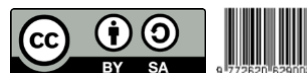


Analysis of the Hadith 'A people who make a woman their ruler will never be successful.' as Tafsir bi al-Ma'tsur from Surah al-Nisa: 34

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Abstract

The hadith that reads "A people who make a woman their ruler will never be successful" has become the subject of discussion on the role of women's leadership in Islam. This article analyzes the hadith with the tafsir bi al-ma'tsur approach, especially in relation to Surah al-Nisa: 34, which discusses the role and responsibility of gender in the family and society. Through a study of classical and contemporary literature, this article explores the scholars' understanding of this hadith as well as how it is used in the interpretation of Qur'anic verses that govern the hierarchy of leadership in households and society. This article also considers the social and legal implications of such an understanding in a modern context, by reviewing its relevance to discussions about gender equality and the role of women in leadership.

Keywords: *Hadith, Tafsir bi al-Ma'tsur, Surah al-Nisa: 34, Women's Leadership, Women Judges*

INTRODUCTION

The debate over the role and leadership of women in Islam has been going on for a long time, involving a variety of theological, social, and cultural perspectives. One of the hadiths that is often referred to in this discussion is the saying of the Prophet Muhammad (PBUH): "It will not succeed for a people who leave their affairs to a woman." This hadith is often understood as an argument that rejects women's leadership, both on a household and government scale (Ahmad, 2019).

Along with the times, the role of women in society continues to change, giving rise to various views on the position of women in leadership. Classical views, which are often based on textual understanding of religious postulates, including this hadith, often lead to restrictions on the role of women in public leadership. However, the emergence of various modern interpretations began to challenge this literal interpretation. Some contemporary scholars and scholars consider that the meaning of the hadith must be adjusted to the context of the era in which the Prophet PBUH lived, which was greatly influenced by the Arab customs and traditions of that time (Salaudeen & Dukawa,

2021). This raises the question: is the rejection of women's leadership in this hadith universal or contextual?

It is important to understand that the historical, cultural, and social context in which these hadiths are conveyed influences how we interpret them. During the life of the Prophet PBUH, patriarchal societies dominated most of the Arab region. Many social structures are based on strict gender roles, in which men are the main leaders in various aspects of life. With this in mind, some classical scholars see this hadith as a warning to specific situations, especially with regard to female leaders in Persia who at that time suffered defeat in war. Therefore, this interpretation of the hadith does not necessarily deny the potential of women's leadership in all contexts, but is related to the political conditions at that time (Yakar, 2022).

However, a broader and contextual interpretation cannot ignore Qur'anic verses that also address gender roles and responsibilities, especially in terms of domestic leadership. The 34th verse of Surah al-Nisa, for example, explains that men are "qawwam" or leaders for women. Classical mufassirs, such as Ibn Kathir, explain that this verse emphasizes the responsibility of men to protect and care for their families, not as a form of oppression or supremacy. Therefore, this concept of leadership in the household is often extended in discussions to the realm of public leadership, although this interpretation is inseparable from criticism and challenges, especially in the context of modern times (Saeful et al., 2022).

In the tafsir bi al-ma'tsur, which refers to the narration of the companions and tabi'in, the understanding of this hadith tends to be more textual. For example, some histories show that the companions of the Prophet PBUH understood this hadith as a restriction on women's leadership in the context of politics and government. This view later developed into the basis for many Muslim countries that have historically rejected women's leadership. However, the tafsir of bi al-ma'tsur is also not homogeneous; Some interpretations provide space for women to lead in certain capacities, especially outside the political realm, such as education and social. This shows that the interpretation of this hadith has a wide spectrum, depending on the methodological approach used by the scholars (Faraz & Asiya, 2020).

In modern times, the role of women in public leadership has changed significantly, especially with the development of gender equality and human rights values. Many Muslim countries, including Indonesia, have opened opportunities for women to hold political leadership positions. This sparked a new debate about the relevance of this hadith in the context of today. Contemporary scholars, such as Fatima Mernissi, argue that the reading of this hadith should be more dynamic and contextual. According to her, restrictions on women's leadership are more socio-cultural than theological. Thus, the interpretation of this hadith requires adjustment to the current social reality, where women have proven their abilities in various areas of leadership (Almoharby & Neal, 2013).

To understand the exact meaning of this hadith, a comprehensive tafsir approach is needed, especially those sourced from tafsir bi al-ma'tsur, which is an interpretation that refers directly to the narration or opinion of companions and tabi'in. In this context, the 34th verse of Surah al-Nisa becomes relevant, because it explains the responsibility of men as leaders in the household. Scholars

have long debated the relationship between this verse and the hadith, with various interpretations ranging from the family dimension to the public sphere (Barazangi, 2008).

The tafsir bi al-ma'tsur approach is one of the important methods in understanding this hadith, because it refers to authoritative sources such as companions and tabi'in who directly or indirectly receive explanations from the Prophet Muhammad PBUH. In the context of the hadith "It will not succeed for a people who leave their affairs to a woman," this tafsir approach seeks to explore a deeper understanding of the experiences and views of the Companions related to the position of women in society at that time. Tafsir bi al-ma'tsur allows us to see how the early Muslim community responded to the hadith, and how their understanding can provide guidance for Muslims today (Achmadin et al., 2024).

Surah al-Nisa: 34, which is often associated with this hadith, states that men are leaders (qawwam) over women because of their responsibility in providing for the family and protecting the family. This verse has been the basis for many discussions regarding the role of gender in Islam, especially related to leadership. Classical interpretation, as conveyed by al-Tabari and al-Qurtubi, interprets this verse as an unequivocal statement about the role of men in the household, but with a great responsibility to maintain justice and welfare. This interpretation is often used as a basis for understanding the boundaries of women's leadership in the family sphere, but its relevance in the public sphere becomes a more complex debate. The scholars then tried to explain how these leadership limitations should be understood in the context of broader social life (Aisyah & Hidayah, 2023).

This debate is even more interesting when we look at how some mufassir associate the concept of qawwam in Surah al-Nisa: 34 with a hadith that prohibits female leadership. Some scholars argue that male leadership is absolute, both in the family and in society, and the hadith reinforces this. However, a more flexible interpretation acknowledges the existence of certain socio-historical contexts behind the hadith. Therefore, the relationship between this verse and the hadith still requires a more in-depth study and more subtle nuances (Cheema, 2014).

In the tradition of tafsir bi al-ma'tsur, there is also an emphasis on the history of the Prophet's companions which provides a broader view of the role of women in society. These histories show that in the time of the Prophet, women played an important role in various sectors of life, including the economy, education, and even the battlefield. An example that is often cited is the role of Aisyah RA, the wife of the Prophet, who is one of the sources of knowledge and spiritual leadership in Islam. Thus, tafsir bi al-ma'tsur not only narrows the space for women's movement based on the hadith, but also opens up space for women to participate in social life, according to their respective capacities and conditions (Taufik, 2021).

A more comprehensive understanding of Surah al-Nisa:34 and the hadith on women's leadership is becoming increasingly important in the modern context, where women play a more significant role in various fields, including politics, education, and economics. Tafsir bi al-ma'tsur can provide a strong framework of understanding, but it still needs to be considered in a dynamic social context (Yaufi & Yaufi, 2022). A non-rigid interpretation will allow Muslims to be more flexible in responding to the changing times without ignoring the basic principles of religion. Thus, a more comprehensive

interpretation approach can provide relevant and moderate answers to the issue of women's leadership in Islam (Miswar et al., 2023).

Therefore, this article aims to examine more deeply the meaning of the hadith, especially in relation to the interpretation of Surah al-Nisa: 34 through the tafsir bi al-ma'tsur approach. By exploring a variety of classical and contemporary sources, this study will reveal how this hadith is understood in various contexts, as well as how it can influence modern discourse on the role and leadership of women in Islam. In the end, it is hoped that this analysis will be able to provide a more holistic understanding of women's leadership issues from the perspective of Islamic sharia and jurisprudence.

METHOD

This study uses a qualitative approach with the method of text analysis to examine the hadith "It will not succeed for a people who leave their affairs to a woman" in relation to the 34th verse of Surah al-Nisa. The approach used is tafsir bi al-ma'tsur, where the study of hadith and verses of the Qur'an is carried out by referring to the narration of the companions and tabi'in as well as the views of classical scholars. This study also utilizes literature studies from various sources, to gain a deep understanding of the historical and social context behind the two texts. In addition, contemporary analysis from modern scholars is used to explore the relevance of the hadith and verse in the modern context, especially related to the issue of women's leadership in today's Islamic society. The data is analyzed descriptively and interpretively to provide a comprehensive view of the themes discussed.

RESULT AND DISCUSSION

Hadith Narration

Within the limits of the searches carried out, the hadith 'A People Who Leave Their Affair to a Woman Will Not Succeed' is found in the following sources:

First, the narration of al-Bukhari:

حَدَّثَنَا عُثْمَانُ بْنُ الْهَيْثَمِ ، حَدَّثَنَا عَوْفٌ ، عَنْ الْحَسَنِ ، عَنْ أَبِي بَكْرَةَ ، قَالَ : لَقَدْ نَفَعَنِي اللَّهُ بِكَلِمَةٍ سَمِعْتُهَا مِنْ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَيَّامَ الْجَمَلِ بَعْدَ مَا كُنْتُ أَنْ أَلْحَقَ بِأَصْحَابِ الْجَمَلِ فَأَقَاتِلَ مَعَهُمْ ، قَالَ : لَمَّا بَلَغَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنَّ أَهْلَ فَارَسَ قَدْ مَلَكُوا عَلَيْهِمْ بَنَاتٍ كَسَرَى ، قَالَ : " لَنْ يُفْلِحَ قَوْمٌ وَلَوْ أَمَرَهُمْ امْرَأَةٌ "

"Allah took care of me with something I heard from the Prophet PBUH during the Jamal war, namely when I almost joined the horsemen to fight with them". Abu Bakroh continued: When the Persian Emperor died, the Messenger said: "Who is his successor?" They replied: His daughter. Then the Prophet said: "It will not be lucky for a people to leave their affairs to a woman."

Second, the narration of al-Tirmidzi:

حَدَّثَنَا مُحَمَّدُ بْنُ الْمُثَنَّى ، حَدَّثَنَا خَالِدُ بْنُ الْحَارِثِ ، حَدَّثَنَا حُمَيْدُ الطَّوِيلُ ، عَنْ الْحَسَنِ ، عَنْ أَبِي بَكْرَةَ ، قَالَ : عَصَمَنِي اللَّهُ بِشَيْءٍ سَمِعْتُهُ مِنْ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ، لَمَّا هَلَكَ كَسَرَى قَالَ : مَنْ اسْتَخْلَفُوا ؟ قَالُوا : ابْنَتُهُ ، فَقَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ : " لَنْ يُفْلِحَ قَوْمٌ وَلَوْ أَمَرَهُمْ امْرَأَةٌ "

"Allah has preserved me with what I have heard from the Prophet (peace be upon him) when Kisra (King of Persia) died. The Messenger of Allah asked, 'Who replaced him?' The companions replied, 'His daughter.' Then the Prophet said, 'It will not be lucky for a people to hand over the power of their government to a woman,'

Third, the narration of al-Nasa'i:

أَخْبَرَنَا مُحَمَّدُ بْنُ الْمُثَنَّى ، قَالَ : حَدَّثَنَا خَالِدُ بْنُ الْحَارِثِ ، قَالَ : حَدَّثَنَا حُمَيْدٌ ، عَنْ الْحَسَنِ ، عَنْ أَبِي بَكْرَةَ ، قَالَ : عَصَمَنِي اللَّهُ بِشَيْءٍ سَمِعْتُهُ مِنْ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَمَّا هَلَكَ كِسْرَى قَالَ : " مَنْ اسْتَخْلَفُوا ؟ " ، قَالُوا : بِنْتُهُ ، قَالَ : " لَنْ يُفْلِحَ قَوْمٌ وَلَوْ أَمَرَهُمْ امْرَأَةٌ. "

"Allah has preserved me with what I have heard from the Prophet (peace be upon him) when Kisra (King of Persia) died. The Messenger of Allah asked, 'Who replaced him?' The companions replied, 'His daughter.' Then the Prophet said, 'It will not be lucky for a people to hand over the power of their government to a woman.'

Sanad Quality

The three narrations above, from the side of sanad, are all of the quality of saheeh. The first narration, in Saheeh al-Bukhari, is confirmed to be valid, in addition to all the hadith narrations contained in Saheeh al-Bukhari of saheeh quality, according to Jumhur, also all the narrations are included in the category of 'fair and dhabith.

The second and third narrations, in Sunan al-Tirmidhi and Sunan al-Nasa'i, are also saheeh. In fact, if you look at the qualifications of the two narrators (Khalid b. al-Harits and Muhammad b. al-Mutsanna) in these two books of Sunan, both are of higher quality when compared to the narration path in Saheeh al-Bukhari.

Sabab Wurud

This hadith was conveyed by the Prophet when he heard the news from one of the companions about the appointment of a queen in Persia named Buwaran bint Syairawaih ibn Kisra. She was made queen because her brothers were killed in a power struggle, while the royal family did not want power to escape from the descendants of previous kings. The event occurred in the year 9 H (Dawam et al., 2023).

Meanwhile, the reason for Abu Bakrah's narration of this hadith is the al-jamal event, where 'Aisha, Talhah and al-Zubair agreed to go to Bashrah to invite the people to demand the death of 'Uthman ibn 'Affan to the ruling government, the caliph 'Ali ibn Abi Talib to implement the qishash law against the killer of 'Uthman. Then Abu Bakrah did not want to join 'Aisha even though Abu Bakrah agreed with 'Aisha in the war of al-Jamal on the grounds of the above hadith so Abu Bakrah decided not to intervene in the war of al-Jamal (Bakri, 2020).

Understanding Hadith

If observed textually, the above hadith states that a country will not reap success and success if the one who leads them is a woman. Such an understanding would have implications for a massive decentralization of the quality of women, so that they have no right to govern the

state at all. Most scholars understand the hadith of women's leadership textually (Osmani et al., 2019).

They argue that based on the hadith's instructions, the appointment of women as heads of state, court judges and various other political positions, is prohibited. Furthermore, they stated that women according to the Shari'a were only given the responsibility to take care of their husbands' property. Therefore, al-Khattabi, for example, said that a woman's face is not valid to be a caliph. Similarly, al-Syaukani in interpreting the hadith argues that women are not experts in terms of leadership, so they should not be the head of state. Meanwhile, other scholars such as Ibn Hazm, al-Ghazali although for different reasons also require men as heads of state (Ja'far & Hermanto, 2021).

In addition, there are also scholars who state that women are not worthy of being leaders because they lack and are weak in mind while leadership requires a great ability to go out to take care of the ummah and women are aurat so they are not worthy of being leaders or judges. In addition, the elements of leadership during the time of the Prophet were as leaders of the State, prayer leaders and warlords. Meanwhile, women cannot fulfill these three elements of leadership. The prohibition of women from becoming leaders is allegedly based on the interpretation of some scholars based on the Qur'an that men are leaders for women (Utsany et al., 2022).

Tafsir bi al-Ma'tsur

Ibn Katsir made the hadith 'A People Who Leave Their Business to a Woman Will Not Succeed' as Tafsir bi al-Ma'tsur from Surah al-Nisa: 34, which reads:

الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ ۚ فَالصَّالِحَاتُ قَنَاطٌ حَافِظَاتٌ لِّلْغَيْبِ بِمَا حَفِظَ اللَّهُ ۚ وَالَّتِي تَخَافُونَ نُشُوزَهُنَّ فَعِظُوهُنَّ وَاهْجُرُوهُنَّ فِي الْمَضَاجِعِ وَاضْرِبُوهُنَّ ۚ فَإِنْ أَطَعْنَكُمْ فَلَا تَبْغُوا عَلَيْهِنَّ سَبِيلًا ۚ إِنَّ اللَّهَ كَانَ عَلِيمًا كَبِيرًا

Meaning: Men (husbands) are responsible for women (wives) because Allah has given some of them (men) more than others (women) and because they (men) have provided for some of their wealth. Righteous women are those who are obedient (to Allah) and take care of themselves when (their husbands) are not there because Allah has taken care of (them). Women whom you are worried about nusyuz, give them advice, leave them in bed (separate beds), and (if necessary,) beat them (in a painless way). However, if they obey you, do not look for ways to trouble them. Indeed, Allah is the Most High and the Greatest.

Some contemporary scholars give a different view of this verse. The reasons he put forward include first, that this verse talks about the domestic sphere, so it cannot be the basis for leadership in the public sphere. Second, that this verse is not normative but informative about the situation and conditions of Arab society (the world) at that time, so it does not have legal consequences. Third, because there are a number of other verses that indicate women's leadership abilities such as in Surah al-Taubah verse 71, which gives territorial rights to women over men. The word region can mean control, leadership, cooperation and mutual help. Fourth, rijal in this verse does not mean male gender, but masculinity traits that can be possessed by both men and women.

Contemporary scholars try to understand this hadith contextually, this is because if viewed directly there is an understanding that seems to contradict so that there is a synchronization of understanding. Previously, it is necessary to know the historical background of the emergence of this hadith where when the prophet delivered this hadith he had previously received information that a woman (Bintu Kisra) had been appointed as a leader by the Persian state in place of her father. Even though at that time the existence of women as leaders was still denied, the right to be a leader was a man. Of course, this violated the tradition that existed at that time. In addition, the ability of women was not the same as that of men and Arab women at that time only took care of family matters and was not trusted to handle public or state affairs and indeed did not have scientific capacity in the public sphere. In the conditions of the Persian kingdom and such a social setting, it is natural for the Prophet PBUH, who has high wisdom, to utter a hadith that a nation that leaves state and societal problems to women will not succeed.

In addition, they also argue that when the Prophet (peace be upon him) conveyed the hadith he was not in the capacity of a prophet or an apostle, but it should be understood that he conveyed it in his capacity as an ordinary human being or as a person who informed the social reality at that time and to anticipate the possibility that would occur if the leadership was handed over to women. There are also contemporary scholars who put forward the ability of women to become leaders. However, he can lead if he has the same abilities and expertise as men.

Another opinion also states that a woman is legitimate to be the head of state if she is not the supreme power. This means that there are still institutions above the head of state or the president. With some of the arguments/statements put forward by the contemporary scholars above, it can be understood that the hadith regarding the prohibition of women from becoming leaders is not related to the discourse of Sharia requirements for a leader. He only responded to the appointment of the Persian Queen.

However, there are several things that are possible if this is associated with the Prophet's personal opinion, namely that the Prophet's words may be a prayer so that the leader of the Persian country will not succeed and it may be the Prophet's personal opinion which is based on the fact of the reality of the traditions of society which at that time was not possible for a woman to lead the country. Because they do not get legitimacy and are not respected by the community if they are trusted to be their leaders.

Therefore, This means that the above hadith must be understood contextually because it has a temporal nature, not universal. The hadith only reveals real facts about the social conditions at the time of the hadith and applies only to the case of the Persian state and is not intended as a sharia provision that the condition for the leader must be a man. So that women can become leaders as long as they are not at the level of leaders who have absolute authority that requires male requirements such as being an imam for prayer (Ghafournia, 2022).

Its Relevance to the Profession of Women Judges in Indonesia

The role of women judges in Religious Courts often leads to the assumption that their limited number and low access to public office are due to the debate regarding the legitimacy of

women as judges, even though this role has been regulated in the applicable legislation. The impact of this debate is the emergence of gender-biased views, where women's opportunities to serve as judges are still considered limited.

On the other hand, the legitimacy of women as judges, when viewed from a juridical aspect, has a history that is closely related to regulations and laws and regulations on judicial power. The opportunity for women to become judges was wide open after the enactment of Law Number 1 of 1974 concerning Marriage and Law Number 7 of 1989 concerning Religious Courts. Prior to this law, women had not had broad access to become judges, both in terms of regulations and in terms of expected competence (Muqoddas, 2016).

After the issuance of Law Number 3 of 2006, which was amended by Law Number 50 of 2009, the number of female judges began to show a significant increase compared to the number of male judges. This phenomenon reflects a wider opportunity for women to play an active role, not only in the realm of judicial institutions such as the Religious Court, but also in other institutions (Muqoddas, 2016).

However, the debate over the role of women as judges, especially in the Religious Court, continues. Some parties still question whether the role of women as judges is in accordance with the applicable religious and social provisions, while others consider that women deserve to be judges considering their competence and professional abilities.

In the perspective of classical Islamic fiqh, it has been formulated that men have a higher position than women in terms of leadership in society. This is based on a number of verses of the Qur'an and hadith that give the impression that men are more worthy of holding leadership positions, including in positions as judges. However, an issue that is of great importance today is the need to reinterpret views regarding the position of women in Islamic law, especially in terms of leadership (Muqoddas, 2016).

Most classical scholars base their opinions on the literal interpretation of QS. Al-Nisa' verse 34, which states that men are leaders for women because Allah has given advantages to men in several ways, including the responsibility of maintenance. This verse is often used as the basis for the argument that men are more appropriate to occupy leadership positions, including in positions as judges. However, this interpretation is now widely questioned, because it is considered no longer relevant in the context of modern society, where women also have equal roles and capacities with men.

Some jurists also quote a hadith narrated by Abu Bakrah, which states that those who surrender their leadership to women will not be lucky. This hadith is often used to reinforce the view that women should not occupy leadership positions, including as judges. However, some contemporary scholars consider that this hadith should be understood in the social context of the time, which was very patriarchal, and was not intended as a universal prohibition for women to become leaders or judges.

Furthermore, the socio-historical and cultural conditions before and early the arrival of Islam also show that society at that time was greatly influenced by the hegemony of patriarchal culture. This culture puts men in a higher position than women. As a result, the space for women to become leaders is very limited.

Therefore, it is important to re-examine the views of scholars on the legal status of women as judges. Traditional views often reflect the social conditions that existed at the time they were formed. Taking into account modern social and cultural developments, as well as women's increasingly recognized abilities in various fields, many contemporary scholars now argue that women should have the same opportunities as men to hold the office of judges.

In this case, the jurists and modern scholars are divided into three groups: (1) the group that completely rejects women from becoming judges; (2) groups that allow women to become judges, but with limitations only for civil and non-criminal cases; and (3) moderate groups, who argue that women can be judges in all types of cases, both civil and criminal, as long as they meet certain conditions related to capacity and competence (Muqoddas, 2016)..

Indonesia is known as a country of law that adopts a democratic system, where the law has a role as a "commander" in regulating the life of society, nation, and state. The law that develops in Indonesia consists of positive law, Islamic law, and customary law. As a country with a majority Muslim population, the contribution of Islamic law to the national legal system is very significant, especially in relation to religious justice issues.

In addition, Indonesia has also ratified various international agreements that support gender equality, such as the International Covenant on Civil and Political Rights (ICCPR) through Law Number 11 of 2006, and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). Both of these covenants recognize equal civil, political, economic, social, and cultural rights between men and women, including the right to participate in the political process, to be public officials, and to receive fair treatment in the eyes of the law and public service (Muqoddas, 2016)..

In the context of public rights, women in Indonesia have the right to vote and be elected to important positions, to receive equal recognition and treatment before the law, and to be protected from discrimination and violence based on gender, religion, ethnicity, or race. These rights also include freedom of opinion, assembly, and the right to education and decent work.

The 1945 Constitution as the constitution of Indonesia has expressly recognized equality between men and women in various aspects of life. In addition, Indonesia also has Law Number 39 of 1999 concerning Human Rights, which guarantees women's rights to get equal opportunities with men in all areas of life, including in the world of work and law. Indonesia has also ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which further strengthens the country's commitment to gender equality (Muqoddas, 2016)..

In the realm of religious court law, Law Number 3 of 2006 which amended Law Number 7 of 1989, expressly regulates the requirements for becoming a judge in the Religious Court. These conditions apply equally to both men and women, without discrimination based on gender. These conditions include: (1) Indonesian citizens; (2) Religion: Islam; (3) Fear God Almighty; (4) Loyal to Pancasila and the 1945 Constitution; (5) Bachelor of Sharia or Bachelor of Law who masters Islamic law; (6) Physical and spiritual health; (7) Authoritative,

honest, fair, and well-behaved; and (8) Not involved in prohibited organizations such as the Communist Party of Indonesia (Muqoddas, 2016)..

Thus, Indonesia provides equal opportunities for women and men to become judges. Although there are no formal legal obstacles, the reality is that there are still non-juridical obstacles that prevent women from having a maximum career as judges. Social perceptions and gender stereotypes that are still strong in society often limit women's space in occupying strategic positions, including in the legal field.

The stigma that women are only suitable for being in the domestic sphere, while the public sphere such as politics and law are more suitable for men, is still a major challenge. The world of politics and law is often associated with masculine traits—hard, competitive, and rational—so that they are considered less in line with the nature of women who are expected to be softer, emotional, and obedient to social norms.

However, in recent decades, there has been significant progress in women's involvement in the public sphere, including in the judiciary. At the international level, Indonesia has proven its commitment to gender equality through active participation in various global forums. However, to achieve true equality, a change in mindset is needed among society, both men and women, so that women can fully participate in all aspects of life, including in the field of law and justice.

In the history of human civilization, especially in Ancient Greece, women were often considered nothing more than "domestic helpers" whose main task was to give birth to children. In society at that time, the status of women was very low, even often equated with inanimate objects or associated with sin and evil. This situation was also reflected in Arab societies before the advent of Islam, where women were often seen as a disgrace to the family. The tradition of burying baby girls alive, as explained in the Qur'an surah Al-Nahl verses 58-59, illustrates how bad the position of women was at that time.

Islam came with a revolutionary change in the perspective of Arab society, especially regarding the position of women. Through the teachings of Islam, the Prophet PBUH introduced a new tradition that views women as human beings who are equal to men in rights and obligations before God. The hadiths of the Prophet Muhammad PBUH affirm that women are brothers to men, showing that gender equality is one of the main missions of Islam.

One of the important aspects of Islam is the effort to uplift the dignity and dignity of women. In Islamic treatises, both the Qur'an and the hadith as the main source of Islamic law pay great attention to equality between men and women. Both have balanced rights in various aspects of life, both in spiritual and moral status, as well as economic and legal rights. Islam gave this privilege to women, which even at that time was not found in the teachings of other religions.

However, although Islam has given significant status to women, the polemic over whether women can become judges in the Islamic legal system is still a matter of debate among scholars. The opinions of these scholars are inseparable from the social and cultural conditions that existed in their time, where the role of women in the public sphere is often

viewed with doubt. In some societies, the judiciary is considered too risky to be handed over to women (Muqoddas, 2016).

Broadly speaking, there are three groups of opinions among scholars regarding the position of women as judges. This is based on the sharia for the hadith 'It Will Not Succeed for a People Who Leave Their Affairs to a Woman', as follows:

وعن أبي بكرة رضي الله عنه عن النبي (ص) قال: لن يفلح قوم ولوا أمرهم امرأة رواه البخاري. فيه دليل على عدم جواز تولية المرأة شيئاً من الأحكام العامة بين المسلمين، وإن كان الشارع قد أثبت لها أنها راعية في بيت زوجها، وذهب الحنفية إلى جواز توليتها الأحكام إلا الحدود، وذهب ابن جرير إلى جواز توليتها مطلقاً. والحديث إخبار عن عدم فلاح من ولي أمرهم امرأة، وهم منهيون عن جلب عدم الفلاح لأنفسهم مأمورون باكتساب ما يكون سبباً للفلاح. - سبل السلام

Groups that Reject Women as Absolute Judges

The majority of scholars from madhhab Maliki, Shafi'i, Hanbali, as well as some scholars from madhhab Hanafi are of the opinion that women are not valid to be judges in any case. They require that judges must be male, arguing that men have advantages in terms of rationality, authority, and capacity to lead. For example, the scholar al-Mawardi from the Shafi'i madhhab included men as one of the absolute requirements to become a judge. In addition, scholars such as Ibn Rushd and Wahbah Zuhayli also noted that many jurists agree that judges must be men, especially for cases related to hudud and criminality.

The main reason for this rejection is the view that women have shortcomings in terms of intelligence, social experience, and the ability to interact with the opposite sex, which is considered incompatible with the judge's duties that require perfect intellect. Therefore, they concluded that women are not valid as judges in any case, although they can be witnesses in some cases.

Groups That Allow Women to Become Judges in Civil Cases Only

Some scholars from the Hanafi school argue that women can be judges, but they are limited to civil cases (muamalat), and not in criminal cases (hudud, qishash, and ta'zir). This is based on the principle that women can be witnesses in civil cases, so it is logical that they can also be judges in such cases. However, women are still not allowed to be judges in criminal cases because they cannot be witnesses in these cases. Therefore, these scholars argue that the validity of being a judge depends on a person's ability to be a witness.

Some scholars from the Hanafi school also said that although women can become civil judges, the appointment of women in this position is considered makruh because the trial forces them to interact intensely with men. However, if the case being tried only involves women, then the marriage does not apply.

Groups That Allow Women to Be Judges in All Matters (Civil and Criminal)

The third opinion is represented by scholars such as Ibn Jarir al-Thabari, Ibn Hazm, and Muhammad bin Hasan. They argue that women can be judges in all types of cases, both civil and criminal. They base their opinion on the principle of equality between men and women in Islam, which is reflected in the verses of the Qur'an and the hadiths of the Prophet PBUH

which affirms that men and women are each other's helpers in carrying out the duties of amar ma'ruf nahi munkar.

Thus, the position of women as judges in Islamic law is still a controversial issue. Although most classical scholars reject or limit the role of women as judges, contemporary scholars tend to be more inclusive, judging that women can play the role of judges as long as they meet the necessary requirements of competence and expertise.

The opinion that women can become judges, but only in civil cases (muamalah) and not in criminal cases (hudud, qishash, and ta'zîr), is the view held by some scholars of the Hanafi school. This view is based on the principle that women can be witnesses in civil cases, and therefore, they are also considered fit to be judges in civil matters. However, when it comes to criminal or legal cases involving hudud (punishment prescribed by shlaw), qishash (appropriate retribution), and ta'zîr (punishment of an educational or corrective nature), women are considered ineligible to be judges (Muqoddas, 2016)..

According to the scholars of the Hanafi madhhab, a judge must have the same ability as a witness in the case being tried. Since women are allowed to testify in civil cases, they are also considered fit to decide these cases. However, in criminal cases, where women are not allowed to be witnesses (for example, in hudud and qishash cases), they are also not allowed to be judges. This prohibition reflects the traditional view that a judge's capacity is inextricably tied to the ability to be a witness, especially in cases involving corporal punishment or severe criminal offenses.

On the other hand, although women can be appointed as judges in civil cases, some Hanafi scholars consider that this appointment is makruh (recommended to be avoided) for several reasons. One of the main reasons is that in court hearings, female judges will be forced to interact and converse with men intensely, which is considered contrary to the sharia recommendation for women to close themselves off from promiscuity with men who are not mahrams. Therefore, these scholars argue that although women can be judges, they should not be positioned in cases that involve direct interaction with men.

However, this corruption becomes irrelevant if the cases faced by female judges involve parties who are all women. In this situation, there are no more concerns about the interaction between women and men, so there is no reason to prohibit women from becoming judges. This view shows that the appointment of women as judges is not absolutely prohibited, but rather situational, depending on the type of case and the parties involved.

Figures of the Hanafi school such as Ibn Hammam emphasized that the requirement to be male only applies to judges in hudud and qishash cases. In muamalat (civil) cases, women are considered qualified to be judges. This is based on the understanding that many aspects of civil cases do not require the same level of physical or criminal involvement as those in criminal cases, so that women can carry out their duties as judges more freely.

The legal basis for this view is several postulates from the Qur'an that show that men and women have the same responsibility in carrying out the duties of amar ma'ruf nahi munkar. One of the verses that is often quoted is QS. Al-Taubah: 71, which states:

"And the believers, men and women, some of them are helpers to others. They tell (do) the ma'ruf, prevent the ungodly, establish prayers, pay zakat, and obey Allah and His Messenger. They will be given mercy by Allah; Indeed, Allah is the Mighty and the Wise." (QS. Al-Taubah: 71)

This verse shows that men and women have the same roles and responsibilities when it comes to leading society and upholding justice. In the context of the judiciary, both men and women have the same obligation to prevent iniquity and enforce amar ma'ruf. Therefore, women are allowed to be judges in civil cases, because these duties are also included in the scope of amar ma'ruf.

The qiyas (analogy) approach is also used by the Hanafi school in compiling this view. The principle held is that whoever is qualified to be a witness in a case, then they are also qualified to be a judge in the same case. Because women can be witnesses in civil cases, they are also considered fit to be judges in such cases.

However, in criminal cases, where female testimony is not allowed, they also cannot be judges. This conclusion confirms that the role of women in the judiciary must be seen from the perspective of their ability to give testimony, which in Islamic law is one of the main requirements for a person to be able to become a judge.

The opinion that women can be judges in all types of cases, both civil and criminal, is held by scholars such as Ibn Jarir al-Thabari, Ibn Hazm, and Muhammad bin Hasan. This view is the most inclusive, stating that women have the right to take the lead in all kinds of cases without exception, including in cases of hudud (punishment prescribed by sharia), qishash (commensurate retribution), and ta'zir (punishment of a corrective or educational nature) (Muqoddas, 2016).

These scholars base their opinion on the principle of equality between men and women which is affirmed in various verses of the Qur'an and the hadith of the Prophet PBUH. In their view, the Qur'an does not distinguish between men and women in terms of leadership, except for very specific positions such as the kubra imamah (supreme leadership or head of state). Therefore, all leadership positions outside the kubra imamah, including the position of judge, are open to women. This is supported by the basic principle in Islamic law which considers that basically men and women have equality in terms of rights and responsibilities before the law (Muqoddas, 2016).

The main argument that is often cited by proponents of this view is the Qur'anic verse which states the equality of men and women in carrying out the duties of amar ma'ruf nahi munkar. One of the relevant verses is QS. Al-Taubah: 71, which reads:

"And the believers, men and women, some of them are helpers to others. They tell the ma'ruf, prevent the ungod, establish prayers, pay zakat, and obey Allah and His Messenger. They will be given mercy by Allah; Indeed, Allah is the Mighty and the Wise." (QS. Al-Taubah: 71)

This verse emphasizes that men and women complement each other in carrying out religious and social duties. Both have the same obligation in upholding amar ma'ruf and nahi munkar, which in the context of the judiciary is translated as an effort to uphold justice and prevent

injustice. Thus, there is no valid reason to prohibit women from becoming judges in criminal or civil cases, as both have the same role in enforcing Islamic law.

In addition to the Qur'an, these scholars also refer to a hadith narrated by Ibn Umar, who said that the Prophet PBUH said:

"Each of you is a leader, and each of you will be held accountable for what you lead." (HR. Muslim)

This hadith is considered the basis that everyone, both men and women, has a responsibility in leading, including in the realm of justice. There is no restriction in this hadith that excludes women from leadership positions in the courts, so that women can be judges in any case as long as they have the necessary competence (Muqoddas, 2016).

In addition, the view that women can be judges in all cases is also supported by the concept of *ijtihad*, which is a method in Islamic law to formulate new laws based on existing postulates. Scholars who support this view argue that hadiths that prohibit women from becoming leaders or judges, such as the hadith narrated by Abu Bakrah on women's leadership, should be understood in the social and cultural context of the time, not as an absolute prohibition that applies throughout time.

A hadith that states that "It will not be lucky for a people to hand over leadership to women" (HR. Bukhari), according to these scholars, is not a normative prohibition, but merely a statement about the political conditions at that time, where Persia was led by a woman (Buaran bint Syirawaih) who failed to maintain the political stability of her country. This hadith is considered a depiction of the social reality of the time, not as a legally binding provision.

Furthermore, they argue that applying this hadith as a prohibition for women to become judges is a form of literal interpretation that does not take into account the social context. Instead, they argue that every individual, including women, should be judged based on their competence and abilities, not by gender. If a woman has the qualifications needed to become a judge, then there is no sharia reason to prohibit her from deciding any case, whether civil or criminal (Muqoddas, 2016).

In addition, this group of scholars also uses the principle of *qiyas* (Muqoddas, 2016). (analogy) to support their arguments. They argue that since women are allowed to testify in certain cases, they are also qualified to be judges in those cases. Therefore, there is no basis for prohibiting women from becoming judges in criminal cases, as long as they have the necessary knowledge and competence to decide the case.

Some of the factors that affect the low representation of women judges in the religious justice system are social and cultural perceptions that still view the role of women as limited to the domestic sphere. In many societies, women are still seen as parties who should focus on the family and household, so that their opportunities for a career in the public sphere, including in the judiciary, are hampered. In addition, religious views that interpret women as unfit to be leaders also affect this perception.

The government and religious justice institutions also need to encourage empowerment programs specifically designed to increase the capacity of women judges, both in terms of technical competence, mastery of legal science, and the development of leadership and decision-making skills. These programs are very important so that women judges not only play the role of implementers, but can also hold leadership positions in the court, such as being the chairman or deputy chairman of the court.

An approach that is also important in increasing the capacity of women judges is to expand access to technology and information. In today's digital era, women judges must be encouraged to utilize technology in the judicial process, both in terms of case management and in improving the efficiency of judicial administration. The right use of technology will help women judges to manage cases more effectively, as well as provide wider access to relevant legal knowledge resources (Muqoddas, 2016).

Finally, one way to ensure the capacity building of women judges is to build public awareness of the importance of women's roles in religious justice. Educating the public about women's rights, as well as the importance of gender equality in law, can help change biased views of women's ability to carry out their role as judges. Thus, public support for the increase in the role of women judges is expected to encourage the acceleration of the reform process in the religious justice system.

In essence, increasing the capacity of women judges in Religious Courts is one of the important keys to creating a fairer and more inclusive judicial system. Education, training, mentoring, network support, affirmative policies, and access to technology are some of the steps that can be taken to ensure that women judges can contribute optimally to the religious justice system in Indonesia (Muqoddas, 2016).

CONCLUSION

An analysis of the hadith "It will not succeed for a people to leave their affairs to a woman" in relation to Surah al-Nisa: 34 shows that the tafsir bi al-ma'tsur provides an important foundation in understanding the position and role of women in Islam, especially regarding leadership. Based on the history of the companions and the views of classical scholars, this hadith is often understood in certain social and political contexts that prevailed during the time of the Prophet Muhammad SAW. However, contemporary interpretation offers a more flexible perspective, taking into account social changes and the role of women in modern society. While this hadith is often considered the basis for restrictions on women's leadership, a more in-depth study reveals that male leadership in the family, as explained in Surah al-Nisa: 34, does not have to be applied absolutely in the context of the public sphere. Therefore, a dynamic and contextual approach to interpretation is needed to accommodate the changing times without ignoring the principles of sharia, as seen in its relevance to the profession and the role of judicial judges in Indonesia.

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