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## WORKING WIFE'S NAFKAH A FAMILY LAW PERSPECTIVE INDONESIAN ISLAM

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### **ABSTRACT**

*This research aims to analyze the income position of working wives in Islamic family law in Indonesia. In classical jurisprudence, the husband has the obligation to pay his wife's maintenance, based on the rules of separation of assets in marriage. Meanwhile in Indonesia, maintenance is determined by the husband, with the implementation of joint property. This proof was carried out by examining books related to this study. Qualitative descriptive analysis was carried out after complete data was obtained. The results of this research explain that there is no text that expressly prohibits wives from working and there is no text that explicitly states that wives must work with their husband's permission. In classical jurisprudence, a wife's income from work is the husband's obligation, as is the case in Indonesia. However, it is not in line with the implementation of joint property, so it brings ambiguous legal treatment. The implementation of joint property in marriage has an impact on the implementation of all obligations in the household being carried out jointly, including the obligation to fulfill nafkah.*

**Key words:** *working wife, living, family law*

### **ABSTRAK**

*Penelitian ini bertujuan menganalisis kedudukan nafkah istri yang bekerja dalam hukum keluarga Islam di Indonesia. Dalam fikih klasik suami mempunyai kewajiban membayar nafkah istri, didasarkan pada aturan pemisahan harta dalam perkawinan. Sementara di Indonesia penetapan nafkah pada suami, dengan pemberlakuan harta bersama. Pembuktian ini dilakukan dengan meneliti buku-buku yang berhubungan dengan kajian ini, analisis diskriptif kualitatif dilakukan setelah didapat data yang lengkap. Hasil penelitian ini menjelaskan bahwa tidak ada nash yang tegas melarang istri bekerja dan tidak ada nash yang tegas tentang keharusan istri bekerja dengan izin suami. Dalam fikih klasik nafkah istri bekerja adalah kewajiban suami, demikian juga di Indonesia. Namun tak selaras dengan pemberlakuan harta bersama, sehingga membawa perlakuan hukum yang ambigu. Pemberlakuan harta bersama dalam perkawinan berdampak pada pemberlakuan semua kewajiban dalam rumah tangga dilakukan bersama, termasuk kewajiban memenuhi nafkah.*

**Kata kunci :** *istri bekerja, nafkah, hukum keluarga*

## INTRODUCTION

The phenomenon of working wives is actually nothing new in our society. Since ancient times when humans still earned their living by hunting and gathering, a wife has actually worked. While her husband goes hunting, at home she works to prepare food and manage the game to be exchanged for other materials that the family can consume. Because the economic system that prevailed in ancient society was a barter system, women's work, although it seemed like it was still confined to the domestic sector, actually contained very high economic value. Then, when society developed into an agricultural society and then an industrial one, women's involvement was very large. Even in the farming communities of various tribes in the world, it is the women who look after the livestock and manage the fields well, not the men. This clearly shows that women's involvement is not recent but has been around for a long time.<sup>1</sup>

Research on working wives and wives' livelihoods in the household has been widely studied.<sup>2</sup> So this research aims to strengthen previous research with a different point of view. Even though this research is not a new phenomenon, the issue of working women still seems to be a matter of debate today. Debate about the law on working wives and the status of working wives' livelihoods. In classical jurisprudence, the wife's maintenance, whether working or not working, is the husband's obligation with the implementation of separate assets in marriage.<sup>3</sup> Meanwhile, in Indonesia, determining a wife's maintenance is the husband's obligation, with the implementation of joint property in marriage. The stipulation of this rule will certainly create opportunities for problems in the household, imbalance, and discrimination within the household.<sup>4</sup>

However, society still views the ideal family as the husband working outside the home and the wife at home doing various housework. Strong negative assumptions (stereotypes) in society still consider the ideal role of husbands as breadwinners and loving leaders; while the wife carries out the function of caring for the children. However, as time goes by, of course these roles should not be standardized, especially as economic conditions make it impossible to turn a blind eye to the fact that sometimes even wives are required to be able to also act as breadwinners.

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<sup>1</sup> R Purwanti, "Peran Nelayan Perempuan Dalam Meningkatkan Pendapatan Masyarakat Pesisir Di Desa Tompotana Kabupaten Takalar, Sulawesi Selatan," *Buletin Eboni*, 2018, <http://ejournal.forda-mof.org/ejournal-litbang/index.php/buleboni/article/view/5156>; D Tuwu, "Peran Pekerja Perempuan Dalam Memenuhi Ekonomi Keluarga: Dari Peran Domestik Menuju Sektor Publik," *Al-Izzah: Jurnal Hasil-Hasil Penelitian*, 2018, <https://ejournal.iainkendari.ac.id/al-izzah/article/view/872>.

<sup>2</sup> F Andriana, "Istri Bergaji: Analisis Peran Wanita Bekerja Dalam Meningkatkan Ekonomi Keluarga," *Al-Qadha: Jurnal Hukum Islam Dan ...*, 2021, <https://journal.iainlangsa.ac.id/index.php/qadha/article/view/2800>; S Ismail, "Tinjauan Hukum Islam Terhadap Istri Sebagai Pencari Nafkah Utama Dalam Keluarga PNS Di Kecamatan Enrekang Kabupaten Enrekang," *Jurnal Al-Qadai: Peradilan Dan Hukum ...*, 2018, <https://journal3.uin-alauddin.ac.id/index.php/al-qadai/article/view/5658>; Z Zuhrah, "DISTRIBUSI PERAN PENCARI NAFKAH SUAMI ISTERI SEBAGAI PERWUJUDAN KELUARGA DEMOKRATIS," *SANGAJI: Jurnal Pemikiran Syariah Dan Hukum*, 2022, <http://ejournal.iainbima.ac.id/index.php/sangaji/article/view/829>; E Fitria, "Peran Aktif Wanita Dalam Peningkatan Pendapatan Rumah Tangga Miskin:(Studi Kasus Pada Wanita Buruh Perkebunan PT ASIAN AGRI Di Dusun Pulau Intan)," *ECOBISMA (Jurnal Ekonomi, Bisnis Dan Manajemen)*, 2019, <https://jurnal.ulb.ac.id/index.php/ecobisma/article/view/5>; MUMBA Aziz, *Toleransi Wanita Bekerja Terhadap Hak Nafkahnya Ditinjau Menurut Hukum Islam* (repository.ar-raniry.ac.id, 2023), <https://repository.ar-raniry.ac.id/id/eprint/31061/>.

<sup>3</sup> Jumni Nelli, "Analisis Tentang Kewajiban Nafkah Keluarga Dalam Pemberlakuan Harta Bersama," *Al-Istinbath: Jurnal Hukum Islam* 2, no. 1 (2017): 29 – 46, <https://doi.org/https://doi.org/10.29240/jhi.v2i1.195>.

<sup>4</sup> Amir Syarifuddin, *Hukum Perkawinan Islam Di Indonesia* (Jakarta: Kencana, 2007).

Apart from the discussion above, the debate may arise more because of stereotypes from society that there will be consequences if husband and wife work outside the home, namely "disrupting" the harmony that has existed for so long. However, of course there will be impacts if husband and wife work outside the home. However, the solution taken should not burden the wife with two roles at once, namely the role of caring for children (nursery) and earning a living outside the home (provider), which will bring women a double burden, but the existence of a support system that does not continue to bring women to the position of which is a dilemma. In the future, this research is important to find rules that suit the current conditions in Indonesia, in order to create balance and justice in the household so that a prosperous family can be realized.

## LITERATURE REVIEW

### Definition of Working Woman

Working women consists of two words "women" and "work". Etymologically, the word woman comes from the word *empu* which means 'master', 'person who is skilled/powerful', or also 'head', 'top', or 'the greatest'; So, there are known words as *empujari* 'thumb', *empu gending* 'a person who is skilled at composing songs'. This word has been shortened to *puan*, which means 'respectful greeting to women', as a pair of the word 'tuan', a respectful greeting to men'.<sup>5</sup> The word work is a verb starting with *ber* from the basic word *work*. In the Big Indonesian Dictionary, work is the activity of doing something; what is done (done).<sup>6</sup> Different from the word career,<sup>7</sup> which means being involved in professional activities (business, office, etc.). A career is a job that gives hope for advancement. Therefore, careers are always associated with money and power.

According to Ihromi, working women are those whose work will receive monetary rewards.<sup>8</sup> Even though he did not receive these rewards immediately. The characteristics of working women are emphasized in the results in the form of financial rewards, their work does not have to be shared with other people, and they can work alone, the most important thing is that the results of their work make money and their position can be higher or lower than career women, such as women involved in trade. So it can be formulated that "working women" referred to in this article are women (people) who carry out activities or some business in their lives. This means whatever business is done for one's livelihood, regardless of whether one has skills or not, office, private and others.

### Nafkah in Islam

The word *nafkah* comes from Arabic, namely *anfaqa - yunfiq - infaqan* which means الإخراج,<sup>9</sup> The plural form is: نفقات. linguistically meaningful:

ما يُنْفِقُهُ الْإِنْسَانُ عَلَى عِيَالِهِ<sup>10</sup>

*"Something that humans spend on their dependents"*

Etymologically in the Arabic-Indonesian dictionary, the word *nafkah* is defined as "spending."<sup>11</sup> In Indonesian grammar, the word livelihood is officially used to mean expenditure.<sup>12</sup> According to the sharia terms, *nafkah* is::

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<sup>5</sup> Y Iskandar, *Kamus Dewan* (.Kuala Lumpur: Dewan Bahasa dan Pustaka, Kementerian Pelajaran, 1970).

<sup>6</sup> Iskandar.

<sup>7</sup> Depertemen Pendidikan, "Kamus Besar Bahasa Indonesia (KBBI)," Pranala link, n.d., <https://kbbi.web.id/perempuan>.

<sup>8</sup> T.O Ihromi, *Bunga Rampai Sosiologi Keluarga* (Jakarta: Yayasan Obor, 2014).

<sup>9</sup> Ibnu Manzhar., *Lisān Al- Arab* (Bairut: Dār-Elfikr, 1990).

<sup>10</sup> Wahbah al-Zuhaili, *Al-Fiqh Al-Islam Wa Adillatuhu*, II (Beirut, 1998).

*"Fulfilling the needs of the people they are responsible for in the form of food, clothing and shelter."*

اخراج الشخص مؤنة من تجب عليه نفقة من خب، وإدام، وكسوة، ومسكن، وما يتبع ذلك من ثمن ماء، ودهن، ومصباح وغير ذلك.<sup>14</sup>

*"A person's expenditure on something as a cost to the person he is obliged to support, consisting of bread, side dishes, clothes, shelter, and what follows such as the price of water, oil, lamps and so on."*

It is understood from the definition above that a living is an expense that is usually used by someone for the people they depend on to meet their living needs, whether in the form of food, clothing shelter, etc. something good. A wife's maintenance is an obligation for the husband to fulfill because it is his responsibility, a relative's maintenance must be fulfilled by his relatives due to blood and mahram relations, while a servant's maintenance must be fulfilled by his master due to ownership<sup>15</sup>

## METHOD

This research uses qualitative research methods by examining books related to the research. The research approach is an empirical normative-judicial approach, namely an approach that examines the reciprocal relationship between law and social phenomena. The law is not only studied in legal books which state that law applies to the formation and realization of social order by installing the concept of law as a social engineering tool, but one must also study the law of action by being aware of the existence of social conditions in society and then looking for solutions to every problem. This research aims to find rules that are in accordance with established legal conditions. Finding the law of living for working women within the husband's maintenance rules with the concept of joint property in marriage. The aim of finding new laws is to create harmony and justice in the household so that a sakinah family can be created.

## RESULTS AND DISCUSSION

### Working Women's Law

Islamic law, which originates from the Koran and the Hadith of the Prophet SAW, does not only focus on individual issues but also emphasizes issues related to social life. One of the problems that concerns him is the problem of women, because of the importance of this problem, Allah SWT. revelation to the Prophet Muhammad SAW. a letter in the Koran which is named "Surah al-Nisa'." Most of the verses in Surah al-Nisa' discuss all matters relating to women, especially those relating to the position, role, and legal protection of women's rights.<sup>16</sup>

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<sup>11</sup> Ahmad Warson Munawir, *Kamus Al Munawwir* (Yogyakarta: Pondok Pesantren Al-Munawwir, 1984).

<sup>12</sup> Pendidikan, "Kamus Besar Bahasa Indonesia (KBBI)."

<sup>13</sup> Abdurrahman al-Jaziri, *Kitab Al-Fiqh 'Ala Madzhabi Al-Arba'Ah, Juz IV* (Beirut: Dar al-Kutub, 1989).

<sup>14</sup> Wahbah al-Zuhaili, *Al-Fiqh Al-Islam Wa Adillatuhu*.

<sup>15</sup> Muhammad Abu Zahrah, *Al-Ahwal Al-Syakhshiyah* (Beirut: Dar al-Fikr, 1957).

<sup>16</sup> K H H Muhammad, *Islam Agama Ramah Perempuan* (books.google.com, 2021), [https://books.google.com/books?hl=en%5C&lr=%5C&id=XfkOEAAAQBAJ%5C&oi=fnd%5C&pg=PA5%5C&dq=makna+cerai+bagi+perempuan%5C&ots=yrdXj6pVHX%5C&sig=eG7Lk5xIba\\_S5E5fWLu5IaETrfE](https://books.google.com/books?hl=en%5C&lr=%5C&id=XfkOEAAAQBAJ%5C&oi=fnd%5C&pg=PA5%5C&dq=makna+cerai+bagi+perempuan%5C&ots=yrdXj6pVHX%5C&sig=eG7Lk5xIba_S5E5fWLu5IaETrfE).

Women are born with their own privileges and advantages. Apart from having a very important role in a family, women also play an important role in building society, organizations, and the country. Today, many women are advancing in their respective jobs on a par with men.<sup>17</sup> In general, women are part of society. The role and responsibility of women in the formation of society are very important. Therefore, women need to understand their position, role and rights as determined by Islamic law.<sup>18</sup>

Among the many verses in the Qur'an, there are none that explicitly mention working women, but there are verses that have been interpreted by commentators as verses that have the potential to be mentioned or related to the issue of working women. a. Al-Qur'an Surah al-Imran(3) verse 195

*"So their Lord permitted their request (by saying): "Indeed, I do not waste the deeds of those who do good deeds among you, whether men or women, (because) you are descendants of others. So those who emigrated, those who were expelled from their hometowns, those who were hurt in My way, those who fought and were killed, I will surely erase their mistakes and I will surely enter them into paradise beneath which rivers flow, as a reward with Allah. and Allah has with Him a good reward."*

The verse above explains that Allah will not waste the good deeds done by His servants, both men and women. The charity referred to in the verse is all activities including work. Work is actually a manifestation of human existence and self-actualization in their lives. So that humans, both men and women, were created by Allah SWT to carry out work activities and are part of righteous deeds.

a. Al-Taubah [9]: 71

*"And those who believe, men and women, some of them (are) helpers for others. they enjoin (do) what is right, forbid what is evil, perform prayers, pay zakat, and obey Allah and His Messenger. They will be given mercy by Allah; Indeed, Allah is All-Mighty, All-Wise."*

The word *auliya'* in its meaning includes cooperation, assistance, and mastery. Meanwhile, the meaning contained in "ordering to do what is *ma'ruf*" includes all aspects of goodness/improvement of life. This verse suggests that men and women are obliged to work together to encourage goodness and prevent evil. Islam does not separate community (public) and household (domestic) work.<sup>19</sup>

This noble verse shows that there is equality between men and women in carrying the burden of the Shari'ah. They were ordered to perform prayers and pay zakat. They are also ordered to order what is right and to forbid evil.<sup>20</sup> This verse

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<sup>17</sup> A Khanif, "Women, Islam, And Modern Family Construction In The Perspectives Of Legal Pluralism In Indonesia," *Petita: Jurnal Kajian Ilmu Hukum Dan Syariah*, 2019, <http://www.petita.ar-raniry.ac.id/index.php/petita/article/view/24>; D Sumiyatiningsih, "Pergeseran Peran Laki-Laki Dan Perempuan Dalam Kajian Feminis," *WASKITA, Jurnal Studi Agama Dan Masyarakat* 4, no. 2 (2013): 139–54, <http://repository.uksw.edu/handle/123456789/4864>.

<sup>18</sup> Masnun Tahir, "Perempuan Dalam Bingkai Hak Asasi Manusia Dalam Hukum Keluarga Islam," *Musāwa Jurnal Studi Gender Dan Islam* 15, no. 1 (2016): 59, <https://doi.org/10.14421/musawa.2016.151.59-75>.

<sup>19</sup> Zuhrah, "DISTRIBUSI PERAN PENCARI NAFKAH SUAMI ISTERI SEBAGAI PERWUJUDAN KELUARGA DEMOKRATIS"; septiana tri Utami and Prof. Dr. Farida Hanum, "Pembagian Peran Berbasis Gender Pada Keluarga Pedagang Pasar Argosari Wonosari Gunungkidul Diy," *Universitas Negeri Yogyakarta*, 2020, 1–14.

<sup>20</sup> M Mutimmah and B Safiullah, "Pemikiran Husein Muhammad Tentang Hukum Perempuan Bekerja," *Ma'mal: Jurnal Laboratorium* ..., 2022, <https://jurnalfsh.uinsby.ac.id/mhs/index.php/mal/article/view/155>; L Salaymeh, "Imperialist Feminism and Islamic Law," *Hawwa*, 2019, [https://brill.com/view/journals/haww/17/2-3/article-p97\\_2.xml](https://brill.com/view/journals/haww/17/2-3/article-p97_2.xml).

also states that believing women can be guardians or administrators of believing men or vice versa. Because women also have the same abilities and rights as men.<sup>21</sup> It is also important to work together to help each other both for work purposes and for religious purposes. Apart from that, from this verse, it can also be understood that to achieve the expected goodness and achievements, a sense of shared responsibility is required.

Being a working woman is not something that is prohibited in Islam. In this case, Islam commands humans to spread across the face of the earth to gain glory and blessings of sustenance. There are no specific prohibitions on women becoming working women.<sup>22</sup>

The Qur'an recognizes the existence of successful leaders of a society (QS. al-Naml[27]: 23),<sup>23</sup> and the obligation to physically fight for women. The Prophet's wives and friends apparently helped in the war effort by preparing logistical needs such as food, drink, and medicine. In an authentic Bukhari and authentic Muslim hadith, it is stated that Aisyah, the wife of the Prophet SAW, and Umm Salim and other female companions once carried vessels of water during the battle of Uhud. They gave water to and cleaned the wounds of the injured soldiers. And when Rasulullah SAW was injured, Fatimah (his daughter) herself cleaned and bandaged him.<sup>24</sup>

b. Al-Qur'an surah al-Jumu'ah verse 10

*"When the prayer has been performed, then scatter you on the face of the earth; and seek Allah's grace and remember Allah much so that you may be successful"*

In this verse, work means worship, by working a person will be able to fulfill his life's needs both physically and spiritually. Islam teaches that there is an obligation to work as well as the right to get a job which can apply to both men and women. Humans are required to fight for the necessities of life, such as clothing, food, shelter and health.

Working women or mothers have existed since the past, that Islam, based on the Sunnah of the Prophet, has given a large role to women in determining the fate of the people. Umm Salamah, one of the female companions, gave valuable advice to the Prophet Muhammad SAW. faced a critical situation at the beginning of the spread of Islam. Most of the hadith collections that have come down to us were transmitted by women and many of our legal experts were trained by women.<sup>25</sup>

From historical records, quite a lot of women were involved in war events during the time of the Prophet. They were tasked with lifting/providing drinking water for the soldiers, cooking/providing food, looking after/caring for sick soldiers,

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<sup>21</sup> D A Setiyanto, *Desain Wanita Karier Menggapai Keluarga Sakinah* (books.google.com, 2017), <https://books.google.com/books?hl=en%5C&lr=%5C&id=la0oDwAAQBAJ%5C&oi=fnd%5C&pg=PT89%5C&dq=kdr+perceraian+wanita+karier%5C&ots=42NUgOLXS6%5C&sig=rPoD8bBehl8DpKMZbM QaYARJsFM>.

<sup>22</sup> W. Wakirin, "Wanita Karir Dalam Perspektif Islam," *Al-I'tibar: Jurnal Pendidikan Islam* 4, no. 1 (2017): 1–14; A Asnah, "Keharmonisan Keluarga Wanita Karier Di Kelurahan Padangmatinggi Lestari," *Jurnal Kajian Gender Dan Anak*, 2018, <http://194.31.53.129/index.php/JurnalGender/article/view/2172>.

<sup>23</sup> D Jaya, "Bagaimana Relasi Suami–Istri Perkawinan Tidak Sekufu Dalam Profesi: Dampak Terhadap Keharmonisan Keluarga," *Jurnal At-Tadbir: Media Hukum Dan ...*, 2021, <http://ejournal.staisyamsululum.ac.id/index.php/attadbir/article/view/79>; D R Juwita, "Pandangan Hukum Islam Terhadap Wanita Karir," *El-Wasathiya: Jurnal Studi Agama*, 2018, <http://ejournal.kopertais4.or.id/mataraman/index.php/wasathiya/article/view/3552>.

<sup>24</sup> Andriana, "Istri Bergaji: Analisis Peran Wanita Bekerja Dalam Meningkatkan Ekonomi Keluarga"; Wakirin, "Wanita Karir Dalam Perspektif Islam."

<sup>25</sup> Muhammad, *Islam Agama Ramah Perempuan*.

guarding and maintaining vehicles, spying on the enemy, sewing clothes, and so on. A woman named Umm 'Atiyah fought with the Prophet 7 times. There were many more women who joined the battlefield, for example, Safiyah bint 'Abdul Mutalib, a woman who was brave and so strong that with her strong blow, she could kill Jewish spies.<sup>26</sup>

In the Prophet's family, four of his wives were also professionals in carrying out their duties. They are (1) Aisyah, a medical teacher who is skilled in the field of medicine, an expert in history and literature, an expert in religious studies, an expert in political science, and was even a commander in the Jamal War. After the Prophet died, Aisyah taught at his residence. Thus, Aisyah can be categorized as an intellectual, cleric, and humanist. Aisyah was a public figure in her time who was no less than the other companions of the Prophet; (2) Hafsa, a teacher of the Koran and general knowledge. He is known to be intelligent and has been involved in political activities. Together with Aisyah, he once gave a warning to Caliph Usman. Only because his younger brother (Abdullah bin Umar) prevented him from taking part in the Jamal War. The people's trust in Hafsa was demonstrated by entrusting her to keep the manuscript of the Koran written during the time of Abu Bakr; (3) Umm Salamah, a teacher of political science and international relations when the Prophet faced a critical situation facing Muslims who were disappointed with the Hudaibiyah Agreement and did not want to accept Tahallul. It was Umm Salamah who appeared to advise the Prophet to be firm in starting tahallul which then all his companions followed, and (4) Zainab bint Jahsy, who was a teacher of skills, especially handicrafts. Meanwhile, the Prophet's other wives, namely Saudah, Safiyah, Juwairiyah, Umm Habibah and Maimunah played the role of pure housewives.<sup>27</sup>

Furthermore, the Prophet refused to impose male domination over women. This attitude surprised his friends. The approach taken by the Prophet was very polite, and democratic, and asked for consideration. He denounced men who physically hurt women. He gave his wives the freedom to choose to stay with him or leave him. He always shared his joys and sorrows and encouraged his wives to become religious leaders, to be able to manage businesses and to be able to master reading and writing, even though he did not understand how to read and write.<sup>28</sup>

Looking at women's involvement in work in the early days of Islam, it can be said that Islam justifies women being active in various activities. Women have the right to work as long as the job requires it and/or as long as the woman needs the job and as long as religious and moral norms are maintained. Based on the book of Fiqh, Jamaluddin Muhammad Mahmud stated that women can act as defenders and prosecutors in various fields. With the knowledge and skills they possess, women have the right to work and occupy the highest positions.<sup>29</sup>

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<sup>26</sup> E Asmaya, "Peran Perempuan Dalam Dakwah Keluarga," *Yinyang: Jurnal Studi Islam Gender Dan Anak*, 2020, <https://ejournal.uinsaizu.ac.id/index.php/yinyang/article/view/3901>; H H Midah, "Peranan Wanita Dalam Islam Dan Feminisme Barat," *At-Tarbawi: Jurnal Pendidikan, Sosial Dan ...*, 2020, <http://journal.iainlangsa.ac.id/index.php/tarbawi/article/view/1846>.

<sup>27</sup> Abad Badruzzaman, "Potret Kaum Perempuan Pra-Islam Dalam Al-Qur'an," *Jurnal QOF* 3, no. 2 (2019): 89–111; Z Nadia, "Peran Dan Aktivitas Perempuan Era Muhammad SAW (Studi Atas Hadis-Hadis Riwayat Sahabat Perempuan)," *Humanisma: Journal of Gender Studies*, 2020, <https://ejournal.uinbukittinggi.ac.id/index.php/psga/article/view/3189>.

<sup>28</sup> *Ibid.*, h. 22-23

<sup>29</sup> Midah, "Peranan Wanita Dalam Islam Dan Feminisme Barat"; A Alimni and H Hamdani, "Peran Wanita Dalam Dunia Pendidikan Pada Masa Rasulullah SAW," *Jurnal Hawa: Studi Pengarus ...*, 2021, <https://ejournal.iainbengkulu.ac.id/index.php/hawa/article/view/5683>; A Trisnani, W Windiarti, and ..., "Peran Perempuan Dalam Politik Menurut Yusuf Al-Qardhawi," ... *Dan Pemikiran Islam*, 2021, <https://ejournal.unida.gontor.ac.id/index.php/kalimah/article/view/6412>.

In the opinion of some scholars, Islam places men as leaders in the family (an-Nisa': 34) who are obliged to provide a living, but women's role as wives and mothers for their children to help the family economically cannot be avoided. Even in modern times, there are many career women who work more than their husband's income. Naturally, women actually carry out the main tasks regarding reproductive tasks (pregnancy, giving birth, breastfeeding) or reproductive work (pregnancy, giving birth, breastfeeding, caregiving, physical and mental care to function in the structure of society). The reality that women working in the public sector/productive work is a choice for various reasons. In Saudi Arabia, for example, because they wanted to implement their knowledge and economic factors.<sup>30</sup>

Zubair stated that the reasons for economic urgency, market tastes and emotions do not refer to women's autonomy as human beings. It's different because of the urge to actualize one's potential, not because of other pressures that require the will and ability to compete healthily with men.<sup>31</sup> It cannot be avoided that along with the rapid growth of industry, many female workers are absorbed in both the formal and informal sectors. In fact, some types of work are dominated by female workers because they generally have characteristics such as; patient, thorough, easy to manage/do not protest much, have manual skills, and are often willing to be paid less than men.

The problem of women working outside the household (in production/public sector work) in the view of Muslim society cannot be separated from the existence of gender-oriented interpretations of Al-Qur'an verses, where almost all existing interpretations experience gender bias and the influence of androcentric Middle Eastern culture.<sup>32</sup> Likewise in Indonesia, especially in rural areas, socio-cultural factors influence the existence of women. There is still a tendency for parents to discriminate in prioritizing boys over girls to continue their education to a higher level of education and to work to earn a living, while women are more directed to just being housewives.

In Hambali jurisprudence, a man who initially knows and accepts his future wife as a worker who after marriage will also continue to work outside the home, the husband may not then prohibit his wife from working for any reason. Jurisprudence allows husbands and wives to both work outside the home with certain prerequisites. This means that jurisprudence does not consider that the obligation of a man (for example a husband) to earn a living is an obstacle for a wife to work outside the home to also earn a living.<sup>33</sup>

In this context, when women enter the gates of family life, they are given the freedom or alternative to choose to continue their career provided that the

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<sup>30</sup> Tuwu, "Peran Pekerja Perempuan Dalam Memenuhi Ekonomi Keluarga: Dari Peran Domestik Menuju Sektor Publik"; Wakirin, "Wanita Karir Dalam Perspektif Islam"; Andriana, "Istri Bergaji: Analisis Peran Wanita Bekerja Dalam Meningkatkan Ekonomi Keluarga"; S Antoni et al., "Peranan Wanita Karier Dalam Meningkatkan Pendapatan Ekonomi Keluarga Di Kabupaten Kerinci," ... *Ilmu Ekonomi Islam*, 2022, <http://www.ejournal.iainu-kebumen.ac.id/index.php/lab/article/view/310>; Setiyanto, *Desain Wanita Karier Menggapai Keluarga Sakinah*.

<sup>31</sup> U R Nasution and S H Pohan, "Kedudukan Seorang Istri Sebagai Pencari Nafkah Utama Dalam Keluarga: Studi Di Desa Aek Lancat, Lubuk Barumon, Padang Lawas, Sumatera Utara," *Jurnal Kajian Islam Interdisipliner*, 2021, <https://ejournal.uin-suka.ac.id/pasca/jkii/article/view/1128>; F Firdaus et al., "Perempuan Bekerja Dalam Pemenuhan Nafkah Keluarga," *Jurnal Kajian Dan ...*, 2020, <https://www.jurnal.umsb.ac.id/index.php/ummatanwasathan/article/view/2327>; E K Sari and B N F Zufar, "Perempuan Pencari Nafkah Selama Pandemi COVID-19," *Al-Mada: Jurnal Agama, Sosial, Dan ...*, 2021, <https://e-journal.uac.ac.id/index.php/almada/article/view/1106>.

<sup>32</sup> Neng Eri Sofiana, "Kesetaraan Gender Dalam Pembaruan Hukum Keluarga Di Syria Dan Indonesia," *Musawa Jurnal Studi Gender Dan Islam* 20, no. 1 (2021); N Ikhlas, "Reposisi Perempuan Islam Dalam Bingkai Historiografi," *Ishlah: Jurnal Ilmu Ushuluddin, Adab Dan Dakwah*, 2019, <https://jurnalfuad.org/index.php/ishlah/article/view/27>.

<sup>33</sup> Wahbah Al-Zuhaili, *Al-Fiqh Al-Islam Wa Adillatuhu Jilid X* (Beirut: Dar al-Fikr, 1997).

responsibilities of domestic life are going well or focus on responsibilities within the family because the obligation to support the family is actually the man's responsibility.

In connection with the view that states that a woman's place is at home and she is prohibited from working outside the home (QS. al-Ahzab, [33]: 33), Quraish Shihab stated that a woman's place at home does not mean that she is prohibited from working outside the home. Exemption from work outside the home is intended so that they can concentrate and honor themselves in fulfilling their household obligations. Therefore, if necessary, it is permissible for him to work outside the home as long as he maintains personal purity and maintains a sense of shame. In addition, women during the Prophet's time also worked when their conditions required it. However, Islam tends not to encourage women to work outside the home, except for work that is very necessary because no one is paying for their living costs, or because those who cover their needs are unable to meet their needs.<sup>34</sup>

In line with the opinion above, Ali Yafie stated that there is no difference in work rights between men and women in Islam. But the obligation to provide maintenance is borne by men. While still with their parents, women earn their living from their fathers. When she is married, she is supported by her husband. And so on until the brother becomes the guardian if the other one dies. Strictly speaking, women always receive protection. Furthermore, Ali Yafie explained that if his father's condition no longer allowed him to work, then the situation would be reversed, the adult child would have to support his father. Likewise, a husband who is paralyzed cannot work anymore, or the husband's income is too small to support the household, so the wife is forced to work.<sup>35</sup>

Meanwhile, other Muslim figures, especially those with feminist views in general, allow women to work outside the home. Rifa'ah Rafi'at-Tahtawi (1206 H) stated that there is no need for discrimination (differences) in providing opportunities for education between girls and boys so that in living their lives women can be equal to men, especially their life partners. With education, women are expected to be able to obtain decent work, in accordance with their abilities and nature, so that their lives are productive, they do not become stressed or become delusional because they spend too much free time, thus causing boredom and giving birth to negative attitudes that can harm people who are around him.<sup>36</sup>

Al-Hatimi, as quoted by Moenawar Khalil,<sup>37</sup> also states that women are allowed to work, and are even allowed to occupy strategic positions/important roles in society, provided they remain subject to the teachings of the Shari'a which maintains their purity and does not neglect their main role as housewives. Another figure who also allowed women to work outside the home was al-Sakhawi, as quoted by Juwairiyah Dahlan who stated that women who have certain skills should provide benefits to society.<sup>38</sup> Jamal al-Din Muhammad Mahmud agrees with al-Sakhawi that women have the right to get the opportunity to work (in the public sector) if the person concerned needs the job, or the job requires people with similar skills, in fact,

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<sup>34</sup> Quraish Shihab, *Wawasan Al-Qur'an* (Jakarta: Mizan, 1996).

<sup>35</sup> Ali Yafie, "Kodrat, Kedudukan Dan Kepemimpinan Perempuan," in *Memposisikan Kodrat Perempuan Dan Perubahan Dalam Perspektif Islam* (Bandung: Mizan, 1999), 74–75.

<sup>36</sup> Sayyid, *Rifa'ah Rafi' Al-Tahtawi* (Mesir: Dar al-Ma'arif, n.d.).

<sup>37</sup> Moenawar Khalil, *Nilai Perempuan* (Solo: Ramadhani, 1989).

<sup>38</sup> Juwairiyah Dahlan, "Peranan Perempuan Dalam Islam: Studi Tentang Perempuan Karier Dan Pendidikan Anak." (IAIN Sunan Kalijaga, 2000).

regulations should be made that are in accordance with Islamic law for protect and ensure the welfare of working women.<sup>39</sup>

It is known that women play an important role in the process of economic development in a country. Women's involvement in economic activities has long been carried out, starting in the agricultural and other social sectors. Doing work is not a monopoly of a particular gender, because in Islam a person's rank is not judged by their gender, but rather by their piety and good deeds. In principle, Islam does not prohibit women from carrying out work or economic activities as long as they are in line with Islamic rules. The restrictions on married women carrying out activities outside the home are more because there are other things that are more important for women to do at home, such as taking care of the household, looking after and looking after children, and so on. However, if it requires women to carry out activities outside the home, due to pressure from various life problems, then Islam does not prohibit it.

### **Working Wife's Support in Classical Jurisprudence**

It is known from previous explanations that Islam does not prohibit women who are wives from working outside the home. When connected with the maintenance obligation, the wife's maintenance is an obligation that must be fulfilled by the husband based on the provisions in the Qur'an, Sunnah, and ijma'. Based on this argument, it is considered convincing that there is an obligation to support the husband for his wife. However, according to their nature, the verses and hadith do not specify the philosophical basis for why this obligation arises. In matters that are not specified in the Qur'an and the Sunnah of the Prophet, the mind is open to differing opinions, because it really depends on differences because of the problem. In this matter explained by Satria Efendi (d. 1421 H) quoted from Wahbah al-Zuhaily (d. 1436 H), the scholars differed in opinion:<sup>40</sup>

- a. The Hanafiyyah believe that the reason why a husband is obliged to provide for his wife is in return for the husband's right to restrict the wife's movements, and the wife gives her loyalty to the husband's provisions. Once the marriage contract is legally executed, a wife's freedom becomes limited by the provisions of being a wife. Wives are no longer allowed to freely travel anywhere or do good deeds unless they first consult with their husbands. The wife is obliged to willingly surrender herself to her husband to be treated as a wife. The husband's right to limit the wife's authority is a consequence of the husband's position as head of the household, and the wife's obligation to provide loyalty is a consequence of her position as a wife. On this basis, the wife has the right to receive maintenance from her husband.<sup>41</sup>

Because the cause of the maintenance obligation is that the husband has the right to restrict the wife's movements and the wife is obliged to give her loyalty to her husband, then the right to maintenance will be lost if the wife no longer gives her loyalty to her husband. Nusyuz is one of the causes of the termination of a wife's right to support.

In response to a wife's income from working, according to Hanafiyyah scholars, if she works without her husband's consent then she is not obliged to be provided with support, but if she works with her husband's consent, support is still obligatory from her husband. The husband's pleasure at one time does not automatically

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<sup>39</sup> Jamal al-Din Muhammad Mahmud, *Huquq Al-Mar'ah Fi Al-Mujtama' Al-Islami* (Mesir: al-Hai'ah al-Misriyyah al-'Ammah li al-Kuttab, 1986).

<sup>40</sup> Satria Efendi, *Problematika Hukum Keluarga Islam Kontemporer* (Jakarta: Kencana, 2004); Al-Zuhaily, *Al-Fiqh Al-Islam Wa Adillatuhu Jilid X*.

<sup>41</sup> Al-Sarakhsy, *Al-Mabsuth* (Beirut: Dar al-Kutub, 2001).

become his pleasure at all times and places, for him it is permissible to prevent the wife. If the wife does not want to, she is classified as *nusyūz* and loses her livelihood.<sup>42</sup>

Furthermore, a wife who has a career must also bear the burden if her husband demands it, because a woman's work is based on calculating the husband's welfare. Of course, there is no doubt that busy work and all its problems take up a lot of the wife's energy. He returned home tired and distracted. He needs someone to relieve his fatigue and soothe his soul.

If a husband and wife are happy that their assets are united then there is no problem, and if the husband lets his salary go and continues to cover the living then the husband will be rewarded. If they differ in opinion, the wife must bear part of the living as compensation for loneliness, and the husband allows this status because of environmental conditions.

- b. The majority of ulama from the Malikiyah, Syafi'iyah and Hanabilah circles are of the opinion that the reason why husbands are obliged to support their wives is because of the reciprocal relationship between husband and wife. (*al-'alaqat al-zaujiyah*) or the reason is the position of the husband as husband and the wife as wife, including the wife's obligation to surrender herself to her husband voluntarily to be treated as a wife. The relationship between husband and wife which is bound by legal marriage, apart from having consequences where the wife is obliged to be willing to surrender herself to her husband to be treated as a wife, also has consequences where the husband is obliged to provide support for his wife.<sup>43</sup>

The difference with the understanding of the Hanafiyah school above is that, in the Hanafiyah school, the pressure for the obligation to support is on the husband's right to limit the authority of the wife, whereas in the majority of scholars, the pressure for the obligation to support is on cooperation between the husband and wife who are bound by the marriage cord. So if the wife is obliged to give joy to her husband, take care of the household, bear the child for nine months, and take care of him, then the husband is obliged to earn a living. In this case, what is important is the division of tasks between husband and wife. As long as the cooperative relationship between husband and wife still exists, during that time the responsibility for alimony rests with the husband.

Apart from the differences of opinion mentioned above, the ulama agree that there are several conditions that must be fulfilled for a husband to be obliged to provide for himself: 1) a valid marriage bond; 2) The wife obeys and submits to her husband as long as he does not order him to commit immoral acts; 3) the wife provides sexual services to the husband, except in certain circumstances; 4) the wife does not refuse to accompany her husband when he is invited to travel, unless the wife is sure that the trip is unsafe for herself and her property; 5) each husband and wife are able to make out and have sexual intercourse.<sup>44</sup>

Several requirements must be met so that the wife has the right to receive maintenance from her husband. If one of these conditions is lacking, the wife is no longer entitled to receive maintenance from her husband. This means that working wives still receive support from their husbands as long as they are legally married and carry out their obligations to serve and obey their

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<sup>42</sup> Al-Sarakhsy; Abdul Aziz Muhammad Azzam dan Abdul Wahhab Sayyed Hawwas, *Al-Ustratu Wa Ahkamuha Ft Al Tasyrī' Al-Islamiy*, Terj. Abdul Majid Khon (Jakarta: Amzah, 2011).

<sup>43</sup> Wahbah al-Zuhaili, *Al-Fiqh Al-Islam Wa Adillatuhu*; Efendi, *Problematika Hukum Keluarga Islam Kontemporer*.

<sup>44</sup> Sayyid Sabiq, *Fiqh Sunnah Juz II* (Bandung: PT. Al-Ma'arif, 1980).

husbands. According to Jumhur, the obligation to support still applies even if the wife is a rich woman or has her own income.<sup>45</sup>

### **Wife's Livelihood Works in KHI**

The discussion about the obligation to provide a living in the Compilation of Islamic Law (KHI) is also related to leadership patterns and husband and wife relationship patterns. Article 80 paragraph (4) explains that according to his income, the husband bears; a. Support, *kiswah*, and residence for the wife, b. Household costs, care costs, and medical costs for wife and children, c. Education costs for children. If we look closely at the burden of maintenance on husbands, it is related to the position of husband and wife in the family. Article 79 paragraph (1) explains that the husband is the head of the family, and the wife is the housewife. As head of the family, the husband is responsible for the continuity of the family system, one way of which is by providing a living.

Regarding family support obligations, (KHI) stipulates that the burden of family life is placed on the responsibility of a husband. This means that the husband is obliged to provide support for the survival of the household. Husbands must try as much as possible to meet the needs of their wives and children according to their abilities. The obligation to provide a living has a very big influence and function in building a household that is expected to be happy and prosperous. One of the causes of a marriage not lasting, which causes arguments or disharmony in the household, is due to the factor of not fulfilling the obligation to provide support for one's dependents. For example, a husband who is able to provide a living, but neglects to do so, a husband is able to provide a living but doesn't seem to want to understand domestic life. Such things can sometimes be found in people's lives.<sup>46</sup>

In KHI article 79, it is understood that the husband is the head of the family and is responsible for providing for the family, including the wife. Furthermore, and the wife is a housewife, it is not explained that the wife cannot work. This article only states that the wife is obliged to be a housewife. This means that in the case of a wife who is a housewife and works, there is no explanation. So the absence of an article is considered to be the same as the opinion of scholars in classical jurisprudence, namely that the maintenance of a working wife remains an obligation that must be fulfilled by the husband. However, this is not in line with the arrangement of joint assets during marriage. Joint assets have implications for joint obligations.

In domestic life, especially when husband and wife work, there must be mutual tolerance between husband and wife. If a wife is pursuing a professional activity or works, the husband or wife should let each other handle the household financial arrangements that the wife gets. The wife should be happy and willing to help her husband who is lacking in providing a living because of his limitations. Wives should also be more aware that, even though they are allowed to do work outside the home, they are not expected to sacrifice their main obligations in the family. A husband is expected to be more active in earning a living, because the responsibility for providing a living is in his hands. If in fact the wife works because she helps with household finances, the husband should show high respect by helping the wife with household matters, when the wife is busy completing her work. A husband's help will be increasingly needed when activities related to his wife's profession become increasingly difficult, so that justice can be achieved in all efforts and sacrifices made by both parties, both inside and outside the home.

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<sup>45</sup> Sabiq.

<sup>46</sup> Jumni Nelli et al., "The Immorality of a Husband as the Cause of a Working Wife to File for Divorce Lawsuit in Indonesia," *Juris: Jurnal Ilmiah Syariah* 22, no. 1 (2023): 119–32.

## CONCLUSION

In Islam, there is no difference between men and women. That both have the same ability or potential and these two types of humans need each other. Islam with its teachings elevates the honor and dignity of women. Thus, wives are permitted to work in Islam, because no text expressly prohibits wives from working and there is no text that expressly states that wives must work with their husband's permission.

In classical jurisprudence, a wife's income from work is the husband's obligation, as is the case in Indonesia. However, it is not in line with the implementation of joint property, so it brings ambiguous legal treatment. In the domestic life of a working husband and wife, there must be mutual tolerance between husband and wife. Wives who work are happy and willing to help support the family, whereas husbands should pay high respect by helping their wives with household matters.

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