



**DISCOURSE OF MIDDLE WAY IN ISLAMIC JURISPRUDENCE  
ON CAREER WOMEN IN ACHIEVING THE SAKINAH FAMILY:  
RECONSTRUCTION OF ROLES AND WOMEN'S IDENTITY**

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**Abstract:** The focus of this paper is on the problems of career women both historically and juridical. This paper tries to reconcile the longstanding debate about the role of women in the public sphere. The stigma of women being identical to the domestic duties as servants of parents or servants of husbands has begun to change in the millennial era. Women have started going out and getting a profession in various fields. This study examines textually and historically related to women and juridical reviews in both classical jurisprudence and related to the Indonesian laws. This paper begins by analyzing the position of women historically, to analyze the development of women's role in their life. While the juridical study by analyzing both the Marriage Law and the opinions of some fiqh experts and various other studies in accordance with the theme. This study provides the conclusion that there are career women who are challenges and at the same time opportunities to create a confident family. Progressive interpretation of career women seeks to produce fiqh in the middle way that women also have the right to do good deeds (*work*). But the right that given must still be based on the benefit of individuals and collectives (*sakinah family*).

**Abstrak:** Fokus tulisan ini membicarakan tentang problematika wanita karier baik secara historis-yuridis. Tulisan ini berusaha mendamaikan perdebatan yang telah lama terjadi tentang peran wanita di ruang publik. Stigma wanita identik dengan tugas domestik sebagai pengabdian orang tua atau pelayan suami apabila telah menikah telah memulai pudar di era digital. Wanita sudah mulai keluar rumah dan mendapatkan profesi diberbagai bidang. Kajian ini dengan mengkaji secara tekstual baik yang terkait dengan historis wanita dan tinjauan yuridis baik dalam fikih klasik dan Undang-undang Indonesia yang terkait. Tulisan ini dimulai dengan menganalisis kedudukan wanita secara historis untuk menganalisa perkembangan peran wanita dalam kehidupan. Sedangkan kajian yuridis dengan menganalisis baik dalam UU Perkawinan dan pendapat beberapa ahli fikih serta berbagai kajian lain yang sesuai dengan tema. Penelitian ini memberikan hasil kesimpulan bahwa ada wanita karier merupakan tantangan dan sekaligus peluang dalam menciptakan keluarga yang sakinah. Penafsiran progresif terhadap wanita karier berusaha menghasilkan fikih jalan tengah bahwa wanita juga berhak beramal kebaikan (bekerja). Namun hak yang diberikan ini tetap harus disandarkan kepada kemaslahatan individual maupun kolektif (keluarga sakinah).

**Keywords:** *Career Women; Middle Way; Islamic Jurisprudence; Sakinah Family*

## INTRODUCTION

Women became a unique topic in every area of human life. One of them is in the family law field. Jurisprudence also seems not to reach the meeting point. On the other hand, women are identical with the task of domestication which is considered to be more appropriate to their nature, but on the other hand women in the modern age are considered free to make a choice between serving in the public sector or in the domestication sector. Even more than that, women are considered to have the same ability or role as men as or even more than the position of men. Then is it really required for women to work? Is it true that historically women only worked in the domestic sphere? Then is there a classical fiqh prohibition for women working outside the home? Then is the modern law able to accommodate the problems of career women who cannot be dammed in fact? Studies on career women are dominated more in harmony with issues of gender, women's rights to work, sociology of women workers and so forth. This debate is more interesting if it is then linked to religious issues and claims in the name of religion. In this paper one of them will highlight the problem of career women that debated in the sphere of understanding of religion, especially fiqh.

One of the dominant gender imbalances is in the economic field. Some things related to this, for example the division of labor by sex, the separation of work by domestic and non-domestic areas.<sup>1</sup> Although this imbalance still exists, in fact the contribution of women in the social, political, and economic fields is very large. Women have been able to become leaders of the country, as women activists, and are still part of the family.<sup>2</sup>

Ruth Indiah Rahayu worked in the book of "Identity of Indonesian Women: Status, Shifting Gender Relations, and the Struggle of Political Economy", she explained gender relations with the political economy in Indonesia. Agents of the global economic system in the family have changed productive and consumptive attitudes. The state only plays an active role in providing political space for men and women then subsequently becomes the workforce and also consumers in the global economic system.<sup>3</sup> This study does not explain fiqh dialectics, but presents shifts in the division of labor at the family, local, national scale associated with globalization and democracy.

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<sup>1</sup> Kathryn Robinson, *Gender, Islam and Democracy in Indonesia*, (London & New York: Routledge), 2008, 89.

<sup>2</sup> Robinson, viii.

<sup>3</sup> Amin Mudzakkir, Ari Ujjianto, and Muhammad Nurkhoiron, (eds.), *Identitas Perempuan Indonesia: Status, Pergeseran Relasi Gender, dan Perjuangan Ekonomi Politik*, Ed. 1 (Depok: Desantara Foundation, 2010), 1.

Quantitatively, the phenomenon in the modern age in the quantity of career women is increasing in Indonesia. In Indonesia since 1980 to 1990 female workers have reached 33% and 34.5% of all active work.<sup>4</sup> While based on the Central Statistics Agency, the fulfillment of female workers for all of Indonesia in 2015 reached 343,988 people, in 2014 it reached 288,614 women, in 2013 it reached 211,914 women.<sup>5</sup>

So if it is considered based on the data above, the career women in Indonesia always increase every year. This also shows that women in Indonesia do not all adhere to the understanding that women are always synonymous with domestic tasks. Moreover, Indonesia is also a preliminary description as the largest Muslim country in the world not applying a "rigid" but flexible pattern of fiqh understanding to be applied all the time.

Efforts to classify thought and explore Arab activities have been carried out by Yusuf Sidani. He classified the existence of two large, religious-based camps which harm women, and which are secular in nature. Traditional religious-based thinking asserts that women are indeed in the domestic realm, the prohibition of working in the male domain, and the use of *aurat* cover is an obligation. While on the other hand, disappointment arises because women are considered to lack of participation in political and economic space. Women deserve a career by fighting back Islamic thought and juridical renewal. So that women can play an active role in the domestic and public sphere.<sup>6</sup> However, this work has not yet found the fiqh of a career woman in an effort to reach a *sakinah* family.

Based on the background above, it can be understood that there are interesting to analyze further about the fiqh of the middle ground for career women applied in Indonesia. Therefore, this study aims to address the problem of this study, namely: 1) What is the position of career women in marriage law in Indonesia?; 2) How is the jurisprudence of career women in the middle of reaching a *sure* family? This research is a library research with the data classification techniques.

## **WOMEN IN THE HISTORICAL VIEW**

The condition of women in the history is not only found in stories, reliefs, statues and historical objects that exist. But more than that imaged blurred woman

<sup>4</sup> Lukmanul Hakim, "Perkembangan Tenaga Kerja Wanita Di Sektor Informal: Hasil Analisa Dan Proxy Data Sensus Penduduk", *Among Makarti*, Vol. 4, No. 7, (2011), 20.

<sup>5</sup> "Registered Job Seeker Table," accessed May 6, 2020, <https://www.bps.go.id/linkTabelStatis/view/id/985>.

<sup>6</sup> Yusuf Sidani, "Women, Work, and Islam in Arab Societies", in *Women in Management Review*, Vol.. 20, No. 7 (2005), 509.

enduring written in the holy book of Islam, the Koran, as in Surah an-Nahl: 58. Women indeed suffered a very tragic and sad fate during pre-Islamic times, namely the era of ignorance. At the time before the arrival of Islam, the *jahilliyah* community did not give the right to life for female babies. Their life is considered only a disgrace and not useful at all even women are only considered as an added burden of life alone. Regarding to family law, women not only do not inherit but also become an inheritance. On the other hand, polygamy during the period of ignorance had no restrictions and no binding rules at all.<sup>7</sup>

Roman civilization and also Greek civilization also recorded the lives of women who were not much different from the flamboyance of *jahilliyah* society. Women also experience auctions, women are burdened with a variety of jobs, more severe penalties than men for the same violations of the law, premarital sex exemption, and others. But in Babylonian and Syrian civilizations, women are free to move wherever and whenever they want without the husband's permission. In addition, women also have the right to own property, enjoy full power to manage their own money and get an inheritance.<sup>8</sup>

The fall of women in Chinese civilization due to the existence of the feudal system also resulted in little respect and little attention towards women. Women are considered only to burden their families, cannot fight, cannot work as hard as boys when in the fields, and they also kill girls. Moreover, women are totality submissive and obedient to men. When she is married, then she is obliged to join her parents-in-law and help her brother-in-law as before marriage helps her parents.<sup>9</sup>

In the history of Javanese society, women are known by the term of *konco wingking* and her duty is taking care of a child. Even women are only considered to be *macak* (dress up), *masak* (cook) and *manak* (give birth). Women are only considered to be able to cook, wash clothes, serve their husbands biologically, gives birth the children and take care of children at home and nothing more.

In Indian civilization, women are also not recognized their social roles and are not given rights or obligations to them. Women must submit to men throughout their lives, before marriage a woman must obey her father. After marriage, a woman must obey her husband by devoting herself fully to take care of her husband with full loyalty and complain and assume the husband is the representative of God on the earth. When a husband dies, a wife must be willing and ready to be burned together with her dead body. This is to show the loyalty

<sup>7</sup> Asghar Ali Engineer, *Hak-hak Perempuan dalam Islam*, terj. Farid Wajidi dan Cici Farkha Assegaf, Cet. II, (Yogyakarta: Lembaga Studi dan Pengembangan Perempuan dan Anak (LSPPA)), 2000), 31-33.

<sup>8</sup> Fatima Umar Nasif, *Menggugat Sejarah Perempuan*, terj. Burhan Wirasubrata dan Kundan D. Nuryakien, Jakarta: Cendikia, Sentra Muslim, 2001, hlm. 19.

<sup>9</sup> Nasif, 19-20.

to the husband as well as atonement for the sins of her husband and purify his parents.<sup>10</sup>

By contrast to the above civilization, Egyptian civilization actually highly respects women. Egyptian women recorded in civilization already have a strong relationship with the family. Women usually do work in the fields with her husband. Women also go with the whole family to go for a walk or hunt. However, this situation changed due to the influence of Greek civilization, and the entry of Roman thought into Egypt which damaged everything that was already established in Egyptian society related to women.<sup>11</sup>

### **THE MEANING OF A CAREER**

In the Big Indonesian Dictionary, the word of women is defined as adult women, and career women are women who are involved in professional activities, such as businesses, offices and so on. The definition of a career has actually been put forward by some experts. The following definitions are quoted in Anita Rahmawaty's writings:<sup>12</sup>

1. According to Murniati, a career is a job that gives hope to progress.
2. According to Handoko, a career is all the work or position that is handled during one's work life.
3. According to Gibson, a career is someone's actions related to work and experience in carrying out the work.
4. According to Gufron, a career is unique in a certain time to achieve a development and it takes seriousness and responsibility in working.

While the definition of career women can also be quoted from the writings of Fitriyani. According to Fitriyani, career women are women who are active in carrying out activities for an activity. The intended activity is a professional activity in accordance with the field it occupies in the fields of education, politics, economics, social dam and others. In addition, the profession in a career woman must also be in accordance with her skills and can produce results for the benefit of her life and position.<sup>13</sup>

From some of the explanations above, of course it can be concluded that a career woman is a woman who works outside the home because the profession is occupied with full commitment and work experience. In this discussion the intended career woman is prioritized for career women who

<sup>10</sup> Fatima Umar Nasif, *Menggugat Sejarah Perempuan*, 22-25.

<sup>11</sup> Nasif, 37-40.

<sup>12</sup> Anita Rahmawaty, "Harmoni dalam Keluarga Perempuan karir: Upaya Mewujudkan Kesetaraan dan Keadilan Gender dalam Keluarga", *Palastren*, Vol. 8, No. 1 (2015), 12-13.

<sup>13</sup> Fitriyani, "Wanita Karier Dalam Perspektif Hukum Islam", *An-Nisa': Jurnal Studi Gender dan Islam*, Vol. VII, No. 1 (2014), 3.

are married. Nevertheless, the discussion of career women in general is also an inseparable part of this discussion.

### THE MEANING OF SAKINAH FAMILY

The family is an important element in society that is highly considered in Islam.<sup>14</sup> The purpose of the family according to Islam is formed to glorify the offspring, guard against the devil, work together in facing life's difficulties, comforting the soul and calming it together, exercising family rights, transferring inheritance, and others.<sup>15</sup> Whereas the word *sakinah* in the Big Indonesian Dictionary (KBBI), *sakinah* means calm; *Mawaddah* means compassion, and mercy is interpreted as compassion.

The Koran has formulated that the urgency of marriage is the realization of a composed family (*sakinah*), compassion (*mawaddah*), and full of compassion (*rahmah*). This purpose is found in the Koran in the 21st verse of ar-Rum. If accumulated *sakinah* words are mentioned 6 times in the Koran. For example in surah al-Baqarah verse 248, while in surah al-Taubah verses 26 and 40 and in surah al-Fath verses 4, 8 and 26.<sup>16</sup> Quraish Shihab explained, *sakinah* in the context of marriage, is interpreted that the turmoil and uncertainty that flares up in the form of love can produce peace and tranquility of the heart if it is continued with marriage.<sup>17</sup>

Achmad Mubarak gives an overview of the nodes that can deliver *sakinah* families. The nodes consist of five things, namely:<sup>18</sup>

1. Family there is affection and compassion (Surah ar-Rum: 21). According to him, *mawaddah* is a burning love and passionate and *nemesis*. While grace is a kind of love that is gentle, ready to sacrifice and ready to protect the loved one.
2. Husband and wife relationship must be on the basis of need, such as mutual need such as clothes and those who wear them (QS al-Baqarah: 187).
3. If husband and wife get along then the social aspects must be beautiful and harmonious (*makruf*). (Surat an-Nisa: 19).
4. The Prophet's message in the hadith, the family foundation there are four things so that it becomes *sakinah*, namely: (1) observance of religion as a top priority (2) serving older and compassion towards younger ones, (3) modest in

<sup>14</sup> Ali Yusuf as-Subki, *Fiqh Keluarga: Pedoman Berkeluarga Dalam Islam* (Jakarta: Amzah, 2010), 23.

<sup>15</sup> as-Subki, 24-33.

<sup>16</sup> Ahmad Zaini, "Membentuk Keluarga Sakinah Melalui Bimbingan dan Konseling Pernikahan" Vol. 6, No. 1, Juni 2015; Athian Ali Moh. Dai, *Keluarga Sakinah*, (RajaGrafindo: Jakarta, 2001), vi;.

<sup>17</sup> Moh Quraish Shihab, *Perempuan: Dari Cinta Sampai Seks, Dari Nikah Mut'ah Sampai Nikah Sunnah, Dari Bias Lama Sampai Bias Baru*, Cet. 6 (Ciputat, Tangerang: Lentera Hati, 2010), 152-153.

<sup>18</sup> Achmad Mubarak, *Psikologi Keluarga* (Malang: Madani, 2016), 121-122.

matters of spending money needs , (4) polite when chatting , and (e) introspection.

5. There are also four prophetic messages to create family peace and happiness, (1) couples who are committed and adhere to promises, (2) devoted children, (3) healthy social environment, (4) close to their health.

## **CAREER WOMEN IN MARRIAGE LAW**

The views of women legally in Indonesia can at least be known from two important sources, namely Law Number 1 of 1974 concerning Marriage (here in after referred to as Marriage Law), and the Civil Code. The Marriage Law regulates the position of women in the following articles:

1. Chapter VI articles 30 to article 34 concerning the rights and obligations of husband and wife, and;
2. Article 42 and 43, paragraph (1) of the Marriage Law.

In Article 31, paragraph (1) of the Marriage Law states that the rights and position is balanced with the right wife and husband position in domestic life and social life together in society. Husband and wife both have an obligation to uphold the household which is the basis of the community structure.<sup>19</sup> Husband and wife also have the same right to do legal actions.<sup>20</sup> In terms of obligations, both husband and wife must be able to love each other, respect each other, help each other and be loyal to each other.<sup>21</sup> If these obligations are not carried out, Article 34 of the Marriage Law states that husband and wife can submit to the court if the husband and wife neglect their respective obligations.<sup>22</sup> However in Article 31 paragraph (3) the Marriage Law still places women as wives of housewives. Thus the wife has the obligation to regulate household affairs as well as possible.<sup>23</sup>

Although there are some articles which are considered to be experiencing gender inequality by feminists, but when compared with the Civil Code, Law No. 1 of 1974 concerning marriage has been able to put the balance of the position of husband and wife. For example, in the Civil Code it is stated that each wife must submit to her husband (Article 106), each husband must drive the affairs of his wife's personal property (Article 105). Hilman Hadikusuma said that the legal politics in the Marriage Law was quite ideal as a joint in building a modern Indonesian household.<sup>24</sup>

<sup>19</sup> Article 30, Republic of Indonesia Law Number 16/2019 Change as Republic of Indonesia Law Number 1/1974 concerning Marriage

<sup>20</sup> Article 2, paragraph (2) Republic of Indonesia Law Number 16/2019

<sup>21</sup> Article 33, Republic of Indonesia Law Number 16/2019

<sup>22</sup> Article 33, Republic of Indonesia Law Number 16/2019

<sup>23</sup> Article 33, Republic of Indonesia Law Number 16/2019

<sup>24</sup> Hilman Hadikusuma, *Hukum Perkawinan Indonesia Menurut Perundangan Hukum Adat Hukum Agama* (Bandung: Mandar Maju, 2003), 111.

All of the above explanations have clearly emphasized that the Marriage Law has held the same position between wife and husband in the legal field. In addition to the legal field, the same position is also related to property ownership, community life, mutual loyalty and help. But some things are still considered controversy or there are deficiencies by some parties such as polygamy, domestic duties of the wife at home, and so on.

Based on the explanation above, juridical career women have not been clearly regulated in the normative juridical realm in Indonesia (marriage law). This can be seen from the absence of a specific article regulating career women in Indonesia. There is no article that allows career women specifically and also there is no article that prohibits career women in detail as well.

But in the several articles there are indeed a number of articles that provide a loophole to allow career women in Indonesia. Article 33 of the Marriage Law states obligations, husband and wife are obliged to love one another, respect respectfully, be faithful and give one another physical and spiritual assistance. The meaning of “*giving help physically and mentally*” may lead to no prohibition to become a career woman for the sake of a husband and wife obligation.

The article showing that the wife is also a housewife that contained in Article 31 paragraph (3) of the Marriage Law. In this article, it is also emphasized that the husband is the head of the household. If we examine the meaning of this article, it can be seen that women who act as wives only play a role in the domestic sector. Women are considered as caretakers of their husbands, children, and a number of other household tasks. It can even be said that in this article it does indeed strengthen the patriarchal culture that has long existed in classical fiqh.

The article that is closely related to career women can be found in Article 34 Paragraph (1) of the Marriage Law which states: “Husbands are obliged to protect their wives and provide all the necessities of married life in accordance with their abilities”. In this article stipulates that a woman in her married life needs all of her life to be fulfilled by her husband. Logically, this article says that women do not need to work outside the home to help meet their household needs. That is the duty of a husband to his wife. So in summary, article 34, paragraph (1) does not provide a gap for career women who are married in Indonesia.

## **FIGURE OF THE MIDDLE WAY CAREER IN ACHIEVING THE SAKINAH FAMILY**

Jurisprudence is a more moderate understanding among some of the pros and cons thoughts of the existence of career women in Indonesia. Pro thoughts on career women in Indonesia have been pioneered by women reformist figures, universal human rights fighters, and Islamic groups who tend to think freely



because of western scholarship. Whereas the contra group towards the presence of career women is supported by thinkers who maintain classical fiqh, groups that emphasize the traditional values of Islam rather than the liberal values of Western groups.

Using the term of middle way fiqh is an appropriate choice of wording. This is to illustrate that between the obsolescence of incompetence and the ability of career women in Indonesia there is still a more accommodating opinion between the two in a systematic and better way to create a confident family. Therefore, both opinions must be raised in this paper so that they become a better scientific repertoire, especially in family law studies.

### **CONSIDERED FIQH VIEWS ON CAREER WOMEN**

Career women are opposed by a number of scholars because it is considered to conflict with several things. *First*, the duty of women to educate children is left behind; *second*, prone to slander; *third*, it is considered to violate the nature of being a woman, and so on. The following is an explanation of some of these reasons.

Abu Muhammad Rasyid Ridha argues that the task of women as wives is as a housewife to educate children. This is because the child needs love from the mother and is not good to leave the child without love. In addition, women who leave the house to work will be more prone to slander when mingling in a crowded society and mingling with men. Even so, women can still help their husbands to earn a living but must pay attention and choose the most appropriate job. He also reasoned if women work and lead is an act that breaks the nature because men are women's leaders.<sup>25</sup>

Shaykh 'Ali Al Qadhi argues that when women work they will not reduce the suffering of men even themselves suffer, because men cannot take half of their work outside. But if it is reasonable to add income, then it is considered wrong because humans are not limited to living at a certain level then they bears income for them.<sup>26</sup>

Shaykh Muhammad Mutawali said that the reality of life in the presence of women leaving the house to work has become a destroyer of life. He claims career women result in a loss of love and care for a mother. This triggers the existence of children affected by mental disorders and impact on morality as an adult. He also questioned if a woman's career with the aim of building society, then it needs to be questioned what actually wanted to be built.<sup>27</sup>

<sup>25</sup> Abu Muhammad Rasyid Ridha, *Ciri Dan Fungsi Wanita Shalihah* (Solo: Pustaka Al 'Alaq, 2002), 137-140.

<sup>26</sup> Syaikh Ali al-Qadhi, *Rumah Tanggaku Karirku, Wahai Wanita Karir Tahukah Letak Kesalahannmu?*, Terj. Toha Ma'ruf Dan Saiful Hadi (Jakarta: Mustaqim, 2002), 166-167.

<sup>27</sup> al-Qadhi, 138 and 142.

The same opinion was conveyed by Muhammad Ibn 'Alwi al-Maliki al-Hasani. He said that when a woman leaves the house, it means that she neglects her offspring. This has caused damage to education for future generations and the country has become worse.<sup>28</sup> In addition, he explained other effects when women work outside the home, like the tendency to mix with men, the emergence of anxiety because of children due to the loss of love and the husband also loses peace and calm, reducing the chances of unemployed young people or the fathers who take responsibility for living, there are aspects of economic principles in choosing the most productive and prime workers in carrying out their duties. In this case of course it is men, who do not know about the monthly pain of getting period, maternity leave and so on.<sup>29</sup>

Then it is known, the reasons conveyed contain values to protect the integrity of the family and protect future generations. Career women in this opinion are considered to cause more harm to a family. For instance, the emergence of slander and the non-optimal education process for children. Moreover, the family will become insecure, uneasy, and cause other negative effects. In another word that the existence of career women is considered to be unable to create a confident family.

## **PROJECT FIQH'S VIEW ON CAREER WOMEN**

The existence of career women is indeed widely opposed by some figures and experts in the field of Jurisprudence. But its existence is also widely supported by some fiqh experts. They understand that women have the right to work in all fields. In addition, in her duties as a wife, it does not mean that she obliged to take care of the household. Further explanation will be discussed in the following discussion and analysis.

Sayid Muhammad Husain Fadhullah more clearly emphasized that women according to Islam have the right to work in all fields of legal work. Women are even judged to be entitled to agriculture, industry, the economic (trade), and other aspects. Women have also rights in mismatch with male in building effort that is legally and independently. This is based in accordance with QS an-Nisa: 32. If it is related to the marriage contract, then if observed the contract does not oblige itself only to take care of the household. If taking care of the household is his duty, then the task must be assessed as a woman's business that is worthy of appreciation and worthy of wages. According to Fadhullah, the marriage contract does not require anything except a special relationship between men and women.<sup>30</sup>

<sup>28</sup> Muhammad Ibn 'Alwi al-Maliki al-Hasani, *Fiqh Keluarga Seni Berkeluarga Islami*, terj. Rumadi, (Yogyakarta: Bina Media, 2005), 172.

<sup>29</sup> al-Hasani, 173-74.

<sup>30</sup> Sayid Muhammad Husain Fadhullah, *Dunia Wanita Dalam Islam*, terj. Muhammad Abdul Qadir Alkaf

A similar opinion was explained by Saifuddin Mujtaba. He said Islam is a religion that encourages adherents to work hard and do good deeds. In the context of women having to work he underlies with 3 reasons. *First*, women are also ordered to do good deeds as men. This is in line with the Koran in Surah an-Nahl: 97 and al-Kahf: 110. *Second*, there are times when women do need work in order to purify themselves and keep away from things that they do not want, namely by doing things that are noble. This is especially when the guardian or husband is not at home or they are busy with their business, they are unable to work and unable to meet the needs of their wives and children because they are old, sick, or disabled and so on. This includes easing the burden of debt borne by the guardian or her husband. *Third*, women work in the framework of *fardhu kifayah*. What is meant in this case is that women work in the relation to their nature and the work is inappropriate or cannot be done except by women, such as teaching female children, treating female patients and so on.<sup>31</sup>

Apart from the above differences, in the history of Islamic civilization there are several Muslim figures who he worked outside of the home, for example Khadijah ra and Aisyah ra. Khadijah ra was the wife of the Prophet Muhammad. Her business is not only in Arab countries, but also in Syam. This shows that women at that time had a breadth of business and not merely always in the house. Even the proceeds from Khadijah's business were used for the propagation of the Messenger of Allah.

The woman besides Khadijah who was active outside the home was Aisyah ra. He was also the wife of the Messenger of Allah who was intelligent, young and beautiful. Her position as the wife of the Prophet did not only make her only stay at home, but she also actively participated in various war operations especially in the Jamal war. Aisyah was also mentioned as the Prophet's wife who narrated the most hadiths and dared to participate in warfare.

Based on the explanation above, the existence of a career woman is not a barrier to creating a *sakinah* family. This can be understood that there is no definite prohibition to women after the marriage always staying in the house. Even Siti Khadijah is the wife of the Prophet Muhammad who is a great career woman, but still confident. In fact, although Khadijah is a career woman she also can actually become a part of the defender of Islam with her assets.

## **FIGURE OF THE MIDDLE WAY CAREER IN CREATING A SAKINAH FAMILY**

Career women talk about creating a *sakinah* family when examined as above, as if not reaching a definite agreement. But whatever these differences should

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(Jakarta: Lentera, 2000), 49-50.

<sup>31</sup> Saifuddin Mujtaba, *Isteri Menafkahi Keluarga Dilema Perempuan Antara Mencari, Menerima, dan Memberi* (Surabaya: Pustaka Progressif, 2001), 15-17.

remain beneficial for human life. This is because the problems in the modern world are increasingly complex, so that jurists are required to find new laws that are more solutions for the lives of Muslims who are more caring for the benefit. The following is an explanation of the middle path of a career woman in creating a *sakinah* family. So there are opinions that can be the middle and a solution between the two previous opinions.

Abdul Aziz bin Baz and Muhammad bin Shaleh al-Utsaimin when asked about the work that women were allowed to do, then both of them were answered that the work was a special job for them. The job, for example is teaching in the special education sector for women, both as administrative, structural or educational employees. In addition, it can also work inside the house such as sewing women's clothing and so on. They argue that men's work should not be done by women so that there is no interference between the two. This is considered to cause defamation. Even more, a family leader must avoid family members from the place, cause, and source of defamation of error.<sup>32</sup>

Fatima Umar Nasif argues rather loosely about women's right to work. According to Fatima, Islam legalizes working women and has *halal* expertise and does not oppose the nature of women and the dignity of women and does not damage the dignity. But this ability is not an obligation. This is because in the family there is the principle of sharing the responsibilities of men as husbands and women as wives. The husband in principle has the duty to earn a living for his children and wife, while the wife in principle takes care of her husband, children and household.<sup>33</sup>

The requirements for career women were also conveyed by Fitriyani and according to her the conditions for career women were divided into four things. *First*, the woman has a mental state. This included that the woman must have sufficient knowledge of the profession that performed and the associated about others, having a sense of no fear burdened. *Second*, career women must have a healthy body, for example a decent and good physical energy so that they can support the profession. *Third*, career women must have social preparedness. Included in this condition is being able to carry out harmony between career and household, being able to understand between close family and neighbors, having a wide range of relationships but also able to maintain dignity to avoid slander. *Fourth*, have the will and capacity in efforts to improve work performance for future career continuity.<sup>34</sup>

<sup>32</sup> Syekh Muhammad bin Shaleh al-Utsaimin and Abdul Aziz bin Baz, *Wanita Dalam Islam*, terj. Rizal Ferdinal and Alimin (Jakarta: Cendikia Sentra Muslim, 2002), 195.

<sup>33</sup> Fatima Umar Nasif, *Menggugat Sejarah Perempuan*, 122-123.

<sup>34</sup> Fitriyani, "Wanita Karier Dalam Perspektif Hukum Islam", 5.

Fatima Umar Nasif explained that according to Islam women are indeed not burdened with work. But women in Islam are given rights related to independent endeavors, doing business, doing charity, and so on. For example, care and treatment for fellow women, in the fields of midwifery, youth education and social activities related to women. She requires women to leave the house on four conditions. *First*, work must not take up all of the time and energy, which hinders the role as a wife or mother. *Second*, the woman's career must not be naturally contradictory in function. *Third*, the woman can work according to the dignity of women, not arrogant, avoiding disturbances, to the conditions that cause distrust and bad allegations. *Fourth*, women must not mixed and together with a man.<sup>35</sup>

Shaykh Mutawalli as-Sya'rawi has stipulated the provisions of every woman to have a career outside the home. These requirements are: the state of the family in case of emergency, the women when leaving the house must be accompanied by a *mahram* (chaperon), avoiding the throng crammed with the man and did not mingle with them, and the work that is done should be suitable with nature as a woman.<sup>36</sup> The requirements above can be said that women have the main task of providing a sense of peace and calm in the family.

Muhammad Ali ash-Shabuny explained that the meaning of Q. S al-Ahzab: 33 is that the purpose of staying at home in the verse does not mean staying in the house and never leaving at all. However, it must be stressed that the home is the most basic place in women's lives. Women may go out of the house to meet their needs, such as to be creative, but not to travel aimlessly. The women are also required when leaving the house without *tabaruj* by displaying the jewel and genitals, not showing the beauty of her body, maintaining shame and authority.<sup>37</sup>

Saifuddin Mujtaba has also explained three reasons women are required to work. These three reasons; *First*, the obligation of women to do good deeds as instructed to men. In this case in accordance with Q. S an-Nahl: 97 and al-Kahf: 110. *Second*, there are times when women need activities in order to purify themselves and keep things that they do not want, namely by doing noble jobs, especially when the guardian or husband responsible is not at home and when the husband is no longer able to work to meet the needs of his wife and children because they are too old or because of illness, disability and so on. *Third*, women work to carry out *fardhu kifayah* related to their nature as women. For example, educating, guiding and teaching girls and treating female patients and caring for them and so on.<sup>38</sup>

<sup>35</sup> Nasif, *Menggugat Sejarah Perempuan*, 123-124.

<sup>36</sup> Syaikh Mutawalli as-Sya'rawi, *Fikih Perempuan (Muslimah) Busana Dan Perhiasan, Penghormatan Atas Perempuan, Sampai Wanita Karier*, terj. Yessi HM. Basyaruddin (Jakarta: Amzah, 2009), 138 and 141.

<sup>37</sup> Muhammad Ali ash-Shabuny, *Cahaya Al-Qur'an Tafsir Tematik Surat An-Nuur-Fathir*, terj. Munirul Abidin (Jakarta: Pustaka al-Kautsar, 2002), 470.

<sup>38</sup> Mujtaba, *Isteri Menafkahi Keluarga Dilema Perempuan Antara Mencari, Menerima, Dan Memberi*, 15-17.

A woman who has a career in essence is also not necessarily separated from the patriarchy shackles that are firmly rooted. But there can be a continuous and heavy double burden. This can happen if the woman not only helps her husband to provide for the family, but instead becomes a major source of the family's economy. Career women are also more severe if the burden of family functions continues to be carried out as women who have domestic duties. If this continues without proper distribution of family work between family members, there is a concern that a family duty gap will result that leads to disharmony. Therefore, to create a *sakinah* family for career women, a free, fair and honest consultation is needed. So that it is hoped that a balanced relationship will emerge, especially husband and wife, the absence of degrading each other and career women continue to carry out their roles in the public and domestic sphere well.<sup>39</sup>

Based on the above explanation, career women can be allowed with a variety and detailed requirements. This shows that there is protection for the family to create a *sakinah* family. Career women are still allowed to pay attention to every benefit and harm. As long as there are certain rules and requirements, career women will still be able to encourage and create a *sakinah* family.

## CONCLUSION

The position of career women in the Marriage Law is not clearly regulated. In several articles of the Marriage Law it is stated that women play a role as housewives. As a wife, a woman has the right to be fulfilled in all matters of household needs by her husband as the person in charge and head of the household. So it can be seen, that actually career women in the marriage act are more likely to not be supported by its existence but also there are no strict restrictions or even no sanctions in it.

On the one hand, in *fiqh* there are various opinions about pros and cons on career women. Career women are not supported by some scholars who reason that women are more respectful of women's honour and more in accordance with human nature when only in the domestic sector. In addition, career women are considered to only damage the next generation because the mother's duty as a mentor and child educator is not running optimally. Moreover, career women are even considered to violate their nature because leadership is entirely only on the side of their husbands. So thus, the position of a career woman is considered unable to create a *sakinah* family and even descent in the future.

But on the other hand, career women are fully supported without any conditions. Women are also considered to have the same rights to freedom to do

<sup>39</sup> Mariatul Qibtiyah Harun AR, "Rethinking Peran Perempuan Dalam Keluarga," *KARSA: Jurnal Sosial Dan Budaya Keislaman* 23, No. 1 (Juni 5, 2015): 33, <https://doi.org/10.19105/karsa.v23i1.607>.

good deeds including working outside the home as men. On the historical point of view, the wife of the prophet Khadijah also became an extraordinary traveller to the foreign countries. This confirms and reinforces that there is no reason for women to just relax and not work. This skill also does not mean then neglect the task of creating a *sakinah* family. This is reinforced because in the lives of the prophets Muhammad and Khadijah both helped each other and lived *sakinah*. In addition, Khadijah was not only the Apostle's faithful wife but she also a defender of the prophet Muhammad with all her soul and wealth.

The opinion of moderate fiqh expert is indicated by the term middle fiqh. In this opinion, career women are allowed to work outside the home with various conditions that must be met. Some of these requirements lead to several things aimed at creating a prosperous family. For example, the requirements, the work is only from women and cannot be done by men. The meaning of such conditions is to protect women from all slander that might occur if he mingled with men who are not *mahram* (chaperon) when he works outside the home.

It is recommended to the scholars, muslims and Islamic religious leaders should provide socialization on how to deal with the phenomenon of modern life wisely, especially to married women. They should provide insight into all the consequences that can arise from the problem of the increasing number of career women in Indonesia. Furthermore, these figures should provide appropriate solutions to this problem.

To Muslim scholars, academics, family law experts are expected to research more deeply about career women in creating a *sakinah* family. Making it easier for policy makers to determine attitudes and make state rules more useful. It is also recommended that all Islamic institutions can have a real work and program for women who want to work and pursue a career to help meet the needs of the family.

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