, etc. Meanwhile, those who work in the formal sector are those who work with the status of running a business with the help of wage workers with employee status.

As for the risks, workers in the informal sector have the risk of not getting labor protection based on law such as minimum wages, severance pay, overtime work and other guarantees such as pensions and health insurance. Without this aspect, most workers in this sector live in uncertainty and are vulnerable to unemployment.

According to the data from the Ministry of Women Empowerment and Child Protection, the majority of women in working age is working in informal sector which is 61, 80% from the total of all working women in 2019 (Statistik, 2020). The progress of economy in one nation can also be marked by the presence of transformation towards the decrease number of informal workers. The more advance economy in one nation, means the bigger role that formal sector contributes.

For urban community, the role of women has shifted as a reaction to the changing of economic structure in urban area which directing towards industrialization process. Women who works in formal sector tends to have a higher level of education and skill, access to financial institutions, labor productivity as well as having a relatively higher salary compare to those who works in informal sector. Evidence that the intellectual level of women in the formal sector is expected to be better because there

are written regulations that must be obeyed by workers. There are also punishment for any disobedient towards the regulations, the right for leave days, definite working hours, also a more stable salary or monthly payment. Some women who work in formal sector can also be called as career women, the term which specifically portrays women with high education, have high profile job and also succeed in their job.

The issue regarding gender experienced by women in formal sector are most position level for women is in lower layer compare to man's position, as well as the "stereotype" problem in the workplace which is still considered as relatively high. The assumption that women have unstable emotion also caused a statement that they are not suitable for any leader position. The lower the job position is in line with the lower rate of income, while the key problem for income level is in skills and education. If being seen from education aspect of formal sector workers, women are able to compete with men (Nofianti, 2016).

A study conducted by Zenger and Folkman stated that women is better at being a leader compare to men in all 16 competencies but one, and 12 out of 16, women is proven better in drive margin for the organization significantly. The study also mentioned that the ability of women which tends to take initiative and drive for result is one strong point compare to men (Nofianti, 2016).

For women who have a good job whether it is at home, formal, or informal sector is sure have certain reasons in why they chose to be a working women: first, possible external circumstance and it is rather interesting for women to work because there is no house chores left which all have been done by the household assistant, or the advancement of household appliances resulting in more free times for women at home. Second, psychological factor, women feel encourage to work in order to deal with boredom of being at home or simply looking for a little fun and to avoid feeling socially isolated, particularly for women with high education background considering that work is a part of self-actualization. Third, economic factor, women feel encourage to work in order to provide the family (Nofianti, 2016).

In this industrialization era, especially the era of industrial revolution 4.0, industrial sector has become a chain drive for development, this sector basically needs labor which is one of the process of production process. The right of women and economic development is highly correlated. Today, the gap of legal rights between women and men is way bigger in developing countries than in developed countries (Doepke et al., 2012). The contribution of women in building the economy can be seen from the increasing number of their participation in labor force. As the indicator, the involvement of women in labor force year 1975-2017 is faster than the number of men's participation (Zuhdi, 2019). Moreover, sometimes there is a gap in career advancement for women. This social problem occurs due to some party still practicing biased gender towards women, especially from the society and the company, because this gender issue has remained local and global (Raji, 2019). There are also many obstacles for women in working especially related to their reproductive function, mainly while having to fulfill their responsibility to breastfeed.

A study found that the participation of women in workforce can be seen in the example provided by Sayogyo that the role of women in agriculture sector has begun ever since the society knows about nature and farming (Sajogyo, 1990). Since that, exist the real division of work between men and women in different job, whether it is in the household or in a bigger community. There are approximately 21, 74 million farmer households in Indonesia, the percentage of women's participation in agriculture and forest labor force usually raise up to 40,71%, this means that the total number of female workers is almost half of men's labor force. The fact also shows that almost 40% of female farmers came from poor households. Therefore, women human resource needs to be strengthen. This leads to the urgency to start the training

and counseling on science and technology to increase the quality of human resource in agriculture aspect in order to erase all forms of discrimination (Zuhdi, 2019).

Another study found about the participation of women in the workforce of textile industry. With the establishment of PT. Famatex Spining Mills which is a company located in Cipadung Raya Street number 272, in Bandung, one of a big and important city in West Java province, shows that it is indirectly creating job opportunity for the people living in Bandung.

It seems to be such unwritten rule that working is a sole responsibility of a husband, or head of a family to provide their economic needs. This kind of stigma has been rooted so deep amongst society since a long time ago. Though in fact, the responsibility to fulfill economic needs of a family belongs to the male or husband, yet along the way, female is also given the same opportunity to work whether at home or elsewhere.

This research did an in-depth interview with the informant from female workers which are *Ibu* (Mrs.) Teti (29 years old), *Ibu* (Mrs.) Imas (33 years old), and *Ibu* (Mrs.) Patriasih (35 years old). From the activity, turns out that female labor force have their own reason while choosing to work outside of home as a factory worker. The following are the answers provided by *Ibu* Teti.

"I am working because of the pressure to fulfill economic needs and to provide daily needs..."

The above opinion stated by *Ibu* Teti sounds almost similar with the one stated by *Ibu* Imas as follow.

"The reason I chose to work is to fulfill economic needs, in order to have a more prosperous life"

Also similar with the two former answers, *Ibu* Patriasih also stated her reason below.

"I am working to fulfill daily need, to live a proper life."

From the above point of view, it can be said that the reason to fulfill economic needs becomes their force to work outside of home. The pressure to fulfill the needs for daily living and pursuing to have a better and more prosperous life has made the house wives to participate in the workforce as a factory worker. This shows that women or a wife could not be doing household chores all alone. A mother in a household is able to participate in the public capacity, just like a men does, in order to provide the economic needs of her family.

It is indeed, that working as a textile factory worker has become a choice for these women to help out their husband in fulfilling the family's economic needs. In fact, most of these working women's husband only work in a private sector and in agriculture sector, therefore the income they make is felt as not nearly enough to meet the family's needs. This situation makes no other choice for these working women but to go out and work as a textile factory worker with the intention of having more income and help out to provide the family. Thus, it can be said that by working as a factory worker, working women can also be seen as the breadwinner of a family.

Another findings shows that women who work outside of home are those who work as a *Suplit* stone breaker in North Moramo district, South Kowane, South East Sulawesi province. *Suplit* stones are stones that have undergone a process of breaking from their initial size (logs) into smaller stones. There are three sizes of *suplit* stones which are 12, 23, and 57. The process of breaking large stones into smaller stones (*suplit* stones) is done manually by housewives using a hammer. A study conducted by Darmin Tuwu found that the condition of women working as stone breaker is rather concerning, because the salary they receive is very low though the working hours are relatively long and risky. This situation makes things hard for these female stone breaker to raise their status, fighting for a better quality of life for their family, resulting in a looping condition for being "vulnerable to poverty" (Tuwu, 2015).

Differ with the result of the above study, Irwan Abdullah investigated women who work in handicraft industry close from home. He stated that working in a handicraft industry close from home actually owns 4 benefits (Abdullah, 2001). First, working in this industry gives out opportunity for women to work without bothering their household chores. Second, it enables them to work without having to give up taking care of their children, because it is still a possibility to do the two things together. Third, this industry also involves family member (mainly the husband and the children) therefore it can lighten the weigh of these women in doing their job as a worker. Forth, the job does not tied to a certain period of time or working hours, so it can be done in between chores. Unfortunately, in the culture of our economic dimension, this means is still seen as a side job, not a main job. Any work to be done at home is still identified as a job done to help out the family's economy, rather than as a main choice. Whereas the income of women working in this area, according to Irwan Abdullah, holds an important role for their family. Though many said that working in the handicraft industry is a side job, turns out that the income they make from this industry is actually quite higher.

The involovement of women in labor force is often being underestimated, and the income they receive is rather lower than those of men's. the unbalance opportunity in pursuing education between male and female will be resulted in certain tendency to view women as only eligible for particular level of education system. Besides, the stereotype (negative labelling) also caused gender inequality that education for women is secondary (Irawati and Hati, 2013). With the same level of education, female worker only receive around 50% to 80% amount from the number received by male workers. Moreover, there are a lot of women who work in a marginal jobs as freelance worker, or family worker with minimum salary or even receive no salary at all. They also do not acquire legal and welfare protection (Hastuti, 2005). Their concrete work is being underestimated even in statistic documents. This issue is caused by the lack of recognition of women's participation in labor force as a concrete thing, as if it never existed. Their work is being seen one-eyed as only a side job or even a part of family workers who receive no salary.

Generally, the mission/goal which needs to be fulfilled by most female workers in rural area is to raise their income in order to meet the family's economic needs.. Wherein Novari et al argued that women are naturally not only working due to economy situation, but also for several other reasons such as unemployed husband/no income, wanting to have their own money, spending spare times, looking for experience. They wish to participate in the economy of their family, and so they make it happen (Novari, Soepono, and Wahyuningsih, 1991). For instance, a study conducted by Handayani et al. (2002) in the industry of wood craving in Sebatu village, Gianyar Bali, mentioned that the working women being interviewed stated that their force to work are (1) increasing the family's income, (2) their husband's income is not enough, (3) the minority of the husband works only to cover the family's daily needs, (4) looking for experience, knowledge, and socialized. Seeing economic reasons (1-3) mentioned by the married respondents shows that breadwinning is also part the women's job, though most of the times their salary is only seen as additional income (Zuhdi, 2019).

The increased participation of women in the industry is suspected because women play many roles in the area of social work. The two factors behind the increase in the number of women's participation in the area of social work are the increase in supply and demand. First, the offer factor, an increase on this side can be seen from women who have a higher level of education and a decrease in the number of births. Education is urgent not only for the purpose of knowing and realizing it but also for creating future prospects, especially for finding a job. The higher the level of education will affect the types of jobs available, the higher it is, the higher the possible job profile. This is in line with the increasing recognition of working women from society and the social environment. Second, the demand factor, in an era of growing industry, makes sense if the industry requires more workers, especially female workers, for example in the textile and garment industry. Another phenomenon that occurs that forces women to be involved in the labor force is the increasing cost of living in this country so that it becomes

too much to be handled by only one person in a family. This situation is particularly evident for those living in urban areas. The tendency of women to work in public spaces on the other hand, for families who are not aware of gender can have social implications and consequences, such as: parents become less concerned about their children so that teenagers rebel; Family ties become loose and distant, even causing a broken home.

This consequence is often seen in the increasing number of women working outside the home, especially in urban areas. This problem will become more complicated if the intensity of women/housewives working in the public sector lasts a long time. In other words, these women need to live in cities and be separated from their families for a long time, so that the intensity of family time decreases and causes a loss of communication that result in disharmony in the family, or even an incomplete family. In the Indonesian socio-cultural system, the roles and responsibilities for household harmony are carried out by women, while the role of men is more related to the breadwinner and the main source of income for the family, this implication is of course there is still a lack of gender awareness in the family.

The cultural construct makes the husband the sole breadwinner who gives a small portion of his income to his wife and is also the reason for married women to enter the world of work. This situation shows that women are willing to take advantage of their economic potential, reducing their dependence on their husbands economically. In addition, they also realize that women do not only want to play a traditional role, being left behind, but they are also able to be in front of the public sector. Therefore, the value of their work which has been neglected so far needs to be accommodated in the social environment of society.

The role of working women being seen from the point of view of social and family's economy, has directed towards the equality with men. This equality is no longer collided with the value of socio-cultural system, which also no longer follow traditional view of putting women in domestic sector only. The role of women has transformed, not only identical with "*sumur, dapur, dan Kasur*" (household chores) but also has emerged into public sector.

3. Working Women According to History and Islamic Law

Islam is a universal religion, there is no limitation of time and space in implementing various rules in it. These rules are made based on the main source of Islamic law which is Al-Quran and Sunnah. Other source of Islamic law agreed by ulama are *Ijma'*, *qiyas*, *Istishan*, *maslahah mursalah*, *urf*, *istishab*, the law for those before us, *mazhab shahabi*, in which some people do use it and some others do not (Djazuli, 2010).

Various aspects in this life are governed by sharia, including social interaction between group of people both male and female. There not a tiny bit of discrimination in the way of treating human being, because we are all equal and what makes us different is our level of faith towards Allah SWT not based on our gender. That includes the freedom of human being to make effort in trying to fulfill the needs for living, as stated in the following verses in Al-Qur'an:

1) Surah al-Jum'ah 62: 10, which says:

فَإِذَا قُضِيَتِ الصَّلَاةُ فَانْتَشِرُوا فِي الْأَرْضِ وَابْتَغُوا مِنْ فَضْلِ اللَّهِ وَاذْكُرُوا اللَّهَ كَثِيرًا لَعَلَّكُمْ تُفْلِحُونَ

"And when the prayer has been concluded, disperse within the land and seek from the bounty of Allah, and remember Allah often that you may succeed."

According to that verse, the comprehension in Arabic language (فَأَنْتَبِرُوا) explained that textually, Allah has demanded human being both male and female to make effort by doing things in the world after praying, in the attempt to seek prosperity (blessing) as much as possible to get a good life. This verse gives out discretion for everyone to do any kind of attempt seeking for money regardless of being men or women.

2) Surah Al-Qashash 28: 77, wich says:

وَأْتِنِعْ فِيمَا آتَاكَ اللَّهُ الدَّارَ الْآخِرَةَ وَلَا تَنْسَ نَصِيبَكَ مِنَ الدُّنْيَا وَأَحْسِنْ كَمَا أَحْسَنَ اللَّهُ إِلَيْكَ وَلَا تَبْغِ الْفُسَادَ فِي الْأَرْضِ إِنَّ اللَّهَ لَا يُحِبُّ
الْمُفْسِدِينَ

“Rather, seek the ‘reward’ of the Hereafter by means of what Allah has granted you, without forgetting your share of this world. And be good ‘to others’ as Allah has been good to you. Do not seek to spread corruption in the land, for Allah certainly does not like the corruptors.”

According to the meaning of Arabic language, the imperative word (اتَّبِعْ) and other imperatives form the above verse are directed for all mankind, both male and female. Therefore, theoretically there is no prohibition in Islam for women to work outside of home whether in formal or informal sector. This statement raised because there is not a single proposition which forbid women to work, in accordance to the words of The Prophet told by Anas bin Malik *radhiyallahu ‘anhu* saying:

كَانَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يُعْزُّو بِأُمِّ سُلَيْمٍ ، وَنِسْوَةٌ مِنَ الْأَنْصَارِ مَعَهُ ، إِذَا عَزَا ، فَيَسْقِيْنَ الْمَاءَ ، وَيُدَاوِيْنَ الْجُرْحَى

“Rasululloh shallallahu ‘alaihi wa sallam has gone into battlefield with Ummu Sulaim and a number of women from Anshar, therefore they provide water and treated those who were injured..” (HR. Muslim no. 1810)

The above hadith shows women who lived in the same time period with Prophet Muhammad *Shallallahu ‘alaihi wa sallam* had also followed men into battlefield with the duty of treating injured soldiers and to give water for those who needed it. According to this, it can be said that women during that time period were able to do other activity outside of home in the form of health worker with low risk of exposing their souls to danger. Therefore, women may work because of the example from the time when Rosulullah was still alive, this also because there is never any proposition which forbid it, as stated in rules of fiqh saying that (Djazuli, 2010);

الاصل في الاشارة الاباحه حتى تقوم الدليل على ثحر بها

“Originally, everything is permitted until there is a proposition to point out what forbids it”.

Nevertheless, for women to work outside of home is ideally have to be able to protect their own self and soul which is the sole of everything, in accordance to *Maqshid As-syariah* meaning that what is intended by Allah in setting the law, what is objected, and what is to be achieved from *Maqshid As-syariah* (Syarifuddin, 2008). Thus, the women need to always pay attention to several things in order to avoid causing misleading understanding, and also not to be a *madharat* for both themselves and their families. This is based on the proposition in form of verses in Al-Quran and Hadith which cover about women, which include the rights and responsibilities set by Islam. Generally, a number of things that women have to pay attention to while working outside of home are in the following:

1) For women to work outside of home is ideally expected to always cover them selves (*al-hijab*) to avoid fitnah (misleading information). This is because basically, everything in women is aurat

(part of body which is not allowed to be shown) which needs to be covered and protected. Hence, for women who would not be able to protect themselves from *fitnah* it might be better for them to avoid getting job where men and women mingled. This is the privilege for women in Islam, they are viewed as extraordinary creature, and therefore the women themselves need to always stay away from things that would make them lose their privilege by exposing themselves to danger and inappropriate job. Where in the women is seen to be eligible of fulfilling this condition, then the choice of working outside of home would not be a problem. As stated in Qur'an surah An-Nur (24):31 :

وَقُلْ لِلْمُؤْمِنَاتِ يَغْضُضْنَ مِنْ أَبْصَارِهِنَّ وَيَحْفَظْنَ فُرُوجَهُنَّ وَلَا يُبْدِينَ زِينَتَهُنَّ إِلَّا مَا ظَهَرَ مِنْهَا وَلَا يَضْرِبْنَ بِخُمُرِهِنَّ عَلَى جُيُوبِهِنَّ وَلَا يُبْدِينَ زِينَتَهُنَّ إِلَّا لِبُعُولَتِهِنَّ أَوْ آبَائِهِنَّ أَوْ أَبْنَائِهِنَّ أَوْ إِخْوَانِهِنَّ أَوْ بَنِي إِخْوَانِهِنَّ أَوْ بَنِي أَخَوَاتِهِنَّ أَوْ نِسَائِهِنَّ أَوْ مَا مَلَكَتْ أَيْمَانُهُنَّ أَوِ التَّالِيَعِينَ غَيْرِ أُولِي الإِرْبَةِ مِنَ الرِّجَالِ أَوِ الطِّفْلِ الَّذِينَ لَمْ يَظْهَرُوا عَلَى عَوْرَاتِ النِّسَاءِ وَلَا يَضْرِبْنَ بِأَرْجُلِهِنَّ لِيُعْلَمَ مَا يُخْفِينَ مِنْ زِينَتِهِنَّ وَتُوبُوا إِلَى اللَّهِ جَمِيعًا أَيُّهُ الْمُؤْمِنُونَ لَعَلَّكُمْ تُفْلِحُونَ

“And tell the believing women to lower their gaze and guard their chastity, and not to reveal their adornments¹ except what normally appears. Let them draw their veils over their chests, and not reveal their ‘hidden’ adornments except to their husbands, their fathers, their fathers-in-law, their sons, their stepsons, their brothers, their brothers’ sons or sisters’ sons, their fellow women, those ‘bondwomen’ in their possession, male attendants with no desire, or children who are still unaware of women’s nakedness. Let them not stomp their feet, drawing attention to their hidden adornments. Turn to Allah in repentance all together, O believers, so that you may be successful...”

- 2) Women who decided to work outside of home should have the permission from parents, guardian, or husband especially for those who are married. This condition is taken from the consideration that married women are not allowed to leave the house without their husband’s permission. Hence, women can only work outside of home if only they have the permission from their parents, legal guardian, or husband with the purpose of having a good job and avoiding bad thing for themselves and their family. As stated in the rules of fiqh that (Djazuli, 2010):

الضرر يزال

Meaning: *“Harm must be eliminated.”*

This is also based on the Words of God in Surah An-Nisa 4: 34 which says:

الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضُهُمْ عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ فَالصَّالِحَاتُ قَانِتَاتٌ حَافِظَاتٌ لِّلْغَيْبِ بِمَا حَفِظَ اللَّهُ وَاللَّاتِي تَخَافُونَ نُشُوزَهُنَّ فَعِظُوهُنَّ وَاهْجُرُوهُنَّ فِي الْمَضَاجِعِ وَاصْرَبُوهُنَّ أَطْعَمَكُمْ فَلَ تَبِعُوا عَلَيْهِنَّ سَبِيلًا إِنَّ اللَّهَ كَانَ عَلِيمًا كَبِيرًا

“Men are the caretakers of women, as men have been provisioned by Allah over women and tasked with supporting them financially. And righteous women are devoutly obedient and, when alone, protective of what Allah has entrusted them with. And if you sense ill-conduct from your women, advise them ‘first’, ‘if they persist, ‘do not share their beds, ‘but if they still persist, ‘then discipline them ‘gently’. But if they change their ways, do not be unjust to them. Surely Allah is Most High, All-Great.”

- 3) Theoretically, women have the obligation to serve their husband, thus everything needs to be taken care of at home first, especially everything needed by their husband and children before they can work outside of home. In other word, women may work outside of home to seek money if only that work does not make them neglect their responsibility at home and to take care of their family. The consequence is that it is best for women not to spend all of their time outside of home to

work, because they also have to do all the house chores and educate their children. This job however, should not be given completely to a household assistant or a babysitter. But most of the times, career women tend to run out of energy once they get home from work, and have not much time left for the family.

- 4) Women ought not to become a leader for men in their work outside of home. This comes with the consideration that women are not allowed to sit on the highest position in a society or a nation, according to Hadith of Rasulullah SAW which explained that one group who elected women to sit on the highest position would never acquire success.

As for the fatwa or argumentation which emphasizes that working women need to get back to their natural duty, as a wife and full mother, it generally came from most of ulama from the Middle East. This is affected by the socio-cultural background of the people there which tends to be more patriarchy and also by the security condition of the country, where women have to be accompanied by 17 male families every time they want to go out, Yûsuf al-Qardhâwî, *Fatâwâ Mu`âsharah* (Asrianty, 2014). Because the outside situation is not safe for women to go around by them selves. Moreover, the other main reason for ulama to forbid women from working outside of home is the concern of *khalwat* (mixing/mingling) between men and women in the workplace. As happened quite frequently sexual harassment in the work field, also discrimination towards female workers which gradually resulted in the degradation of moral within Muslim society, Muhammad Albar, *Career Women in Islamic Scale*.

Traditionally, the role of women is still addressed to the non-economic activity, which is as the care taker of the household, in this case is focusing in the domestic space. There are two big reasons which make women is less developing in terms of self-actualization. First, external party has not been able to give room and faith towards women. Second, internal party feel that women is still not good enough to do the work which they actually should be able to (Rohmana and Ernawati, 2014).

Gender ideology which was built on the base of culture to arrange the relation between mankind, has constructed the division of work based on gender. This social construction has rooted very strong in human mind as if division for work based on gender had come from nature. The dichotomous distinction in area of work between public and domestic become very strong, thus domestic works is attached to women, wherein public work is attached to men.

Along with the complex development of the society, the role of women also shifted. Originally, public area was the place for men while domestic area was a place for women, but today, women has also actively participated in public sector. Women's participation in the household economy is a general phenomenon which has been going on from a long time ago and reached to the whole system of socio-economic of the society. This shows that women are not only contributing in domestic sector, but also in economic and public sector. Accounted in many literatures that women who work in public sector always being linked to the economic condition of their family (Tuwu, 2018).

Working women really is a realization from the existence and actualization as well as self-manifestation of their lives. Mankind, both men and women is created by Allah SWT with the purpose of doing their own works and activities as part of their good deeds and a form of worship to Allah. By working, an individual will be able to fulfill their needs to live both physically and mentally. Islam teaches that each of the individual has their own obligation to work and right to have a good job for both men and women. Mankind is expected to fight for their own lives, to fulfill their needs of clothes, foods, home, and health (Sunuwati and Rahmawati, 2017). Beside that, working women can also express themselves by sharing their minds, creativities and innovation, as well as becoming productive by creating as a result of their self-confidence and pride. Through working, women are trying to seek meaning and their true identity, also, this kind of achievement will affect their sense of self-confidence and pride (Handayani and Salim, 2011).

Women who choose to work have to be doing two things at once, which are being productive by working in public sector while also taking care of domestic matters. Chandraningrum emphasized that once working women get home from work, they will directly start doing their second job that is taking care of household chores. It is such divine fate that even though women work in public sector, their responsibility in domestic sector is still unavoidable. Therefore, women definitely need some times to take some rest, to reflect and compose themselves (Candraningrum, 2013).

Thus, it can be said that there are plenty of women who chose to become a working women caused by various different reasons and aims. However, by working outside of home, does not mean that women abandoned their nature as a mother and a wife. Therefore, the role of working women is actually harder, because they have to balance their role in both domestic and public sector.

4. Working Women in The Perspective of Indonesian Labor Law

The data of women's participation level in public sector has a lower percentage value compare to men's, in the following is the data for women's participation in executive and legislative institution separated by gender:

Table 1. The Percentage of Legislative, Executive and Judicial Leader Based on Gender
(In percentage)

State Institutions	Female	Male
Legislative		
MPR	18,93	81,07
DPR	17,32	82,68
DPD	25,76	74,24
DPRD Province	14,62	85,38
DPRD City/Regency	16,29	83,71
Executive		
Ministry Coordinator	25,00	75,00
Minister	22,58	77,42
Judicial		
Supreme Court	0,00	100,00
Constitutional Court	10,00	90,00
Judicial Commission	14,29	85,71
Corruption Eradication Commission	20,00	80,00

Source: Central Bureau of Statistics Indonesia 2019

According to the above data, the level of women's participation in the board of nation's leader is very minimum, especially in Supreme Court which shows the number of 0, but shows the highest percentage in DPD (People's Representative Council) as much as 25, 76%. This means that the role of women in the process of managing the country is yet to be put into consideration and the judgement/mindset that women can only deal with domestic issues is still rather high.

Aside from women's participation in the high state institutions, the researcher also provides data of women's participation level as state apparatus, which if being seen from the total number and education level of the employee, the result for women is higher than men's:

Table 2. The Percentage of Civil Servants According to Education Level and Gender

Education Level	Female		Male	
	Total	Percentage	Total	Percentage
Elementary School /Equivalent	2.226	0,11	27.266	1,32
Middle School / Equivalent	5.957	0,28	46.937	2,27
High School/ Equivalent	309.977	14,67	538.089	26,05
Vocation School I, II	119.024	5,63	90.367	4,37
Vocation School III / Bachelor	272.271	12,89	116.098	5,62
S1/S2/S3	1.402.857	66,41	1.246.995	60,37
Total	2.112.312	100,00	2.065.752	100,00

Source: Central Bureau of Statistics 2019

The total number of female working as civil servants in Indonesia is higher compare to men's, especially in the level of education. According to table 2 above, the level of education for women shows the percentage as much as 66, 41% while men's is 60, 37%, this indicates that the awareness of the importance of education for women is higher than men's in public sector.

However, distinction from the society towards working women with high level of education background tends to be negative. Even so, women in Indonesia have an opportunity to express and actualize their potential as much as possible as one form for the realization of their human's right as human. Furthermore, the nation formulated those regulations in order to ensure that the citizen's rights are guaranteed by law which has been approved by all to pursue the prosperity of all parties.

Basically, that human rights promotes individualism (Kasule, 2009) which resulted in the guarantee written in The 1945 State Constitution of The Republic of Indonesia article 27 point (2) which stated that: "Every citizen has the right to work and to live in human dignity". Giving the opportunity to all the citizens both men and women to participate in developing the nation without any discrimination towards men and women, and is entitled to have a proper job and protection. In a juridical point of view, under article 5 in the Act of The Republic of Indonesia Number 13 Year 2003 concerning manpower stated that "Every person available for a job shall have the same opportunity to get a job without discrimination". The passage of this article opens up opportunity for women to be able to get into every sector in the labor force, with notes that she is willing and capable of doing the job.

In article 1 point 1 of the Act of The Republic of Indonesia Number 13 Year 2003 concerning manpower stated that "Manpower affairs or labor refer to every matter that is related to people who are needed or available for a job before, during and after their employment." And in article 1 point 2 of the Act of The Republic of Indonesia Number 13 Year 2003 concerning manpower stated that "People available for a job is every individual or person who is able to work in order to produce goods and/or services either to fulfill his or her own needs or to fulfill the needs of the society".

The definition of people available for a job according to Act of The Republic of Indonesia Number 13 Year 2003 completes the definition of the term in Law No. 14 of 1969 on the Fundamental Rulings concerning Manpower which stated that "People available for a job is every individual or person who is able to work either inside or outside working relationship in order to produce goods and/or services to fulfill the needs of the society" (Husni, 2010).

Therefore, we can conclude that the definition of female worker is a woman who is capable to do something/work either inside or outside working relationship in order to produce goods and/or services to fulfill either her own needs or the needs of the society.

The presence of definition on working women in the perspective of labor law implicates with the findings of rights which attached to female workers according to the Act of The Republic of Indonesia

Number 13 Year 2003 concerning manpower. As for female workers have been given a number of specificities that reflects their rights, which are:

1) The Right to Receive Equal Treatment with Men

This issue can be seen in the Act of The Republic of Indonesia Number 13 Year 2003 concerning manpower article 6 stated that “Every worker/laborer has the right to receive equal treatment without discrimination from their employer.” This provision supports the one in article 5 saying that there is no difference between men and women in the workforce.

2) The Right to Have Leave Days for Pregnancy and Give Birth

The Act of The Republic of Indonesia Number 13 Year 2003 concerning manpower article 82 regulated on the right of leave days for pregnancy and give birth for women. Women worker is entitled to take a break for 1, 5 months before giving birth and 1, 5 months after giving birth. However, the family member must inform the company about the birth of the child 7 days after the birth and also must submit the proof of birth certificate of the child to the company 6 months after birth.

3) The Right of Protection During Pregnancy

The Act of The Republic of Indonesia Number 13 Year 2003 concerning manpower article 76 point 2 stated that entrepreneurs are prohibited from employing pregnant female workers/laborer who, according to a doctor’s account, are at risk of damaging their health or harming their own safety and the safety of the babies. Therefore, the company is obligated to ensure the protection for pregnant female workers, and avoid giving them heavy works.

4) The Right to Take Leave Days for Miscarriage

Female workers who has a miscarriage is also entitled to take leave days with the period of 1, 5 months attached with obstetrician’s note. This issue is regulated in The Act of The Republic of Indonesia Number 13 Year 2003 concerning manpower article 82 point 2.

5) The Right to Be Given Labor Cost

According to Act No. 3 of 1992 concerning social security for workers, companies that employs more than 10 workers or pay wages at the minimum of Rp. 1.000.000/month are required to enroll their employee in the *Jamsostek* (Social Security for Workers) program. One of the program is health care insurance which includes examinations and labor costs.

6) The Right to Breastfeed

The Act of The Republic of Indonesia Number 13 Year 2003 concerning manpower article 83 stated that female workers whose babies still need breastfeeding to breastfeed their babies if that must be performed during working hours.

7) The Right to Take Leave Days During Menstruation

Many female workers are actually still not aware of this regulation. In fact, every female workers are not obliged to come to work on the first and second day of menstruation. This is stated in The Act of The Republic of Indonesia Number 13 Year 2003 concerning manpower article 81.

Conclusion

Based on the explanation above, it can be concluded that women working in public spaces are important and have benefits for the lives of individuals, families, and society. Therefore, the study of gender and language skills which can lower a regulation in terms of law (read; Islamic law) is urgently needed in the effort to interpret the verses of the Qur'an and Al-Hadith as well as other sources of Islamic

law, in view of the re-actualization of meaning work for a woman and usefulness in a family. Furthermore, the researcher describes the struggles carried out by women historically, since the time the Prophet was still alive, until now in the modern era. Legally, the advancement of working women is based on Islamic sharia and labor law, particularly those that apply in Indonesia.

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