WOMEN AND POLITICS: POLEMIC OVER THE FEMALE HEAD OF STATE

S. M. Solihin

Abstract

The article presents a discussion on the position of women in politics. Two main perspectives were examined in the discussion, namely the views of Indonesian Muslim scholars and other Muslim scholars. The writer argues that the grounds for determining the role of women in leading a country should not solely rely on textual evidence.

INTRODUCTION

Many Muslim leaders and scholars were involved in a polemic pertaining to the status of women as the head of state. This study is aimed at looking at the correctness in referring and citing the legal sources by Indonesian Muslim scholars. In addition, it also attempts to look at their approaches to the legal text that contradict the tradition of other scholars in other parts of the Muslim world. The method is mainly based on their statements which would be judged from the legal sources to see their position from the Shari'ah point of view.

SUPPORTERS OF FEMALE HEADS OF STATE

Some Nahdatul 'Ulamā leaders are of the view that women can serve as the head of state. They argue that the hadīth of the Prophet (pbuh) that says, lā yuṣlihu qawmūn wallā amrahum al-nisā' (A nation would not become prosperous if their matters are entrusted to female) does not relate to the prohibition. Instead, they support the argument based on the view of Ibn Jarîr that allows female to serve as imāmah al-‘umārā’ (a supreme leader) or even as a court judge.1 For instance, Ilyas Ruchyat, head of the consultative council of the organization, allows a woman to assume the post of the head of the government through a democratic process. He is of the view that those who disapprove the appointment of a female head of state do not consider the current circumstances that differ from the prophetic era.2 His arguments are based on historical facts that 'Ā’yshah,

the wife of the Prophet (pbuh) once acted as the head of a military expedition during the Battle of Jamal and the Queen Balqis governed the Kingdom of Sheba. Moreover, Ilyas Ruchyat holds the view that a woman should only be prohibited from serving as the head of state whenever she is given the right to legislate the law of the country. The issue became crystallized after receiving similar arguments and support from Ali Yafie, Head of Majlis Ulama Indonesia, MUI (Indonesian Council of Muslim scholars).

At the leadership level, Nahdatul ‘Ulamâ’ even suggests that women should be given the chance to occupy the highest post in the government. This is based on the fact that the East Java regional office once issued a fatwâ that provides the opportunity for women to be involved in politics. Sa‘îd ‘Âqil Sirâj, the former Secretary General of the organization, considers textual evidence not to specifically mention such notion to be unlawful rather it deals heavily with the role that a caliph plays. In addition, a more liberal approach adopted by Sa‘îd ‘Âqil Sirâj is that, the prohibition of a woman from holding a presidential post contradicts the principles of egalitarianism. He considers most leaders in the Muslim world are mistaken when they do not support the idea of a woman holding the presidential post under the pretext of safeguarding the Shari‘ah.

The above opinion is in fact, unprecedented. In the tradition of Indonesia in particular and the Muslim world in general, to date, there is hardly any Muslim organization that elevates women at the top leadership. This is because when a person occupies the highest post in an Islamic organization he is seen as leader of the ummah in which he is responsible not only to run the administrative aspects of the position held, but also to perform religious responsibilities like giving sermons, or even leading the

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3 Republika, 30 November, 1998. Sa‘îd ‘Âqil Sirâj although he received his Ph.D in Islamic Studies from Um al-Qurâ University at Makkah, his ideas tend to be liberal which makes him different from those who graduated from Middle East Universities. His judgment on certain aspects is not based on textual evidences but rather tends to use logical judgment. His opinion on female leadership from Islamic perspective was given in the seminar organized by Sunan Giri University, Ponorogo, East Java, 29 November, 1998. He also argued that such opinion was not due to the fact of heavy discussion on the issue of female president and the candidacy of Megawati. It was simply, according to him, because the fact shows that women were never given the chance to occupy the highest post in that organization.

4 See Republika, 30 Nov 1998.

5 Ibid. According to him, in the Nahdatul ‘Ulamâ’ regional meeting in East Java it was decided that a woman is allowed to occupy the presidential post. Similarly, in its national congress held in Nusatenggara, in 1997, most participants agreed that women are allowed to take activity in the leadership.

6 Ibid.
prayer as part and parcel of the position entrusted to him. A similar view is also held in the West where even though its leaders support the view of equality between men and women, Christian leaders never tolerated the ordination of women as priests in the church organization. As such, it is pertinent to point out that such respected organisation has the courage to propose such an idea. *Naḥdatul Ulamā’,* (a conservative movement), is even propagating such ideas in the Muslim world.

It is also interesting to note that Abdurrahman Wahid, also known as Gus Dur argued that the rejection of female presidents by some Muslims shows their narrow understanding of the law of Shari‘ah. He holds the view that the lawfulness and unlawfulness notion perceived by many on the issue of a female head of state is simply based on political interest. Moreover, as Islamic Jurisprudence is changeable subjected to circumstances that may arise, thus the issue of appointing a female president should not be seen as similar to the task of performing obligatory prayer that is fixed. The notion of the argument is based on the fact that although many textual evidences related to the prohibition of woman from becoming the head of the government, have been identified, such propositions were only applicable in Arabia during the advent of Islam in which the society was ruled by tribal leaders. In today’s situation however, state policies are formulated with the collaboration of certain institutions and are not based on individual policy.

A similar view is also held by Hashim Muzadi, the current chairman of the organization, in which he supports female leadership at the state level based on the ground that the role of the president, is to serve as an executive and has no right to legislate. He also admits that the existence of *Naḥdatul Ulamā’* scholars who refute female leadership does not represent the view of the organization. However, in other occasion it is interesting to note that his views regarding the role of president differs from that of the supreme leadership (*imāmah al-‘uzmā*)

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7 Ibid. He viewed that the *hadith* of the Prophet (pbuh) that prohibits the women to assume presidential post might be irrelevant. In view of this, according to him, Muslim scholars should renew their vision and look at the *hadith* from the context. In other words, the *hadith* which was uttered in the last fourteen centuries might not be suitable to be applied in this modern era.

8 Hashim Muzadi, regarded the existence of differences of opinions of Muslim scholars about the issue of female president is due their different perceptions. The issue of president as mentioned in the books on Shari‘ah has different contexts compared with the current situation. Moreover, he holds, most of Muslim scholars do not have comprehensive vision about the political structure of the country which led them to have different opinion over that particular issue. See *Detik,* 16 June, 1999.

9 Ibid.,
who is responsible for all matters. In this case, the presidential authority is confined to the matter of implementing the constitution drafted by the parliament, hence he argues that such notion will be unsuitable to disapprove female head of state from religious angles.\(^\text{10}\)

In addition, the central leadership of *Partai Kebangkitan Bangsa* also officially declared their support to the candidacy of women as the head of state.\(^\text{11}\) Those Muslim scholars who joined *Partai Kebangkitan Bangsa* (Nation Renaissance Party) made endless effort to win support.\(^\text{12}\) Sa‘īd ‘Āqil Sirāj, made the poll that was, apparently aimed at winning the heart of the head of Indonesian Democratic Party. Among 1,057 scholars that he consulted, 642 of them gave the support to the appointment of a female president. The reason behind the support was not simply on the basis of any political agenda but rather, according to him it was due to the awareness on national interest above the religious sentiment.\(^\text{13}\) As such, the consensus over female head of state can be regarded as a turning point in which *Nahdatul ‘Ulama’* scholars who formally follow the *Shafi‘i* school of thought that strictly prohibits the female president deviated from the mainstream for unclear reason.

It seems that the inception of the leadership of *Nahdatul ‘Ulama’* approves women in becoming the head of state. This is evident in the resolutions of its national congress held in Surabaya in 1983. However, there is a tendency to use the legal text inappropriately to justify the lawfulness of a woman to assume the post of the head of state. Moreover, the younger generations such as Gus Dur and Sa‘īd ‘Āqil Sirāj are also seen to have liberal approach towards the textual sources, in which their analysis regularly goes beyond the limit identified by the *Shari‘ah*. On the other hand, its subordinate group is also seen to be quite moderate and considers the task of a female head of state to be unlike that of the leadership in the period of the companions or successors.

Mohammad Qureish Shihab, the former rector of the State Institute for Islamic Studies, also argues that the legality of a woman to hold

\(^{10}\) The above opinion complies with the religious thoughts of non-Muslim scholars. See *Media Indonesia*, 2 July, 1999.

\(^{11}\) *Ibid.*, The meeting was held at Pesantren Roudlatut Tolibin, Central Java, and among those present were Mustofa Bisri, Yusuf Muhammad, Dismayati Rois, Abdurrahman Qudlori, Nur Muhammad Iskandar Albarsani, Malik Madani, and Toha Abdurrahman

\(^{12}\) They took the poll in which among 100 scholars from Java, Madura, and Lampung in which 70 of them endorsed the female head of state. See *Merdeka*, 20 July, 1999.

\(^{13}\) *Gatra*, No. 25/XXVIII/23-29, 1999.
the presidency could be given whenever the candidate excels the male in various fields. He criticizes the fatwa given by religious bodies such as Majlis 'Ulamā' Indonesia (Indonesian Council of Muslim Scholars) and fatwa issued by El-Azhar University that prohibits the women from holding presidential post as it is perceived as being the issue of maslahah (interest) in giving justification on the position of a female head of state. Instead, he argues that almost all schools of thought should allow the females to occupy the highest post in government provided that it is based on the maslahah (interest), hence providing some justification from the Shari'ah. However, one important factor to note is that the question remains whether there will be maslahah once the leadership is offered to women. This is due to be seen within contextual wisdom of whether the country needs any female leadership. In Muslim majority nations, it is quite doubtful that the female will bring about public interest when she runs the government. At the same time, there are many men who are more competent in terms of leadership capacity.

Hussein Muhammad, a member of Naḥdatul 'Ulamā' on the other hand, viewed that although men and women are given equal responsibility in undertaking the task in terms of al-amr bi al-ma'rif (enjoining goodness) and al-nahy 'an al-munkar (forbidding evil), their involvement in politics should be seen in different context. Instead he argues that such view is only necessary by looking at the social reality which may give the women the right to serve as the head of the government as it has been practised by some countries which are under the female leadership. It seems that this argument is again quite refutable. This is because, although countries like Pakistan and Bangladesh, for instance, were ruled by women, the prosperity of the nations seemed to be in jeopardy, hence leading to the issue of the capability of such female leaders. Likewise, during the Megawati’s presidency, the situation was becoming volatile and the country was continuously under crisis.

Azyumardi Azra, a former rector of State Islamic University, views it differently in which, according to him, the situation plays a dominant role in influencing the legal aspects of Islam. The disapproval and the refusal of the female leadership should not rely on textual evidence as it has been argued that during the time of Mamlek dynasty a female, Shajarah al-Dur, also occupied the highest post within the government. Based on this then, Islam can accommodate a female candidate for such positions as long as she is competent to occupy that post.

14 Gatra, No.53/IV, 21 November, 1998
15 Azharite Scholars once issued the fatwa on the prohibition of women to be the head of the state in 1952. See the view of Husain Muhammad in Republica, 26 November, 1998
16 Ibid.
OPPONENTS OF FEMALE HEAD OF STATE

On the other side of the paradigm however, the second congress of Muslim *Ummah* held in Jakarta, 1998, issued a resolution that the president should be a male. This is followed by a similar statement prohibiting women from serving as the head of the state, by the central leadership of *Partai Persatuan Pembangunan* (the United Development Party) in response to the *fatwā* edict of other *Naḥdatul ‘Ulamā’* leaders in reviewing their standpoint supporting the appointment of a female head of state. Subsequently, this has led to *Naḥdatul ‘Ulamā’* scholars throughout Java, refuting the claim of the legality of appointing a female president, on the basis that not only the founders of the four schools of thought prohibit a woman from holding the presidential post but also it is against the school of thought of *ahl al-Sunnah wa al-jamā’ah* which is officially followed by *Naḥdatul ‘Ulamā’*.18

In addition, Asjmuni Abdurrahman, the leader of *Muhammadiyah* organization is quite reluctant to give support on the ascension of a woman to the seat of presidency. Instead, he considers the *ḥadīth* that is normally used to prohibit women from assuming the presidential post as being relevant to only certain circumstances. As such, he prefers that the post of presidency is to be offered to the males. His argument is based on the textual evidence, *arrījālu qawāmūna ‘alā al-nisā‘*, in which, according to him, a woman may face obstacles in performing her duties once she is elected to serve as the head of the government due to her biological nature such as monthly period and pregnancy.20 As such, this has subsequently led to the convening of the 1972 national congress where

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17 In the press release issued by Central Java leadership of United Development Party, Ahmad Thoyfoer did not use argument from classical sources rather he simply mentioned that as long as there is another qualified male candidate, it is better that the presidential post is offered to them. When such opinion got strong support from Muslim scholars of Central Java, according to him, it was simply based on the fact it never happened in history on the appointment of female Prophets. See *Detik*, 19 November, 1998. His statement on the illegitimate aspect of a woman to assume the presidential post is solely aimed at supporting the recommendation issued by Indonesian Muslim Congress. But, on the other hand he also did mention, from the aspect of Indonesian constitution, a female is given equal right to nominate herself as a presidential candidate. See *Merdeka*, 10/11/1998.


19 Ibid., Apart from that, they issued several statements urging the national leadership of PKB not to make coalition with *Partai Demokrasi Indonesia Perjuangan* (PDI-P) under Megawati, appealing the leadership of the party to make coalition with other Muslim parties to support a male presidential candidate, urging the ummah to strengthen Islamic brotherhood (*uκhwah Islāmiyyah*) and to be critical in anticipating the emerging socio-political issues.

an exclusive discussion on the role of Muslim women in the society was held, in which the Muhammadiyyah decided that women's contribution in the development of the country should be restricted to the role of judges and ministers.

It is inevitable that the polemic over the issue of a female president was inseparable from political interest. On the other hand, such assumption could not be genuine as it has already been mentioned earlier that the issue has emerged long before the emergence of a female president. As such the strong reaction on the refusal to allow a woman to serve as the head of the government came from the leadership of Pusat Persatuan Islam (Muslim Unity) organization.

It is quite interesting to also note that in the midst of continuing polemic over the female president where some Muslim scholars demonstrated leniency, the Organisasi Koalisi Perempuan Indonesia, (Indonesian Women Coalition Organization) expressed their rejection of female president. The central board of that organization regarded that a man is more competent than a woman to run the government. However, the rejection from that organization is purely political and has nothing to do with any religious ground.

It is also worth relating the view of Muslim Brethren with regard to the competency of man. They regard that a man or a husband has been given the responsibility to run the family based on the concept of al-shūra (the consultation). The leadership of that organization endorses the involvement of women in political affairs in which the Prophet (pbuh), according to them, never differentiated between a man and a woman in political involvement. However, the political activities should be in line with the spirit of ‘al-amr bi al-ma‘rūf wa al-nahy ‘an al-munkar’ (enjoining good and prohibiting evil). To generalize that all women are incompetent to undertake political activities in the parliament is unjustifiable as such claim also implied that all men are competent which is also unfair. The view of leadership of ikhwān seems to be more advanced compared with other Muslim scholars.

21 Ibid.
22 He gave the argument that if the family matter is to be governed by the male then the state leadership which has a bigger scope should be offered to them. For details see Gatra, November, No.48/IV, 1998.
23 Republika, 03 June, 1999
If certain groups deny the rights of women to win the seat of presidency due to her biological nature such as monthly period, maternity, and post antenatal that may cause obstruction in their work, it is also true that men also may face the risk of sickness which affect their duties. As such, some has proposed the idea that the condition of becoming members of parliament should apply to women over forty, as according to them, when women reach the identified age, normally they have passed the child bearing age. The leadership of ikhwān endorses women to participate in parliamentary activities as long as they observe Islamic manners throughout their political activities. If certain groups, again, prohibit their involvement due to the interactions between male and female, Sharī‘ah allow them to be involved in public activities regardless of gender as long as they obey the Islamic principles. This liberal view however, is only restricted to the political involvement of the women in the parliamentary election, and not as the head of state, as according to them such responsibility only falls in the category of supreme leadership (imāmah al-kubrā).25

In addition, Lamyā al-Fārūqī regards the male as being given the privilege to undertake the leadership in the family life. Although the policy of the family should be constructed on the basis of consultation, a husband has the right to make final decision. Likewise at the government level, the people are given the rights to express their ideas through their representatives in parliament. Only when the parliament has drafted the laws and the police are given the task to supervise their implementation, would then, the final word lies in the hand of the head of state. As such the post of the head of state should preferably be offered to a man.26 As it has been pointed out earlier, both men and women are given equal rights and the areas of political activities are not only confined to being a member of parliament rather it includes other similar posts which suit their nature.27

Similarly some scholars in India argue that the leadership of the government should not be offered to women as the ruler of an Islamic State would be required to perform the spiritual obligations / rituals such as leading the prayer, pilgrimage, and even to be the military commander in the battlefield.28 His argument is based on the textual evidence in the Qur’ān indicating that the person who is elected as the head of state

25 Ibid.
26 Al-Muslim al-Mu‘āṣir, No.46, 1985, p.94
should have a commanding and an inspiring personality and should be distinguished in integrity, wisdom and intellect. These qualities have, therefore, been cited in it as the real reason for the nomination of Talut (Saul) for the supreme leadership of the Israelites:

Indeed, Allah has chosen him to rule over you and has gifted him abundantly with knowledge and physique.29

A similar view is also propagated by the Mufti of Egypt, ‘Ali Jomah, in relation to a woman being the head of state since one of the duties of the position in leading Muslims in prayer can only be carried out by men. Subsequently, having looked at the extensive debate on the leadership of women, it has resulted in the issuance of a fatwa that argues,

If by political rights, we mean the right to vote, stand as candidate or assume public office, then, the Shari‘ah has no objection to women enjoying them, but a woman cannot serve as the head of state. Women can stand as candidates for parliament or the consultative council, in so far as they can reconcile their duties with the rights that their husbands and children have over them.30

The statement has prevalently identified that any Muslim woman involving in political activities should not break any ethical conduct outlined in Islam such as taking off the head scarf, adorning themselves in fine clothes, or being in close proximity with men who are not their husbands or close relatives while performing such political duty.31

Again, those who negate the role of women to serve as heads of government are also found to put forth their argument based on the Sunnah of the Prophet which indicates the weaknesses of women in the aspects of intellectual activities and religion. Hence, indicating the preference to give the leadership to a man who is more competent as stated by the hadith, ‘I do not see the weaknesses pertaining to the intellect and religion worse than man except one of those women’. This is according to them.

However, the hadith does not give any indication on the lack of intellectual capacity of a woman rather it is related to the woman's

29 Qur’Èn, 2:247
31 Ibid.
evidence being only half than that of a man's evidence in court. This may be due to the sentiment of a woman having the possibility to give negative psychological impact. In view of this, a woman should be obligated to give double evidence by two women in making it equivalent to one man’s evidence. However, it is important to highlight that this policy serves purely as a precautionary measure to be considered in relation to the women’s obligation in courts.32

It is also argued that this system should not go beyond the limit of banning women to serve as the head of state as the Prophet (pbuh) himself is known to consult his wives on certain important issues. For instance, at the beginning of the revelation, the Prophet consulted Khadijah to listen to her views regarding the new revelation received whilst in the cave of Hira. Likewise, during the time of hudaybiyyah, the Prophet (pbuh) again sought the opinion of Um Salmah. As such, it is quite interesting to note the view of Khālid Muhammad Khālid regarding that aspect which is the following:

What it is meant with the lacking aspect of mind is related with experience, culture (al-thaqāfah), and experiment (al-tajrubah). Whenever they meet all those aspects through education and culture, then, there is hardly any difference between men and women. We see that there are many female students at different universities who lead the male students in their studies.33

Comment and Analysis

In view of the matter, it can be argued that the relevant Indonesian scholars who justify that women can serve as the head of state approach the issue without looking at the crux of the matter from the Shari‘ah perspective. Instead consideration or justification is only made on the basis that whenever a female excels in various aspects of human endeavor in comparison to the male, then, it is imperative for a female to be given the chance to occupy the leadership position.34 This view is based on the assumption that the Shari‘ah never discriminates against their rights in

34 Ibid., p.126.
politics and the task of the head of state is done through *al-shūrā* (the consultation).

There are three main historical evidence which have resulted in both Muslim Organizational leaders and scholars to justify the ascension of women into the post of presidency i.e. the incident of *jamal* led by ‘Ā’yshah, Queen Balqis who ruled the Kingdom of Sheba, and Shajarah al-Dur. Hence, it is important then to highlight the historical evidence to judge the position of those who approve the female president:

To relate the *jamal* incident as a proof on the accession of women to the seat of head of state is quite unjustified. It is evident that ‘Ā’yshah went with the military expedition to investigate the assasination of ‘Uthmān and to make reconciliation (*iṣlāḥ al-bayn*) with ‘Ālī. The initiative of ‘Ā’yshah represents personal view which is not supported with *dalīl al-shar’ī* (lit. legitimate evidence). This also complies with the view of Abū Bakrah, the narrator of that famous *ḥadīth* that ‘Ā’yshah had full control over the military personnel which had resulted in the disagreement over going with her\(^{35}\) as well as Mawdūdī views that, she led the military expedition to Basrah under the name of *jaysh um al-mu’mīnīn* (soldiers of ‘Ā’yshah, mother of the faithful).\(^{36}\) As such, the report of Imām Bukhārī also indicates that ‘Ā’yshah wrote to Abū Bakrah asking him to join her to go to Basrah. He replied, ‘You are a mother and your right to take the initiative is great.’ However, we heard the prophet (pbuh) said, ‘The nation will not attain success whenever their matter is offered to a woman’. ‘Ā’yshah complained to ‘Abdullah b. ‘Umar in which she said, ‘What is the matter with you O father of ‘Abd al-Rahmān! Why did you not stop me from going out (to Kufah)?’ I saw a person made you forget the important thing (he referred to ‘Abdullah bin Zubayr) and I did not see you to disagree with it’, he said. ‘If you stopped me, I would not have gone’, she said.

While Qays bin Abī Hāzmim says that when ‘Ā’yshah arrived at a place called *mā’al-haw’ab* the barking of a dog was heard in which there is no other option except to return hand as she remembered what the Prophet (pbuh) said, ‘any of you reached *mā’al-haw’ab* the dogs would bark against you’. However, ‘Abdullah bin Zubayr suggested the journey to be continued in the hope that she could make reconciliation among the people.

\(^{35}\) Ibid., p.322.

Moreover, the Prophet (pbuh) said to ‘Ali, ‘There would be a problem between you and ‘Ā’yshah.’ ‘Would I be in the victim O the Prophet?, he asked. ‘No. But, when the clash takes place, send her back home with dignity’, the Prophet replied. Muslim scholars view such statement as indicating the disagreement of the Prophet (pubh) with ‘Ā’yshah to go waging a war against ‘Ali. ‘Ā’yshah also confessed her fault for her personal initiative hence consequently, such incident of jamal cannot be taken as an evidence.37

Apparently, it can be argued that some scholars support their arguments without looking into the matter comprehensively. This can be seen in the argument with the use of the well-known hadīth that prohibits the accession of woman into the seat of presidency. Abu Bakrah’s report says, ‘when the Prophet (pbuh) heard the news that Persians enthroned the daughter of Kisra to be their kings, he spontaneously then said: ‘A nation will not achieve success whenever their affairs are offered to a woman’.

To say that the above hadīth does not have any character of prohibition needs a thorough analysis and may require some justification. This is due to the fact that in Arabic syntax to prohibit something does not necessarily require the use of the word ‘lā’ (lit. do not). It is then well known in the rule of Islamic jurisprudence that God uses different words to show the meaning of prohibition. Even sometimes it uses fiʿl al-amr (commanding verb) such as ifʿalū mā shiʿum (do whatever your desire) to prohibit certain things.

Although the hadīth was revealed in the form of information, yet, it could be considered as a warning of possible danger. Hence, it becomes necessary that Muslims should not offer leadership to women based on the principles of Islamic jurisprudence based on the saying al-shay al-latī lā yatimmu illā bihi fa huwa wājid (lit. the thing which cannot be achieved perfectly unless through it, then, it becomes an obligation). Although certain Muslim scholars consider the hadīth as not bearing the character of prohibition, in reality it indicates unlawfulness of women taking up public authority. The prohibition is not due to the lack of intelligence, instead it can be argued as mainly relating to the female’s sentiment which could weaken the moral strength and commitment. This view also complies with the fatwā of al-Azhar that prohibits any woman to hold the post of

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supreme leadership. Instead, they can only be offered authority which complies with and is relevant to their nature, such as being a judge and the ministerial post pertaining to women affairs.\textsuperscript{38}

With regard to Queen Balqis, she became the ruler of Yemen during the time of Prophet Solomon. The Prophet was known to send \textit{hud hud} to investigate people’s religion and returned with the news that the whole nation was involved in superstitious beliefs. In response to Prophet Solomon’s threat for her to follow the true religion, Queen Balqis was seen as giving a positive response and embraced Islam. Hence, for the queen to rule the country before she embraced Islam may be quite irrelevant to be the basis of any generalization for the lawfulness of a woman to occupy the highest post within the government. As transfer of leadership was given based on heredity, by that time, there was no male candidate from members of her family hence compelling the people to offer the throne to her.

However, when the Prophet (pbuh) heard that the daughter of Kisra had been enthroned as the Ruler of Persia, he said, ‘The nation will not attain success whenever the matter is offered to a woman.’ In view of this statement it is known that many Muslim scholars see it differently. Some of them see it as related with prohibiting women from holding all authorities. While others view that the \textit{hadith} is only related to the role of caliph. As such, even some of them deny its authenticity and considered it as individual news (\textit{hadith al-aḥād}) which cannot be taken as evidence.

In addition, with regard to the view pertaining to the leadership of Shajarah al-Dur it is important to note that it needs further exposition. It is inevitable that she is a female sultan who ruled Egypt at the end of Ayyubide dynasty. She was given the title as queen for Muslims who was also responsible for protecting their worldly affairs and religion (\textit{iṣmah al-dunyā wa al-dīn}). Even some historians regard her as the ninth sultan of Ayyubide dynasty. She was however, a slave (\textit{jāriyah}) of the king of Ayyūb. The king liberated her and later made her his wife after recognizing her intelligence. She became more popular especially during the illness of her husband, king of Ayyūb as she controlled the sultanate affairs and even led military expeditions in the absence of her husband. Upon the death of the king, she also made an agreement with other leaders of Mamlāık to conceal the news until the arrival of his son, Turan Shah, from Khayfa.

However, Turan Shah was killed during the battle of Farskur at 648 after hijrah, in which later all leaders of Mamālik recognized the Sultanate of Shajarah al-Dur and 'IZZUDIN Bek as the main leaders who would be in charge of the affairs of the dynasty. Most of Egyptians were known to refuse the sultanate of Shajarah al-Dur, therefore as to reconcile the different opinions, most judges and religious leaders suggested that he should marry her. Eventually, he did it although in practice she was the one who held the executive power. Later, she plotted to assassinate her husband and she was detained and a decree was issued for her execution.

In light of the above evidence, then, it is obvious that all Abbaside caliphs refused to offer the sultanate to women. In addition, all judges and rulers requested Shajarah al-Dur to relinquish the post and give it to her husband. Their request was to show their rejection of her to be the sultan of Muslims as according to them it contradicted with the principles of the Sharī’ah.

Those who oppose women from serving as the head of the government argue that public authority necessitates a person to be exposed in public that would cause her to interact freely with men, hence it contradicts the principles of the Sharī’ah in which according to them women are ordered to stay at home. Some of them relate the prohibition with sūrah al-aḥzāb, nos.33 and 53. They argue that these two verses are addressed to all women which prohibit them from intermingling with men. However, most scholars reject this view as other verses clearly indicate the laws are restricted to the wives of the Prophet (pbuh).

In fact, the prohibition of women from serving as the head of state is seen as a precaution against the breakdown of the family structure. In Islam, a woman should play a vital role in educating the children and looking after the family. Once she becomes a head of state it may cause her to neglect her duties to the family. Moreover, resulting from her menstrual period and pregnancy experience, it may also cause some emotional imbalance. Nevertheless, this argument is refutable as the order to stay at home is confined to the wives of the Prophet (pbuh). The fact shows that in the days of the Prophet (pbuh) women went out to pray in the mosque, sought knowledge, performed jihād, and even did professional job.39 Islam allows women to expose themselves in public as long as they are found to observe religious principles. Moreover, the Sharī’ah also gives them the

right to carry out their activities as long as it does not harm their life and complies with their nature.⁴⁰

Others consider that the *hadith* should be understood in the particular context in which, according to Ibn Hajar al-'Asqalānī, it was given due to the attitude of Kisra who tore the letter of the Prophet (pбуh) which was sent to her. As such, his son took over and killed all other brothers. Prior to being poisoned, his daughter Buran Bt. Sharwiyyah Ibn Kisra was made the ruler prince to rule the country. Then, the kingdom collapsed as the Prophet (pбуh) made *duʿāʾ* for it.

There are scholars who analyze that the word *amrahum* (lit. their matters) which covers all aspects of authority including judicial matters, leadership, and ministry (wizārah) which could not be offered to women. They support the argument with the use of one of the principles of Islamic jurisprudence (*qāʾidah ʾaṣāliyyah*) which states ‘al-ʿibrah bi ʿumūm al-lafż lā bi khusūs al-sabab (the decision is taken based on the character of generality of the word not due to certain cause). However, most scholars agree that the post which should not be offered to women only pertains to the supreme leadership (imāmah al-ʿuzmāʾ). However, this argument is rejected on the grounds that the Shariʿah gives guarantee of equality between men and women in terms of the rights and obligations unless it is stated with exception in the textual evidences.⁴¹

Their argument is also made based on the *hadith* of the Prophet (pбуh) which is related with laws that contain *tashriʿiyyah al-ʾāmmah* (lit. law of general application) and *tashriʿiyyah al-zamāniyyah* (lit. law of periodical application). Even some scholars regard that there is *sunnah al-gawliyyah and al-fiʿliyyah* (sayings and deeds of the Prophet) which were given in his capacity as a messenger.⁴² There were some other things which were done by the Prophet (pбуh) in his capacity as a leader (imām) which cannot be regarded as of general application. They were mainly given based on *maṣlaḥah* in the period of the Prophet (pбуh).⁴³

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⁴⁰ Rauf, Hibbah, op.cit., p.141.
⁴² The example can be seen in the concept of *al-ḥalāl wa al-harīm* (lawfulness and unlawfulness) and *al-amr Wa al-nahy an shay* (asking to do certain things and the command to refrain from certain things) which is in the category of general constitution.
⁴³ See Aḥsanbī, Aḥmad-Hamīd, op.cit.,pp.308-09. Such as going on a military expedition, giving authority as a judge (*tawliyah al-qudāt*), and signing the agreement (*aqd al-muʾāhadāt*).
It is also pertinent to highlight that regardless of the contextual analysis, there is another argument to refute the above theory. However, to say that the law of the Shari'ah is limited to certain period cannot be accepted, as the rule says that all divine sources can only be given interpretation based on valid principles. Despite that, the principle of Islamic jurisprudence that says al-'ibrah bi 'umūm al-la'fz lā bi khusūs al-sabab (the lesson should be taken based on the character of general wording not due to a certain cause) needs further analysis. Such principle is not something unchangeable. There are certain practices of the Prophet (pbuh) which are limited to certain aspects in order to give solution to certain issues in the community. Thus, we cannot take this principle for granted.\(^{44}\)

As such, regardless of the fact that examples of woman leaders are unavailable in the days of the Prophet (pbuh) and four guided caliphs, the above argument does not indicate that women are incompetent to undertake the job. The absence of the woman’s leadership is linked with the culture of the society of that particular time. Instead, consideration should be made on the basis that the Qur’ān and the Sunnah are unchangeable and should represent the main sources of a constitution. Thus, it is worth noting the view of ‘Umar which says, ‘We used to disregard women entirely. When Islam came and Allah mentioned about them we valued their right without interference in our matters.’ It is not possible to follow the society during that time to disregard the competency of women in certain aspects. ‘A’yshah used to say that in giving the character of the community of Arabia, it is important that, ‘If the first thing which was revealed to the Prophet (pbuh) was related to prohibition of drinking alcohol, people would say, ‘I will not abandon it forever’, and if it was revealed concerning prohibition of adultery, they would say, ‘we would not abandon it forever.’ This indicates that it was not so simple to change the tradition of the community. In view of this, the matter which is related to women public authority is found not to be specifically spelt out, hence to reject women totally to undertake the task of public authority is also unjustifiable.\(^{45}\)

The other source to refuse the female head of state is based on the concept of consensus (al-ijmā‘). It is argued that a woman does not have the qualification to undertake the task of supreme leadership (wilāyah al-kubrā) and other duties such as law enforcement (al-hisbah) and public administration. Despite the consensus, Ibn Jarīr allowed a woman to


\(^{45}\) Rauf, Hibbah, op.cit., p.136.
serve as a judge. The concept of *ijmāʿ* in reality is built on a hypothetical approach. Thus, even if an *ijmāʿ* is to be accepted, it needs to look at areas of validity whether it is pertaining to ritual service or certain interest (*al-maṣlaḥah*). The *ijmāʿ* which cannot be refuted is related to a certain issue which has been taken based on the sound methods pertaining to the law which is unchangeable.46

In addition, other opinions may regard the prohibition of female to occupy the presidential post is related to the weaknesses of woman who can be easily influenced to deviate from justice (*al-ʿadl*). As the leadership in the state level needs firm commitment, in some cases, a woman is not in the position to maintain it. Thus, a female is only allowed to undertake social activities related to women affairs such as education and nursing. At maximal level, a woman however can occupy the position of a judge pertaining or confined to women's affairs.47

The disapproval of a woman to occupy the seat of the head of state is also related to the physical strength. A man has been declared to be more competent (Q 4:34). In view of this, certain scholars argue that a woman does not deserve to be given a public authority post. Even if a certain group of Muslim scholars view that the verse is only confined to running the family affairs, there is however an analogy that if a woman is not competent in running family matters, then, the state leadership should not be offered to them. Others believe that the relationship between a husband and wife in the family matter could be compared to public authority (*wilāyah al-ʿammāh*). The issue of *al-qawāmah* is to indicate responsibility of a husband to run the family. Keeping the women away from taking up responsibility does not indicate incompetence rather it shows preference that responsibility lies in the hand of a husband. Thus, whenever the husband is away, the responsibility should be taken over by the wife. Nevertheless, others regard *al-rijāl* as mentioned in the verse is to imply limitation on the competence of women.48 The proof that the verse is only related with the competency of man in running the family can be traced to the continuation of the textual order.49

46 Ibid., p.138.
47 Ibid., pp.138-139.
The disagreement over the female head of state stems from the view that the Prophet (pbuh) never gave any authority to them despite the existence of their intellectual maturity. The death of the Prophet had compelled the companions to assemble in the hall of thaqifah bani sa'idah to elect Abū Bakr and 'Umar as caliphs, even though none of them were invited to participate in that occasion. There is hardly any evidence however that the Prophet (pubh) and his caliphs tolerated women neither to serve as a judge nor a governor.50

The other source that denies women to serve as the head of state is that the Prophet throughout his life never gave them public authority which subsequently was followed by al-khulafā al-rashidin (four guided caliphs). However, to claim that no female companion was ever given the public authority at the beginning of Islam contradicts the reality. The fact was that 'Umar b. Khattāb used to assign Um al-Shifa' as a market inspector (hisbah al-sūq). This could also be implied that the duty is a part of public authority. Other similar view to be considered is in relation to 'Â'yshah’s role as she led the military expedition to Basrah. By that time, she had also become the main reference in religious and political affairs. Hence, when people were in dispute regarding who should lead congregational prayers for instance, she appointed 'Abdullah b. Zubayr, giving an implication that the person in charge in assigning an imam to lead congregational prayers is only the head of the nation. It is worth noting that when she exercised that policy some prominent companions such as Talḥah and Zubayr were totally under her control although the leadership was obtained without a formal pledge.51

In the era of the Prophet (pbuh), women were involved in political activities as evidently found in the second pledge of 'aqabah. Likewise the policy of Fātimah who discouraged her husband, 'Ali, from offering the pledge to Abū Bakr and the opposition of a woman to 'Umar b. Khattāb pertaining to the dowry, can also be regarded as being a part of political activities. This is despite the fact that they were involved in discussion in the mosque which is equivalent with today’s parliament. If it is said that women were never involved in ijtimā'at al-shūriyyah (consultative meetings), again, it is baseless. Even the Prophet (pbuh) consulted Um Salmah during the Hudaibiyyah Peace Treaty. Similarly, 'Umar consulted women and when he was standing on the pulpit he said, 'give your opinion

50 'Ansārī, 'Abdul Ḥamīd, op.cit., p.321.
51 Ibid.
to me O people! It was inevitable that those who were present included both men and women.\textsuperscript{52} It was the tradition that the Prophet (pbuh) before making decision about the war, he assembled his companions for seeking their opinions with the presence of women.\textsuperscript{53}

**CONCLUSION**

To a certain extent, the view of Indonesian scholars with regard to permitting women to serve as the head of state complies with the view of others. This indicates that the issue of woman head of state remains controversial. However, Indonesian scholars tend to simplify the issue without looking into the primary conditions related to women serving as the head of state from the religious perspective. Those who support female leadership, allow any woman to hold such position regardless of her commitment and knowledge of the *Sharī'ah*. They are seen as simply wanting to promote egalitarianism and equal rights between men and women in which women can be allowed to serve as the head of the government.

Regardless of the differences of opinion when certain scholars allow a woman to reach the highest post within the government, she is in fact expected, to administer based on Islamic principles. In other words, the election of a female head of state in running a country should be based on the law of the *Sharī'ah*. It can be claimed that the discussion on lawfulness and unlawfulness of a woman to serve as the head of the state in a country which is not governed by *Sharī'ah* is quite irrelevant. In non-Islamic countries, a woman is allowed to serve as the head of the government without any dispute. This is because they do not need to fulfill certain conditions made by previous Muslim scholars in the field of jurisprudence. As such, the presence of female head of state in certain parts of Muslim world then, such as Pakistan, Bangladesh, and Indonesia cannot be judged from religious perspective.

\textsuperscript{52} Ibid., p.323.
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