



REVISITING GENDER ISSUES IN ISLAMIC JURISPRUDENCE: ABDUL KARIM ZAIDAN'S “*AL-MUFASSOL FI AHKAM AL-MAR'AH WA BAYT AL-MUSLIM*”

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Abstrak: Pengarusutamaan Gender adalah konsep yang berasal dari gerakan feminisme, dan terkait erat dengan perubahan sosial yang melibatkan perubahan regulasi, sosial, ekonomi, politik, serta budaya. Studi tentang isu-isu gender yang berhubungan dengan agama, khususnya dalam Islam, menjadi topik penting untuk dibahas. Dalam hal ini, Abdul Karim Zaidan, sebagai ahli hukum Islam, dalam karyanya “*Al-Mufassol Fi Ahkam Al-Mar'ah wa Bayt Al-Muslim*” membahas tentang kehidupan perempuan sebagai anggota keluarga dan juga sebagai bagian dari masyarakat. Zaidan melakukan kajian akademik untuk melihat kesesuaian Islam dengan perkembangan isu gender. Selain itu, Zaidan berusaha untuk memperkenalkan kembali peran wanita Muslim dalam keluarga sebagaimana diajarkan oleh Islam, serta hubungannya dengan peran pria.

Kata kunci: perempuan, Islam, keluarga, Abdul Karim Zaidan

Abstract: Gender Mainstreaming is an action originated from the feminism movement, closely related to social changes that involve regulation changes, social, economy, politics, and culture. Study about gender issues with all kinds of topics related to religion, especially in Islam, is becomes an important topic to be discussed. In this case, Abdul Karim Zaidan, as Islamic jurist, in his work *“Al-Mufassol Fi Ahkam Al-Mar’ah wa Bayt Al-Muslim”* discusses about a life of a woman as a family member as well as a part of society. Zaidan carries out academic inquiries to see the compatibility of Islam with the development of gender issues. Zaidan attempted to reintroduce the role of Muslim women in a family as taught by Islam, as well as its relation with men’s role.

Keywords: women, Islam, family, Abdul Karim Zaidan

Introduction

Islamic studies on gender are mostly the revisit of Islamic texts, which some of them often accused of against human rights, including women rights. This is because some discussions about women in Islam often consist of excessive generalization, simplification, and bias. (Sharma, 2002, p. 281) Some of the gender activists even accused *fiqh* as the main cause of injustice and sexual violence against women. (Kynsilehtozz, 2008, p. 9) Moreover, the rules of worships compiled in *fiqh* books are suspected of being discriminative, for instance in the case of the prohibition of women becoming priests, muezzin, and Friday sermon preachers. (Suryadilaga, 2003, p. 134). Therefore, the formulation of *fiqh* is considered needed to provide answers to those allegations and to understand Islamic religious texts on women issues comprehensively. (Kynsilehtozz, 2008, p. 9)

One of the Muslim scholars who put attention to women's issues is Abdul Karim Zaidan. His work *Al-Mufasssol Fi Ahkam Al-Mar'ah wa Bayt Al-Musli* (Zaidan, 2000), a twelve-volume encyclopaedia of laws on women and Muslim household, obtained King Faisal International Prize, Saudi Arabia in 1997 for the category of Islamic Studies on Women's Status in Islam. This award came from the country where its Islamic family law tends to have a conservative orientation. The country itself has not intended to renew and still enforce the laws based on classical *fiqh* (Islamic jurisprudence). Generally, Saudi Arabia does not want women to get involved in public domains. (Nugroho, 2017). However, Abdul Karim Zaidan makes the discussion of Islamic law as the main topic and the family institution a gateway to the discussion of universality of Islamic law.

Abdul Karim Zaidan, in his work, argues against the notion that religious teaching is often used as an excuse to refuse the idea of gender emancipation and equality, which makes male-dominated society or gender-biased religious belief eventually settled in the people's sub-consciousness. With this, the superiority of men over women is understood as a divine creation, not social construction.

This study aims at analyzing Abdul Karim Zaidan's thoughts comprehensively to look at his efforts in reformulating gender position in Islamic studies and developing of paradigm in perceiving women from social and religious standpoints.

Exploring the ideas of Islamic legal scholars is one of the areas in Islamic studies. Those ideas can be related to Islamic legal concepts, its application, as well as social and cultural responses towards the teachings. Furthermore, Islamic legal studies is also a part of general legal studies by taking Islamic law as the object. So, Islamic legal studies cover three main themes: the teaching, its implementation and the socio-cultural and environmental responses towards the application. (Muzhar, 2012, p. 212)

The renewal in the field of Islamic law has always been an interesting topic considering that it often invites a strong reaction from Muslim traditionalists. This is understandable because, in almost every religion, family institution is seen as sacred, and, therefore, becomes a very sensitive issue. Thus, it is not surprising that the reform in family law often causes controversies in modern Muslim countries.

As a consequence, the efforts to reform in family law always face strong resistance, especially from the religious authorities. This is because changing family law is considered changing the essence of religion. In this case, the efforts to reform the family law might be interpreted as the deviance against Islamic law.

Intellectual Biography

The biography of Abdul Karim Zaidan is not available in his works. It was a student from doctoral program of the Usuluddin Faculty of Al-Azhar University in Cairo, Husain Addailami, who wrote the biography of Zaidan in his dissertation, entitled “*Jubuud Adduktur Abdul Karim Zaidan Fi Khidmati Ad-Dakwah Al-Islamiyah*” in 2010. Addailami included a significant chapter of Abdul Karim Zaidan’s biography in his dissertation. He acquired the data by sending a questionnaire, which was immediately answered by Abdul Karim Zaidan himself.

Abdul Karim Zaidan Beij al-‘Any al-Kahli al-Muhammadi was born in Al-Karkhi, Hammadah district, Baghdad, in 1921. His primary education was taken since he was three years old at a Quran memorization institution called “al-Mula.” The education system was similar to “pesantren” (Indonesian Islamic boarding schools) and being nurtured by a “*kyai*” (Indonesian term Islamic scholar/expert).

After completing his upper-level education, he began his career in the 1930s at the elementary school *Abi Shoida*, which took place outside the capital city of Baghdad for four years. After that, he returned to teach at *al-Musyabadah* school in Baghdad. After a long time, he took higher education and obtained various academic achievements. In 1946-1950, he got a scholarship from Ministry of Education at the Faculty of Law, Baghdad University. He completed his studies on time with a License. With relation to civil code studies, the Faculty of Law of Baghdad University was dominated by Hanafi Madzhab, which was codified in the Era of Daulah Uthmaniyah. The system was adopted by *Majallah al-ahkam al-adliyah* and applied in di Bagdad since 1951.

In 1958, Zaidan obtained a Master degree with *summa cumlaude* in Faculty of Sharia, University of Cairo, Egypt. The title of his thesis was “*Atsar al-Qusud fi al-Tashorrofah wa al-Uqud*” under the supervision of Sheikh Abu Zahroh, Sheikh Ali al-Khafif, and Sheikh Hasan Makmun. In 1962, Zaidan completed his Doctoral programme with a remarkable title “*Mumtaz bi syarafula.*” His academic positions during his lifetime were: professor in the field of *Sharia Islamiyah* at Al-Azhar University; professor in the field of *Sharia Islamiyah* and chairman of the Faculty of Adab at University of Baghdad; professor at Islamic University Al-Madinah Al-Munawwaroh; professor in the field of *Sharia Islamiyah* Faculty of Islamic Studies for Master degree and Doctoral programme at University of Sana’a, Yemen; and also professor of the Faculty of Fiqh and *Usul Fiqh* at al-Aiman-Sana’a University (Addailani, 2010).

Zaidan also involved in various scholarly activities outside those campuses. In 1960, Zaidan was one of the authors of Islamic Fiqh Encyclopaedia, a project of the Ministry of Religion in Kuwait. After that, in 1986, he became the Minister of Religion (only for few months due to political issues during Baghdad Revolution). In 1950, he began to join the Iraqi Muslim Brotherhood movement through his leader, Muhammad Mahmud Sawaf at that time. After that, he began to be a writer of several pieces of work for Iraqi Muslim Brotherhood propagation. In 1958, he became a part of leadership council of Iraqi Muslim Brotherhood, and in 1960 he officially became *Al-Muraqib al-Aam*. During Iraqi rule under Saddam Hussein, Abdul Karim Zaidan who was one of a victim of Muslim Brotherhood arrest was told that

the prisoners were killed except Abdul Karim Zaidan. Saddam Hussein did not allow the authorities to do so, because Hussein studied with Zaidan in the past. In 1969, he joined an International Conference of Law and Political Science in Baghdad. From 1995-1996, he became the speaker in Weekly Events of Islamic Fiqh in Qatar; and in 2000, he was a member of the Rabithoh Islamic Fiqh of al-Islami, Riyadh. He died on Monday, 27 January 27, 2014, in Sana'a, the capital city of Yemen at the age of 97 years.

The Background of “*Al-Mufasssol fi Ahkami al-Mar’ah wa Bait al-Muslim*”

Al-Mufasssol fi Ahkami al-Mar’ah wa Bait al-Muslim is an encyclopaedia composed for approximately twelve years between 1979 – 1991. The book consists of around 5780 pages and divided into 12 volumes. The content is mapped into two categories: *Muslim women from birth to death* and *Muslim households since their formation as a family institution and family shelter*. Aside from being an encyclopaedia of fiqh, this book is also a reference to contemporary Islamic law since the content of the discussion summarizes various legal policies issued during the era. Therefore, some of the pieces have been printed partially. Some topics are printed in smaller books to allow the readers review the topics without having to have the twelve books. Some of the pieces are, for example, “*Kitaab Huquq wa Wajibat al-Mar’ah fi al-Islam*”, “*Kitab al Libas wa al Zinah fi Al-Islam*”, “*Kitab Al-Zakat wa Ahkamiha fi Al-Islam*”, “*Kitab Al-Iddah*”, and “*Kitab Al-Sholat fi Al-Islam*”.

The reason Abdul Karim Zaidan in giving the name of this book appears in the following editorial:

”وليس كثيرا على المرأة المسلمة أن أضع أو أكتب لها كتابا يحمل اسمها ويكون مرجعا لها للتعرف على أمور دينها وما يتعلق بها... وكذلك ليس كثيرا على البيت المسلم أن أضم أحكامه إلى أحكام المرأة المسلمة وأقرن اسمه باسمها فأجعل الاثنين عنوانا لهذا الكتاب لا سيما وأن بيان أحكام أحدهما يستلزم بيان أحكام الآخر ولهذا جاء عنوان الكتاب جامعا بين الاثنين: المرأة المسلمة منذ ولادتها إلى حين موتها، والبيت المسلم من حين نشأته باعتباره عائلة مسلمة وباعتباره مكانا تسكنه هذه العائلة...” (Zaidan, 2000, p. 7)

Abdul Karim Zaidan explained the urgency of gender mainstreaming in his work with two argumentative variables:

1. Introducing to Muslim women about their religion so that they can broaden their knowledge. If women have their scientific insight, it will form positive attitudes and behaviors based on that knowledge so that they are able to improve themselves and make changes for the people around them.
2. Introducing to all Muslims about the principles of an Islamic household, and the procedures to establish an Islamic family as a whole. This includes matter related to the planning, formation and preservation of Islamic family which can lead to universal changes from home.

Departure Point in Gender Mainstreaming

Feminism and gender nuanced paradigm becomes an entry point for Zaidan in writing his book, as well as being his insecurity. In his viewpoint, paradigms and problems of women are mapped into several areas:

First: General Paradigm

«إن أعظم ما شغل البشر من القضايا الاجتماعية في القديم الماضي والحديث والحاضر وما سيشغلهم في المستقبل القادم — على ما أعتقد — هو قضية المرأة»

“The biggest problem of humanity from since long ago, now, even in the future is the problem of women.”

Feminism promotes the fighting for women rights and freedom that has long been taken away. Also, women fight to have similar rights as women in terms of freedom, career, and social roles. The campaign also addresses the issue of freeing women from domestic imprisonment.

Second: Western Paradigm

Zaidan addresses the issues of freedom in Western society which, according to him, has led to many issues. These include the damage to honor and family institutions; sexual exploitation; children with

unclear parental status; the spreading of transmitted sexual disease. This is warning for the people to rethink their perspective on gender issues.

Third: Muslims Paradigm

Gender inequality and bias are spread rapidly among Muslims. In this case, Islamic family foundation has been threatened. Innocence Muslim women have become the victim of manipulation and deception.

The problems become significant, considering that they are supported by great power, which is the courage to oppose religious values and to maintain propaganda, as well as monopolize all types of media. Moreover, these were supported by Muslims' negligence of religious teachings, and the uncritical fondness for imitating foreign cultures.

Abdul Karim Zaidan was moved to rearrange the foundation of Islamic understanding about feminism and family life. He believed that all problems above are considered by the Quran because the One who makes the Quran also the One who creates women.

Problems related to women issues and family institutions will continue to grow along with the change of time and current development. In this case, Muslims are expected to prepare. The following are solutions offered by Abdul Karim Zaidan:

- a. Reintroducing Islamic law on women and family life comprehensively to all Muslims;
- b. Considering the need to compose works or books that explain the role of women and family life in Islam.

Islamic views on women are implicitly and explicitly mentioned in the sources of Islamic law (Quran and Hadith).

- a. Quran gives imperative solutions for women problems, (Al Mulq: 11):

أَلَا يَعْلَمُ مَنْ خَلَقَ وَهُوَ اللَّطِيفُ الْخَبِيرُ

This verse shows that Allah, the creator of women, is certainly known matters that should be done and avoided by women are for the sake of their own good.

- b. The number of Quranic verses on women is greater than the ones about trading and *muamalah* (social relationship). Likewise, the Sunnah of the Prophet also mentions the rights and obligations of

women, affirming the privilege position of women in society, and condemning the exploitation of women rights and obligations.

- c. The equality between men and women should be believed as it is mentioned in the revelation as follows, (Al-Ahzab: 36):

وَمَا كَانَ لِمُؤْمِنٍ وَلَا لِمُؤْمِنَةٍ إِذَا قَضَىٰ أَمْرًا أَنْ يَكُونَ لَهُمُ الْخَيْرَةُ مِنْ أَمْرِهِمْ وَمَنْ يَعْصِ
اللَّهَ وَرَسُولَهُ فَقَدْ ضَلَّ ضَالًّا مُبِينًا

Shifting Paradigm in “Ikhtilath” Terminology

Generally, the notion of *ikhtilath* (socialization or mixing of the sexes) has created disputes in the interpretation of Islamic legal texts. People in a conservative view ban *ikhtilat* in many ways. (haram) For example, Muhammad Nashiruddin Al-Albani argues that women going out of their house is against the law. Women are also banned from entering a hospital where men and women are present. (Al-Albani, 1992, p. 75)

In that case, Abdul Karim Zaidan has a different opinion from Nasiruddin Albani's. Zaidan argues that in some cases, *ikhtilath* is allowable due to the demand of current social development and does not violate Islamic law. According to Zaidan, the permission of *ikhtilath* is not only limited to *dharuriyat* (emergency) condition, but also on *hajiyat* (in-need).

- a. ***Ikhtilath* in a transactional context.** Women are allowed to have interaction in businesses, such as trading. This is because the interaction between a man and woman is required in the economic transaction. In doing their businesses, a man and woman are required to consider sharia ethics and teachings.
- b. ***Ikhtilath* in a judicial process.** Women are allowed to be a judge except on *hudud* cases, according to Hanafiyah scholars. The Dzahiriyah scholars, on the other hand, allow women to judges in any cases, considering that the judiciary consists of all genders, not only the litigants but also the officials.
- c. ***Ikhtilath* in giving testimony in a trial.** Women are allowed to be a witness in a civil dispute. According to surah Al-Baqarah verse 282, women's interaction in this kind of forum is legalized based on *Shara'* or Islamic law.

- d. *Ikhtilath* in performing duty as the market stability keeper (*hisbah*).** *Ibnu Hazam* in *Al-Muhalla* said that Umar Bin Khattab entrusted “al-Shifa”, a woman from his own community to be the manager of market stability. With this position, she could not avoid interactions with men.
- e. *Ikhtilath* in meeting with guests.** Women are allowed to welcome guests with the presence of their husbands, or an obvious condition that make them see the guests. Moreover, honoring the guest is one of the Islamic commands, as is mentioned in a hadith:

«لما عرس أبو أسيد الساعدي دعا النبي صلى الله عليه وسلم وأصحابه، فما صنع لهم طعامًا ولا قربه إليهم إلا امرأته أم أسيد، بلت تمرات في تور من حجارة من الليل، فلما فرغ النبي صلى الله عليه وسلم من الطعام أمأته فسقته، تتحفه بذلك» أخرجه البخاري

This matter is also mentioned in sura At-Taubah 100 about altruism.

قال النبي صلى الله عليه وسلم: من يُضيف هذا الليلة رحمه الله؟ فقام رجل من الأنصار فقال: أنا يا رسول الله، فانطلق به إلى أهله فقال لامرأته: هل عندك شيء؟ قالت: لا إلا قوت صبياني. قال فعليهم بشيء، فإذا دخل ضيفنا فأطفئ السراج وأريه أنا نأكل: فإذا أهوى ليأكل فقومي إلى السراج حتى تطفئيه. قال فقعدوا وأكل الضيف، فلما أصبح، غدا على النبي صلى الله عليه وسلم فقال: قد عجب الله من صنعكما بضيفكما الليلة».

قال النووي في شرحه لهذا الحديث: «هذا الحديث مشتمل على فوائد كثيرة.. منها الاحتيال في إكرام الضيف إذا كان يمتنع منه - أي من الأكل-، رفقًا بأهل المنزل لقوله: أطفئ السراج وأريه أنا نأكل، فإنه لو رأي قلة الطعام وأنهما لا يأكلان معه، لا يمتنع من الأكل». ومعنى ذلك أن الأنصاري وامرأته جلسًا مع ضيفهما للأكل معه وإن لم يأكل فعلاً؛ إثارةً للضيف على نفسيهما، فأنزله تعالى فيهما في كتابه العزيز (وَيُؤْتُونَ عَلَىٰ أَنفُسِهِمْ وَلَوْ كَانَ بِهِمْ خَصَاصَةٌ)

- f. *Ikhtilath* in Public Transportation.** Women are allowed to get interacted to other people especially when they are in public places such as on public transportation like water transportations, land

transportations, or air transportations, in hospital, public toilet, and any other kind of public place because having an interaction is a need. As time goes by, the technological and time progress has given safety for women to do anything as a dignified human being.

- g. *Ikhtilath* in war situation.** Since the era of the Prophet Muhammad, women played role in war in logistic matters. This is based on the hadith of the Prophet:

عن الربيع بنت معوذ قالت: «كنا مع النبي صلى الله عليه وسلم نسقي ونداوي الجرحى ونرد القتلى إلى المدينة»، وروى البخاري «أن عائشة وأم سليم - رضي الله عنهما - كانتا تنقلان القرب على متونهما، ثم تفرغانه في أفواه القوم، ثم ترجعان فتملاهما، ثم تجيئان فتنفرغانه في أفواه القوم»

وفي «صحيح مسلم» عن أنس بن مالك قال: «كان رسول الله صلى الله عليه وسلم يغزو بأم سليم ونسوة من الأنصار معه إذا غزا، فيسقين الماء ويداوين الجرحى».

- b. *Ikhtilath* in education forum.** Studying is every individual's right. Shari'a never hinders the human's freedom to get an education. Women are free to interact with the opposite sex in the context of teaching and learning. Studying is everyone's right. That is why *shari'a* never prohibits human's freedom to get an education so that women are freely get interacted in the learning and teaching context. The Prophet Muhammad said:

عن ابن عباس قال: خرج رسول الله صلى الله عليه وسلم يوم عيد فصلى ركعتين لم يصل قبل ولا بعد، ثم مال على النساء ومعه بلال فوعظهن وأمرهن أن يتصدقن، فجعلت المرأة تلقي القلب والخثرص»

- i. *Ikhtilath* because of habit.** According to Al-Muwattho, women are allowed to eat together with their family or with the people who have been parts of the family, even though they are not the women's mahram (men who are not allowed to marry the women, such as father and siblings). Certainly, there is a need to always consider Islamic law values despite this permission. For example, women should follow the ethics of Islam in talking, dressing up, and maintaining themselves from negative views.

- j. Common Gathering.** Formal and informal gatherings have become common in many cultures. This social interaction is not forbidden as long as everyone maintains their dignity, language, and courtesy norm.

In proposing his opinion, Abdul Karim Zaidan kept trying to use terms from the original law, such as *Ikhtilath*. However, in the Zaidan considered modern context and paradigm in offering his legal thought, such as in dealing with gender interaction. Therefore, he was able to show that Islam is a dynamic religion. Zaidan offered a distinctive discourse of Islamic law to the Saudi Arabian Muslim clerics, who tend to be strict in viewing the interaction between men and women. Awarding Zaidan with “King Faisal Prize” for his *Al-Mufasal* is such enlightenment for the apologetic thoughts among the Arabs. As a result, women can be more dignified and have equal opportunities as men.

The Change to Gender Equality Relationship

Shopy Temby in “*Measuring Gender Equality Results*” stated:

Gender equality indicators are measures of performance which require the collection and analysis of sex-disaggregated information on who participates in and benefits from development activities. They should measure changes in gender relations— that is, changes towards equality or inequality between men and women, and between girls and boys - as a result of an intervention (Temby, 2007)

The indicator of gender equality can be measured from the presentation of balancing role in various activities. Therefore, measuring the change in gender relations can be done by looking at the equal rights among different sexes.

Abdul Karim Zaidan showed the renewal in the interpretation of Islamic teachings. The followings are common issues in the Arabian society, and the response of Zaidan to them:

- a. Women have a right to travel and perform pilgrimage without their mahram (male relatives).**

Abdul Karim Zaidan showed the objectivity of methodology in discussing these issues by showing the opinions and *dalils* (textual proofs) from the groups who require the existence of *mahram* for

women in traveling and performing the pilgrimage. After showing those arguments, finally he came into a conclusion that women are allowed to travel without the presence of *mahram* as long as they travel in a group, which may give a safety guarantee. This argument is based on a hadith:

رواه الإمام البخاري في صحيحه، أن عمر بن الخطاب رضي الله عنه قد أذن لأزواج النبي صلى الله عليه وسلم بالحج في آخر حجة حجها، فبعث معهن عثمان بن عفان وعبد الرحمن بن عوف، ثم كان عثمان رضي الله عنه بعد عمر بن الخطاب يحج بهن في خلافته أيضاً.

From the hadith, it can be concluded that Prophet's eight wives did a pilgrimage with one the Prophet's companion, Utsman and Abdurrahman Bin Auf, without any rebuttal and critics from the other companions (*Sahabi*). This implies that women can travel without the *mahram*, and they can travel in a group as a guarantee. implementation of pilgrimage for women in the era can enforce a travel group as a guarantee.

b. Criticizing a statement that “women’s voice is an aurat”

Aurat refers to Islamic term of body parts that should be covered and unrevealed. The statement about “women’s voice is an *aurat*” can be found out on Kitab Al Mawahib Al-Jalil bi Syarhi Mukhtashor Al-Khalil from Malikiyah. Ibnu Farhun said:

وأما الأذان — أي من المرأة — فممنوع في حقهن، قاله اللخمي، لأن صوتها عورة. قال الفقيه الحطاب: وقوله لأن صوتها عورة.

The statement was refuted by a hadith about Ummu Atiyah who was pledging for the Prophet:

روي الإمام البخاري في صحيحه عن أم عطية قالت: بايعنا النبي صلى الله عليه وسلم فقرأ علينا أن لا يشرك بالله شيئاً... الخ، ونهانا عن النياحة فقبضت المرأة منا يدها وقالت: فلانة أسعدتني وأنا أريد أن أحزبها. فلم يقل شيئاً فذهبت ورجعت... الخ، وقال ابن حجر العسقلاني في شرحه لهذا الحديث وفي هذا الحديث أن كلام الأجنبية مباح سماعه، وأن صوتها ليس بعورة... .

The conclusion (*istinbat*) from the hadith is that a conversation between men and women is allowed in the transactional interaction or delivering a *fatwa*. In this case, the women's voice is not an *aurat* (Zaidan, 2000, p. 277).

c. There is no Islamic command for women to cover up their face

It is mentioned in the Quran:

{وليضربن بخمرهن على جيوهن}

It has been an obligation for women to cover up their head, neck, ear, and breasts, by lengthening their "*khimar*" (fabrics covering women's body) from their head until covering up their neck. The interpretation of this text shows that the women are not commanded to cover up their face, even it should be opened. So there is no *nass* (textual proofs) that requires women to cover up their face.

d. Greeting each other between men and women

Greeting is actually recommended for both of men and women because there have been provisions in Islamic law stating several kinds of greeting:

روى أبو داود عن أسماء بنت يزيد، قالت: «مر علينا النبي صلى الله عليه وسلم في نسوة فسلم علينا»

وروى الترمذي عن أسماء بنت يزيد، قالت إن رسول الله مر في المسجد يوماً وعصبة من النساء قعود، فألوى بيده بالتسليم.

وجاء في تفسير القرطبي وقالت أم عطية لما قدم رسول الله صلى الله عليه وسلم المدينة، جمع نساء الأنصار في بيت، ثم أرسل إلينا عمر بن الخطاب فقام على الباب فسلم فردد عليه السلام، فقال أنا رسول الله إلیکن ألا تشرکن بالله شیئاً فقلن: نعم.

Abdul Karim Zaidan built his argument on those hadiths. Also, since *muamalat* procedure requires men and women to communicate with each other, so greeting each other is part of the interaction. Even *salaam* (greeting) is highly recommended as there was a prophet's message to preserve *salaam*.

e. Iddah period is also applied for husband

In kitab “Al-Dur Al-Mukhtar” from Hanafiyah, it is mentioned that *iddah* in Islamic legal term means a waiting period (after divorce), which is not only applied for the wife but also the husband when there is a reason requires to apply it. (Al-Dur Al Mukhtar, p. 502). Technically, a husband, whose wife is on *iddah* period, is also a subject to *iddah* period as well. This means that he cannot marry another woman, just like his wife. If the wife is divorced by the husband, so the law of balance will be applied for both of them. This is to show equal rights and to give the space and chance to reconsider the divorce decision. Fundamentally, preserving a marriage is mandatory according to Islamic law. This is an implicit meaning of Allah’s hate of divorce in a family institution (Zaidan, 2000, p. 122).

f. Smacking wife is not an educational solution.

This issue refers to the Quranic verse about *nushuz* (disobedience of a wife), An-Nissa : 34:

وَاللَّاتِي تَخَافُونَ نُشُوزَهُنَّ فَعِظُوهُنَّ وَاهْجُرُوهُنَّ فِي الْمَضَاجِعِ وَاصْرَبُوهُنَّ، فَإِنْ أَطَعْتَكُمْ فَلَا تَبْغُوا عَلَيْهِنَّ سَبِيلًا إِنَّ اللَّهَ كَانَ عَلِيمًا كَبِيرًا

The duty to keep the harmony of marriage and spiritual stability is for both husband and wife. However, the keeper of stability is on the husband as the head of family. This means that the leadership of the husband is based on Islamic values and norms. In the case of family instability, leadership evaluation and improvement is needed. The verse implies that Allah grants the authority and accountability for husbands to stabilize the family. However, in the evaluation process, the husband needs to respect all of the family members, including the wife.

Even though the hitting of a wife is written in that verse, the interpretation should refer to the Prophet’s explanation about this issue. According to history, the Prophet Muhammad never smacked anyone in his whole lifetime. This is based on the hadith:

روى ابن ماجة أن رسول الله صلى الله عليه وسلم لم يضرب زوجة له قط، عن عائشة رضي الله عنها قالت: «ما ضرب رسول الله صلى الله عليه وسلم خادما له ولا امرأة ولا ضرب بيده شيئا»

There is no testimony mentioning that the Prophet hit anyone. This is not only in his domestic personal life, nor in his interaction with others. The testimony on smacking has never been found on Rasulullah's life, not only on household life but also on the interaction between his maid or the social life among his companions. It is for certain that it is better for a husband not to hit his wife to evaluate her instability. Advising with patient at the proper time is better for the husband to restore the harmony of the household. (Zaidan, 2000, p. 318)

Conclusion

Many books have been written about women issues in fiqh or Islamic jurisprudence. Yet, books that comprehensively discuss women's life as a family member or social member are still rare. By focusing on academic discourses, Abdul Karim Zaidan attempted to collect scattered discourses and discuss them in the context of current dynamics and development. His effort is to reintroduce women and their roles in a household

His effort is made to reintroduce the women issues in Islamic law comprehensively. He also explains the role of Muslim women in a family as is stated in Arabic wisdom: "*Mother is a school, if you prepare her well, she will bear a well-known generation.*"

This paper concludes that Abdul Karim Zaidan's thoughts on women issues have been influenced by the changes in the universal gender paradigm. This becomes the reason for his discussion on certain topics, such as *ikhtilat* (socialization or mixing of the sexes), women's rights to education, flexible social public interaction on transportation, equal opportunities as men in social interaction, democracy in a household, and the interaction with other religious adherents.

Some of the provisions in Islamic jurisprudence are still compartmentalized and consist of *madhab* bias, such as the Hambali *madhab* that is considered conservative in the discussion of Islamic criminal law such as *jinayah* and *hudud*. Yet, Al-Mufasol of Ibnu Karim Zaidan provides a space for gender discussions and can be used as a reference for gender activists in fighting for women's rights.

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