



Women's Leadership and the Law of Choosing Women Leaders in the Perspective of Islamic Law and Positive Law

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Abstract

Women's leadership is an issue that continues to be debated in various societies, especially when associated with the perspective of Islamic law and positive law. In Islam, differences of opinion regarding women's leadership are often based on interpretations of verses of the Qur'an and hadith. One of the hadiths that is often used as a reference is "A people who entrust their affairs to a woman will not be fortunate" (HR. Bukhari). However, some scholars interpret this hadith contextually by considering the development of the times. Meanwhile, positive law in Indonesia guarantees equal rights for women to occupy leadership positions, as regulated in various laws and regulations. This study aims to analyze the legal legitimacy in choosing female leaders from the perspective of Islamic law and positive law. The method used is normative juridical with a conceptual and legislative approach through literature studies. The results of the study show that there are differences in interpretation in Islamic law regarding women's leadership, while positive law provides full guarantees for women's rights in leadership. In conclusion, women's leadership needs to be understood fairly by considering the principles of justice and gender equality in Islam and applicable legal regulations, in order to create a more inclusive and democratic leadership system.

I. INTRODUCTION

Women's leadership has become a never-ending topic of discussion in various aspects of life, both in the social, cultural, political and legal realms.(Marwing, 2021). Along with the development of the times, the role of women in leadership is increasingly gaining ground, especially with the strengthening of feminism and gender equality movements. However, in many societies, including in Indonesia, the issue of women's leadership still faces quite complex debates, especially when associated with aspects of Islamic law and positive law.

In the history of human civilization, the role of women in leadership has often faced various challenges rooted in patriarchal social structures.(Nasution, 2024). Women often experience discrimination and restrictions in access to strategic positions in government, legal institutions, and the economic sector. This condition is not only caused by social factors, but also by an understanding of religious values and traditions that have been rooted in society.(Nasution, 2024). On the one hand, there is an understanding that rejects female leadership on the grounds that men have greater responsibilities in managing public affairs. On the

other hand, there is also a view that supports female leadership by emphasizing the principles of equality and justice that are also taught in Islam.

In Islamic law, the debate about female leadership stems from various interpretations of the verses of the Qur'an and the hadith of the Prophet Muhammad SAW. One hadith that is often used as a reference in rejecting female leadership reads: "A people who entrust their affairs to a woman will not be successful" (HR. Bukhari). This hadith is often used as the basis for the argument that Islam does not allow women to lead. However, some scholars interpret this hadith in a certain context, namely in the social situation and conditions at that time that did not yet allow women to take control of government. This contextual interpretation then became the basis for a more inclusive view of female leadership in Islam.

On the other hand, positive laws in force in many countries, including Indonesia, do not impose restrictions on women's leadership in various sectors. The Indonesian Constitution guarantees equal rights for every citizen to participate in government, both men and women. A number of regulations in the Indonesian legal

system, such as Law Number 39 of 1999 concerning Human Rights and Law Number 7 of 1984 concerning Ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), emphasize that women have equal rights to participate in political and government decision-making.(Nasution, 2023). Women have also held many strategic positions in the Indonesian government system, from ministerial positions to the presidency, which shows that women have leadership capabilities.

However, even though positive legal regulations have guaranteed equality, women still face various structural barriers in achieving leadership positions. Gender stereotypes that position women as figures who are more suited to taking care of domestic affairs are still strongly embedded in patriarchal culture. As a result, women often experience social barriers, both in the form of direct and indirect discrimination, which limit their access to leadership positions. The lack of political and economic support for women to advance in the world of leadership is also a challenge in itself.

In this context, the study of women's leadership and the law on choosing women leaders from the perspective of Islamic law and positive law becomes increasingly important. A comprehensive understanding of this issue can provide a foundation for society in viewing women's leadership fairly and wisely. With this study, it is hoped that a meeting point can be found between Islamic principles and positive law in understanding the role of women in leadership, so that society can be more open to changes based on justice and gender equality.

Therefore, this study aims to explore more deeply the concept of female leadership in Islam and how positive law in Indonesia accommodates women's rights to become leaders. This study not only aims to provide theoretical understanding, but also to provide a broader perspective in understanding the social, cultural, and legal dynamics that influence the role of women in leadership. Thus, it is hoped that this study can contribute to developing a more inclusive discourse based on the principles of justice and respect for human rights.

II. RESEARCH METHODS

This study uses a normative legal method with a conceptual and legislative approach to analyze women's leadership from the perspective of Islamic law and positive law.(Suyanto, 2023). This approach is carried out by examining primary

legal sources, such as the Qur'an, hadith, fiqh books, and laws and regulations in force in Indonesia related to gender equality and women's rights in leadership. In addition, this study also examines the views of Islamic scholars and legal thinkers on women's leadership by considering various methods of legal interpretation.

Literature study is the main technique in data collection, by tracing relevant literature, both in the form of books, journals, and legal decisions. The analysis is carried out descriptively-qualitatively to understand the relationship between Islamic legal norms and positive law in providing legitimacy to women's leadership. Through this approach, research is expected to contribute to the development of fairer and more inclusive laws in the context of women's leadership.

III. RESULTS AND DISCUSSION

A. Definition of Leadership

Jacobs & Jacques' definition of leadership defines leadership as a process of giving meaning (meaningful direction) to collective efforts, and which results in a willingness to make the desired effort to achieve goals.(Fatimah, 2015). Meanwhile, according to Tannenbaum, Weschler & Massarik, leadership is interpersonal influence, which is carried out in a certain situation system, and is directed through the communication process towards achieving one or several specific goals.(Dakhi, 2014).

In his book, Marno defines leadership as all the power and joint efforts to mobilize all the resources and tools available in an organization.(Fitri, 2018). then in his book Sugeng Listyo leadership is a process of leading to provide social influence to other people so that other people carry out a process as desired by a leader.(Muhaimin, 2015). A leader is a person who has followers, who organizes and coordinates the activities of his group to achieve a common goal. While in Islam it is known as the term caliph. A leader to achieve the desired goal requires staff and members which then gives rise to the term known as leadership.

In Islam, it is known as imamah which according to language means leadership, such as a leader or others whether he gives guidance or leads astray. Imam is also called caliph, namely the ruler or supreme leader of the people.

B. Leadership Terms from the Perspective of the Qur'an

1. Caliph

In the Qur'an, the word derived from Khlaifa is mentioned 127 times, in 12 occurrences. Its meaning ranges between the verb to replace, leave, or the noun substitute or heir, but there are also those whose meanings have deviated such as disagreeing, breaking promises, or being diverse. While from the word khalf which means succession, replacement or next generation, deputy, substitute, ruler which is repeated 22 times in the Qur'an. The word khilafah according to the Islamic Encyclopedia is a term that appears in the history of Islamic government as an Islamic political institution, which is synonymous with the word imamah which means leadership (Sarni & Muslimah, 2021).

2. Priest

The word imam is repeated 7 times. The word aimmah is repeated 5 times. The word imam in the Qur'an has several meanings, namely, prophet, guide, book/text, straight path, and leader. The verses that show the term imam include Surah Al-Furqan (25), Verse 74.

3. Ulil Amri

The term ulil Amri is translated as functionaries (people who carry out tasks, or are entrusted with carrying out certain functions in an organization) (Rahmatillah & Nurdin, 2020). The interesting thing about understanding ulil amri is the diversity of meanings contained in the word amr. The term that has the same root word as amr which is derived from the word amr, in the Qur'an is repeated 257 times. While the word amr itself is mentioned 176 times with various meanings, according to the context of the verse.

The word amr can be translated as command (as God's command), business (of humans or God), matter, something, decision (by God or humans), certainty (determined by God), and can even be interpreted as duty, mission, obligation and leadership. Unlike the verses that show the term amr, the verses that show the term ulil amri in the Qur'an are only mentioned twice. Such as Surah An-Nisa (4), Verse 59.

C. Women's Leadership in Islamic History

Women in Islamic history have played significant roles, both in formal and informal leadership. (Shahid, 2014). Although there are different views regarding the legitimacy of women as leaders, historical facts show that women have been an important part in various aspects of life, including government, education, and social roles. The following describes the historical facts of women's leadership in Islam.

1. Women's Leadership during the Time of the Prophet Muhammad SAW

During the time of the Prophet, women not only had roles in domestic affairs, but were also involved in public affairs, although not as formal leaders. Some important examples: (Novianti, 2008)

- a. Khadijah binti Khuwailid. Khadijah, the first wife of the Prophet SAW was a successful businesswoman who supported the Islamic da'wah morally and financially. Her leadership was seen in the management of a large business and her contribution to the struggle of the Prophet SAW.
- b. Umm Salamah. In the Treaty of Hudaibiyah, Umm Salamah gave strategic advice to the Prophet SAW when his companions were reluctant to carry out the order to shave their heads. The Prophet accepted his suggestion, which ultimately became a solution to calm the companions.

2. Women's Leadership in Islamic Government

- a. Ratu Balqis (Context of the Qur'an). The story of Queen Balqis in the Qur'an (Surah An-Naml: 23-44) shows an example of a female leader who is wise, fair, and able to lead her country well. His decisions show his intelligence in leading.
- b. Sitt al-Mulk (Fatimid Dynasty). Sitt al-Mulk, a female ruler of the Fatimid Dynasty (d. 1023 CE), took over power after the death of her brother, Al-Hakim bi Amrillah. She was known as a wise leader and was able to maintain the stability of the government during times of crisis.
- c. Razia Sultana (Delhi Sultanate). Razia Sultana (1205-1240 CE) was the first female ruler in India who ruled the Delhi Sultanate. Despite facing many challenges due to her gender, she managed to run the government well, showing extraordinary military and administrative skills.

3. Women's Leadership in Education and Science

- a. Aisyah binti Abu Bakar. Aisyah is one of the most influential female figures in Islam. She is known as a source of hadith and fiqh. More than 2,200 hadiths were narrated from her, and she was often asked for fatwas by her companions. 'Aisyah is also recorded as having led a war called the Jamal war.

- b. Fatimah Al-Fihri (Founder of Qarawiyyin University). Fatimah Al-Fihri founded Qarawiyyin University in Fez, Morocco, in 859 AD. This university is one of the oldest educational institutions in the world.

Although women in Islamic history rarely held formal leadership positions at the government level, they still showed extraordinary leadership abilities in various fields. Many female figures became pioneers in the fields of economics, education, and politics. This proves that Islam provides space for women to contribute significantly to society.

Islamic history records many women who have demonstrated extraordinary abilities in leading and contributing to society. Although Islamic legal views on women's leadership are often debated, historical facts prove that women can be successful leaders, whether in government, education, or other fields. Therefore, the role of women in leadership needs to continue to be respected and empowered in accordance with the principles of justice and welfare in Islam.

D. Women's Leadership in the Koran and Hadith

1. Al-Qur'an

Since 14 centuries ago, the Qur'an has eliminated various kinds of discrimination between men and women, the Qur'an gives women the same rights as men.(Fatimah, 2015). Among them in the matter of leadership, the Qur'an gives women the right to become leaders, as the rights of men are taken into consideration in this case only their ability and the fulfillment of the criteria to become a leader. So the leader is not a monopoly of men, but can be occupied and held by women, even if the woman is capable and meets the criteria then she may become a judge and top leader (Prime Minister or Head of State). This issue is mentioned in the letter at-Taubah verse 71:

وَالْمُؤْمِنُونَ وَالْمُؤْمِنَاتُ بَعْضُهُمْ أَوْلِيَاءُ بَعْضٍ يَأْمُرُونَ بِالْمَعْرُوفِ وَيَنْهَوْنَ عَنِ الْمُنْكَرِ وَيُقِيمُونَ الصَّلَاةَ وَيُؤْتُونَ الزَّكَاةَ وَيُطِيعُونَ اللَّهَ وَرَسُولَهُ أُولَئِكَ سَيَرْحَمُهُمُ اللَّهُ إِنَّ اللَّهَ عَزِيزٌ حَكِيمٌ

And those who believe, men and women, some of them become helpers for others. They enjoin (do) what is right, and forbid what is wrong, perform prayers, pay zakat, and obey Allah and His Messenger. They will be given mercy by Allah. Indeed, Allah is all-powerful, all-wise.

In this verse, Allah SWT uses the word "Auliya" (leader), it is not only addressed to men, but both at the same time. Based on this verse, women can also be leaders, the important thing is that they

are able to fulfill the criteria as a leader, because according to al-Maraghi's interpretation and al-Manar's interpretation, the word "Auliya" includes guardian in the sense of helper, solidarity and compassion.(Suryadi, 2019). From the letter at-Taubah verse 71, it can be concluded that the Qur'an does not prohibit women from entering various professions according to their expertise, such as becoming teachers, lecturers, entrepreneurs, ministers, judges and even heads of state.

However, in her duties, she must still pay attention to the laws or rules that have been set by the Qur'an and the Sunnah, for example, not neglecting her household affairs, there must be permission and consent from her husband if she is already married, in order to avoid negative effects on herself and religion. It's just that in this case, scholars have different opinions regarding whether or not a woman can occupy a top leader position as (Minister or Head of State (leader)).

There is a group of scholars who are of the opinion that women should not be judges or top leaders, based on the Qur'an, Surah An-Nisa, verse 34:

الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ ۚ فَالصَّالِحَاتُ قَانِتَاتٌ حَافِظَاتٌ لِّلْغَيْبِ بِمَا حَفِظَ اللَّهُ ۚ وَاللَّتِي تَخَافُونَ نُشُوزَهُنَّ فَعِظُوهُنَّ وَاهْجُرُوهُنَّ فِي الْمَضَاجِعِ وَاصْرَبْنَ ۚ قَلِيلًا مَّا تَذَكَّرْنَ ۚ إِنَّ اللَّهَ كَانَ عَلِيمًا

Men (husbands) are protectors of women (wives), because Allah has preferred some of them (men) over others (women), and because they (men) have provided support from their wealth. So pious women are those who are obedient (to Allah) and take care of themselves when (their husbands) are not around, because Allah has taken care of (them). For women who you are worried about nusyuz, you should advise them, leave them in bed (separate beds), and (if necessary) beat them. But if they obey you, then don't look for reasons to trouble them. Indeed, Allah is Most High, Most Great.

According to Jawad Mughniyah in the interpretation of al-Kasyif and As-Syuty as explained in the book al-jami' al-Saghir, the intention of verse 34 of the letter an-Nisa is not to create a difference that considers women inferior to men, but both are the same, while the verse is only addressed to men as husbands, and women as wives. Both are the pillars of life, neither can live without the other, both complement each other. This verse is only addressed to the husband's leadership in the household, leading his wife.

2. Hadith

عَنْ أَبِي بَكْرَةَ، قَالَ: لَمَّا بَلَغَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنْ أَهْلَ
بَخَارِسَ قَدْ مَلَكُوا عَلَيْهِمْ بَيْتَ كِسْرَى، قَالَ
لَنْ يُفْلِحَ قَوْمٌ وَلَوْ أَمَرَهُمْ امْرَأَةٌ. رواه البخاري، كتاب
المغازي، باب كتاب النبي إلى كسرى وقيصر، رقم الحديث

From Abu Bakrah, he said: When the Prophet ﷺ Hearing that the Persians had appointed the princess Kisra as their leader, he said: "A people who hand over their affairs to a woman will not be lucky.. (HR. Bukhari, Buku Al-Maghazi, Chapter of the Prophet's Letter to Kisra and the Emperor, no. 4425).

This hadith is narrated in many ways. In Sahih al-Bukhari it is in hadith number 4425 and 7099, in Musnad Ahmad Hadith No. 19720, Sunan Tirmidhi, Book of Al-Fitan, Hadith No. 2262 and the History of Imam an-Nasa'I in Sunan Al-Kubra, Hadith No. 5388. Each narration has a similar wording with slight differences in word choice. However, the substance remains the same, namely the warning of the Prophet SAW regarding women's leadership in certain contexts.

From a historical perspective, no one hadith expert questions its validity. Meanwhile, from the perspective of dirayah (understanding the meaning) this hadith shows that it is definitely forbidden for women to hold the reins of state power. Even though it is in the form of an ikhbar, judging from the sighat of this hadith, it does not automatically indicate mubah law. Because, the parameters used to conclude whether a khitab is obligatory, sunnah, makruh, or haram are the qarinah (indications), not the sighat (sentence form).

The background to the revelation of this hadith is that it is aimed at the Persian people who handed over power to a woman. However, even though this hadith is a comment on an incident involving the appointment of a woman as king, the word "qaumun" gives a general meaning ('aam). This means that the word qaum above applies to all groups, including Muslims. Meanwhile, the background to the revelation of this hadith cannot be used as an argument to mentakhshish it (specialize it). Because, the pronunciation of this hadith is in general form. Meanwhile, the background to the incident is not a Sharia argument. Because the background is not the prophet's hadith. Therefore, the background of the Prophet's words above has nothing at all to do with the establishment of the law.

Yusuf Qardlawi in his fatwa stated three notes regarding the determination of this hadith as a reason for rejecting women's leadership: (Yunus, 2014)

- 1) Is this hadith enforced based on its generality or is it limited to its reason for being valid? In the sense that the Messenger of Allah (PBUH) wanted to inform the people of the misfortune of the Persian nation who, according to the provisions of hereditary law, had to appoint the daughter of Kisra as the head of their government, even though among that nation there were people who were much better, more worthy and superior than that daughter? True, most experts in al-ushul have determined that what is used is the generality of the word, not the specific reason.
- 2) That the ulama of the Ummah have agreed that it is forbidden for women to have supreme power or al-Imamah al-Uzham as indicated by the hadith. This provision applies to women if they become King or Head of State who has absolute power over their people, whose wishes must be carried out, all laws must not be rejected and other than their orders must not be confirmed, thus, meaning that they have truly handed over all affairs to him, that is, all their general affairs are in his hands, under his authority and command.
- 3) That modern society under a democratic system, if it gives general positions to women, such as in ministries, offices, or in the representative council, does not mean that they hand over all their affairs to women, in reality this responsibility is collective, carried out jointly by a number of people in related institutions, and women only bear part of it together with others.

Kamal Jauda said that the Abu Bakra hadith above prohibits women alone in determining the affairs of their nation in accordance with the asbab al-Wurud of this hadith. that is, King Kisra's daughter was appointed Queen of Persia. It is known that for the majority of kings at that time, their power was solely in their own hands and was dictatorial, they alone decided the affairs of their people and their country, their decisions could not be challenged. Likewise, the fatwa was issued by Syayid Muhammad Husein Fadlullah.

Basically, although this hadith is in the form of ikhbar (news sentence), but in the wording of the hadith there is a qarinah that shows its prohibition with certainty. While the Qur'an says otherwise. The Qur'an tells the story of a Queen who led a great kingdom, namely Queen Balqis, in the land of Saba', this is mentioned in the Qur'an, as-Saba' letter, verse 15.

Queen Balqis was a woman who thought quickly, was careful and meticulous in deciding something. She was not rash and hasty in deciding something, so when asked about her throne that had been moved, she answered with diplomatic expressions, not with vulgar answers that could trap her. Even Balqis' intelligence and logic and belief in monotheism were seen when she saw the beauty of Solomon's palace whose floor was made of marble that sparkled like water. In that amazement, Queen Balqis did not just give up on Solomon. But she said, "O my Lord, indeed I have wronged myself and I surrender to Solomon to Allah, the Lord of the universe." (Mahrus, 2023).

The hadith above has become a discourse in determining the law of female leadership. Scholars have different views in interpreting this hadith. The following is an explanation of its legal content based on the opinions of scholars:

1) Opinions Prohibiting Women's Leadership in the Highest Positions

Most classical scholars understand this hadith as a prohibition against women from holding the highest leadership positions, such as becoming head of state or caliph. This opinion argues that this hadith is understood as a general prohibition based on its text (*zahir al-nash*). They argue that leadership requires qualities such as decisiveness, the ability to make decisions in war, and leading men, which they consider to be more dominant in men.

Supporters of this view include Imam Al-Mawardi in *Al-Ahkam As-Sulthaniyyah*. He emphasized that the caliph must be a man because this task includes responsibilities that are difficult for women to carry out. And also Imam Ibn Hazm in *Al-Muhalla* emphasized that based on the text, women's leadership in general affairs is not allowed.

2) Permissive Opinions in Certain Positions

Some contemporary scholars argue that this hadith is not absolute, but rather related to a certain context, namely the incident in Persia when Princess Kisra became queen because there was no man worthy of replacing her. They argue that this hadith does not rule out the possibility of women to lead, especially if they have abilities that are equal to or better than men. In addition, they emphasize the principle of benefit (*mashlahah*) in determining the law.

Supporters of this view include Yusuf Al-Qaradawi: States that women may become leaders in various fields, including heads of state, as long as they meet the leadership requirements. Likewise Muhammad Abduh and Rasyid Ridha: In

their *Al-Manar* commentary, they emphasize that this hadith is a response to a special situation, not an absolute prohibition.

3) Opinions from groups using the Contextual (Situational) Approach

Some modern scholars view the prohibition in this hadith as contextual, related to the culture and government system at that time. In a modern system based on democracy and collective participation, they argue that women have the same rights to lead. Groups that argue like this use the *maqashid sharia* (objectives of sharia) approach that emphasizes justice, equality, and women's empowerment. In Islam, women have been given important roles since the time of the Prophet, such as in political affairs (*Bai'at Aqabah*) and economics.

Supporters of this view include Fazlur Rahman in *Islam and Modernity* who criticizes textualist interpretations that ignore the context of the times. Likewise, Amina Wadud in *Qur'an and Woman* supports the inclusion of women in all fields, including leadership.

This hadith has various interpretations based on social context, culture, and understanding of scholars. In general:

- Classical scholars tend to prohibit women from becoming supreme leaders on textual grounds and leadership responsibilities.
- Contemporary scholars open space for women's leadership, as long as the requirements for leadership are met.
- The *maqashid sharia* and contextual approaches are increasingly relevant in modern discussions, adapting the law to developments in the times and the needs of society.

Understanding this hadith requires in-depth study and wisdom in applying it, while still considering the principles of justice and the benefit of the people.

E. Opinions of Classical and Contemporary Scholars on Women's Leadership

The occurrence of pro and contra controversy in the issue of women's leadership in Islam stems from differences in scholars in interpreting a number of verses and hadith of the Prophet. Most classical and contemporary scholars view women as having the same political rights as men, except for holding the head of government (president) for the first reason, that men and women have the same rights and obligations in Islam (QSal

Baqarah: 228, al-Hujarat: 13, at-Taubah: 71 and an-Nur: 30-31).

The second reason for the opposing opinion, the views of the scholars on women's leadership are based on the understanding of the letter an-Nisa: 43 which states that men are qawwam over women, because Allah has made some of them excel others and because they (men) provide a living from their wealth. Most commentators state that qawwam means leader, protector, person in charge, educator and organizer. (Syatibi, 2009). Furthermore, they say that the superiority that men have over women is due to their intellectual and physical superiority.

1. Opinion of Classical Scholars

- a. Imam Ahmad, Imam Malik, and Imam Syafi'i believe that women have no right to be leaders, even in a more limited scope. Because, after all, being a leader, whether with broad or limited powers, is essentially the same. The only difference is the area of authority. In fact, the Prophet clearly forbade a woman to become a leader. Meanwhile, Abu Hanifah, a woman is allowed to be a judge, but not a judge in criminal cases.
- b. According to al-Khatthabi, this hadith implies that women should not be a leader or a judge. This is a consequence of her not being able to marry herself off as she cannot marry off another woman.
- c. Imam Al Baghowi is of the opinion that a woman is not fit to be an imam, head of state and qodli. On the grounds that an imam is obliged for her to leave the palace to organize and carry out jihad. While qodli must leave the house in deciding cases. Whereas in this case women are considered aurat which means that such work is not suitable, proper and appropriate for her because women are weak in some jobs.
- d. Az-Zamakhshari also believes that the advantages of men over women include: intelligence/knowledge (al-'aql), firmness (al-hazm), strong determination (al-'azm), physical strength (al-qudrah), generally having the ability to write (al-kitabah) and courage (al-furusiyah wa arramyu).
- e. According to ar-Razi, men's advantages include two things: essential nature and sharia law, essential nature includes knowledge (al-'ilm) and physical ability (al-qudrah), according to him men's intellect and knowledge are more perfect

than women. Meanwhile, sharia law is the obligation to pay the dowry and provide maintenance.

If the author analyzes the opinion above, the text of the hadith from Abu Bakrah and QS. an Nisa 4:34 are the most fundamental reasons from classical scholars who require leadership to be in the hands of men and reject the role of women in occupying that position. The consensus of scholars states that leadership and guardianship are not absolutely prohibited for women. Things that cause women to be prohibited from holding the highest position.

In Islam, the head of state is a thought leader, a representative of his people and one who speaks on behalf of his people. The welfare and dangers of the people are in his hands. (Rohmatullah, 2017). Therefore, he is the one who decides on war, peace, treaties, attacks, and so on after consulting with the ahlul halli wal 'aqdi. Furthermore, he is also the one who leads the battle on the battlefield. The leader of the country is also obliged to lead Friday prayers in the mosque, to lead obligatory prayers, to decide disputes (if he has free time). While women are not obliged to perform Friday prayers, have certain times when they cannot perform prayers, and so on.

The beginning of human events, the beginning of this debate was found at the event to see the perspective of the origin of human events, namely with reference to the letter of Annisa verse: 1. After seeing the weight of the responsibilities and functions carried out by a state leader and the existence of several functions that cannot be carried out by women, it is increasingly clear that the position of the highest leader, caliph, and the like are specifically for men. This has nothing to do with degrading the human dignity of women and their abilities, but the Messenger of Allah determined this for the greatest benefit for the people, respecting the natural character of women, and upholding a strong and resilient social life.

2. Opinions of Contemporary Scholars

- a. Ali Jumah Muhammad Abdul Wahab, the mufti of Egypt is among the influential scholars who allow women to become heads of state and any high positions such as judges, ministers, members of parliament, and others. However, he agrees with Yusuf Qardhawi that the position of al-Imamah al-'Udzma who oversees all Muslims in the world must be

held by a man because one of his duties is to lead prayers.

- b. Yusuf al-Qordhawi allows women to be involved in politics. He explained that the interpretation of the letter an-Nisa verse 34 is that men are leaders for women in the family or household. If we look at the interpretation of the letter an-Nisa verse 34, men are leaders of women, acting as adults towards them, controlling them, and educating them when they deviate. Because Allah has made some of them superior to others. Namely, because men are superior and better than women. Therefore, prophethood is only given to men.
- c. Mahmūd Syaltut explained that the human nature of men and women is almost the same. Allah SWT. Has bestowed upon women as bestowed upon men; God has given them both the potential and ability to assume responsibility and this makes these two types able to carry out various activities, both general and specific. Therefore, the Shari'a places both in the same framework
- d. al-Thabari explained a woman's ability to become a leader, which starts from a woman's ability to be a witness in the marriage process. The suitability of al-Thabari's interpretation with the context of the hadith is seen from the point of view that this hadith is a complement to the story of Kisra tearing up the letter of the Prophet Muhammad. as a punishment from Allah SWT by causing disaster to his kingdom, so that his son took over power after killing his father and brothers, but he was also destined to die so his kingdom was led by a woman. This event, continued alThabari, brought about the destruction of the Kisra kingdom and its descendants. They tore up their own kingdom as had been sworn by the Prophet Muhammad.

F. Law on Electing Female Leaders

The law of electing female leaders in Islam has become one of the issues debated by Islamic scholars and legal experts (fuqaha). This difference of opinion is based on their understanding of the sharia arguments, social context, and the application of Islamic law in the present day. The law of electing female leaders based on the opinions of scholars is divided into three.

First, the opinion that prohibits female leadership. Some scholars are of the opinion that women should not be general leaders or heads of state. Thus, this opinion also prohibits choosing female leaders.(Faizal, 2016). The group with this view interprets that the hadith about Princess Kisra who was appointed as the king of Persia applies generally to all types of leadership that involve making major decisions, especially in the context of the state.

Two Opinions That Allow Women's Leadership with Limitations.

This opinion states that women may become leaders as long as they meet certain requirements and are in accordance with their type of leadership. This opinion was put forward by contemporary scholars such as Yusuf Al-Qaradawi and Muhammad Abduh, with the argument:

- 1) Historical Context: The Hadith of the Prophet SAW above relates to a specific case, namely the Persian nation handing over power to the daughter of King Kisra, who was seen as incompetent.
- 2) General Evidence: There is no explicit prohibition in the Qur'an that prevents women from becoming leaders. In fact, in Surah An-Naml, Queen Bilqis is mentioned as a wise leader and successfully led her people.
- 3) Maslahah Principle: In the modern context, if women have adequate ability, integrity and qualifications, then there is no obstacle for them to lead.

The Three Opinions That Allow Without Special Limitations. Some scholars emphasize the principle of gender equality in Islam and argue that women have the same rights as men in matters of leadership.(Shafira et al., 2024). This opinion is supported by egalitarian views such as those held by Amina Wadud and Fazlur Rahman, who emphasize the importance of reading religious texts in accordance with the social context of the modern era.

In the Indonesian context, there is a government policy regarding the 30% quota for women in Indonesia.(Kiftiyah, 2019). The 30% Women's Quota Policy in Indonesia's democratic system is women's representation in politics regulated in Law No. 2 of 2008 concerning Political Parties, which requires a minimum of 30% women's representation in the list of legislative candidates (Article 8). This policy aims to increase women's participation in political decision-making, while reducing gender discrimination.

This policy can be linked to the principle of *maslahah murlah*, namely creating benefits for society, especially in increasing gender equality and justice. In Yusuf Al-Qaradawi's view, as long as women fulfill leadership requirements, such as trustworthiness, competence and ability, they have the right to hold public office (Yunus, 2014).

The law of electing female leaders in Islam depends on the context, needs, and qualifications of the individual. In the context of Indonesian democracy, women's representation in politics is not only in accordance with the principle of *maslahah* but also in line with efforts to realize social justice. Therefore, electing a competent female leader does not conflict with Islamic law, as long as she is able to carry out the mandate and provide benefits to society.

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

The discourse on women's leadership and the law of choosing women leaders in Islam is a complex issue and requires a comprehensive approach. Hadith of the Prophet ﷺ which reads "A people who entrust their affairs to a woman will not be successful" is the main basis in this discussion. However, the interpretation of this hadith varies among scholars, resulting in different views regarding the legitimacy of women as leaders.

Islam provides ample space for women to participate in social and political life. Although there are differences of opinion on women's leadership, the consensus that can be taken is that women have equal rights to contribute to community development, as long as it is in accordance with sharia principles. Therefore, the law on choosing female leaders can be adjusted to the context of the times, the needs of society, and considerations of public interest.

This study emphasizes the importance of understanding religious texts contextually, while adhering to universal Islamic values such as justice, welfare, and respect for individual capacity. Thus, women's leadership can be a solution to create a more inclusive, just, and prosperous society.

B. Suggestion

In understanding women's leadership in Islam, a contextual approach is needed and not only adhering to textual interpretations alone. Islamic scholars and thinkers should continue to explore interpretations that are in accordance with the principles of justice and the welfare of the people.

The community also needs to be given a broader understanding of the role of women in leadership so as not to be trapped in social stigma and gender bias. In addition, state policies must support equal rights for women in leadership through fair and inclusive regulations. Thus, women's leadership can make a positive contribution to the progress of the nation and the welfare of society.

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