

The Effects of Maternity Policy on Women’s Fertility Decisions from the Islamic Perspective: An Exploratory Study

Nur Syahidah Abdul Jalil*
nursyahidah@ikim.gov.my

Abstract

The changing roles of women today from traditional family caregivers to multitasking financial providers require specific protection to preserve their natural role as mothers. Such protection which include job security, health, maternity leave, maternity benefits, and others are to ensure that women are able to balance multiple roles. Pressures on any of their roles may adversely affect society and the economy in terms of labour market, when expectant mothers go off-ramping or when women choose to exercise their fertility decision-making. Many studies indicate a negative relationship between maternity policy and fertility which proves that women need support to serve both functions. There is also a difference in terms of the maternity policies between developed and developing countries which indicates a diverse

* Research Officer, Centre for Economics and Social Studies, Institute of Islamic Understanding Malaysia (IKIM).

approach in addressing the issue even though both face the same declining fertility rate problem. Islam does not object to the idea of career women in general. However, a set of guidelines has to be followed to preserve the shari'ah. Among others, Islam promotes the maternal nature of women by encouraging them to continue breastfeeding when they are on-ramping. Thus, this paper intends to assess the fertility decisions made based on the women's understanding of their firm's maternity policy by conducting survey interviews. Even though the study finds that maternity policy does not directly affect the fertility decisions of the women involved, there are still recommendations to be made to improve current maternity policy practices by firms in general to promote a healthier working environment for women.

Keywords

Women, maternity policy, maternity leave, fertility, labour.

Introduction

Background

Human fertility is the basic and fundamental element of preservation of human society.¹ Proper attention towards maternity protection has been addressed by the International Labour Organization (ILO) since its formation in 1919. Among the issues covered related to maternity protection are the rights for female workers to retain jobs after taking appropriate leave due to childbirth and to gain maintenance wages and benefits

1. Rosniza Aznie Che Rose and Asmah Ahmad. "Peningkatan Pendidikan Menjejaskan Fertiliti Penduduk Tempatan: Konfirmasi Dari Pembangunan Besut Baru, Terengganu." *Geografia-Malaysian Journal of Society and Space* 6, no. 2 (2010): 51–62. <http://www.ukm.my/geografia> (accessed on 15 February 2016).

The Effects of Maternity Policy on Women's Fertility Decisions

during the maternity leave² and also provision on breast-feeding during working hours.³

Why should maternity care be properly institutionalised in the labour market? According to the World Health Organization, (WHO), the first several weeks after childbirth are a dangerous time for both mother and the newborn. WHO finds that more than 500,000 women die each year due to complications from pregnancy and childbirth. The complications include bleeding and infection following childbirth, lack of skilled health professionals in attendance that leads to two-thirds of maternal and newborn deaths that occur in the first two days after birth and others.⁴ WHO also believes that proper care in the period after birth is not only for survival, but also for the future well-being and health of the mother and the newborn.

Based on these facts, ILO has suggested a minimum standard for member states to offer maternity leave of not less than 14 weeks to any female worker who gives birth.⁵ Since the objective of the post childbirth care is also to ensure the well-being of the mother and the newborn, therefore the provision of maternity protection shall include cash benefits that allow

2. International Labour Organization. *Convention C183–Maternity Protection Convention, 2000* (No. 183). Geneva: ILO. http://ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C183 (accessed on 16 May 2016).
3. Adriano Cattaneo et al. “Protection, Promotion and Support of Breast-Feeding in Europe: Progress from 2002 to 2007.” *Public Health Nutrition* 13, no.6 (2010): 751–59. <https://www.cambridge.org/core/services/aop-cambridge-core/content/view/582CF9C3ABCCBDFB5CC1DAA3497B820A/S1368980009991844a.pdf/protection-promotion-and-support-of-breast-feeding-in-europe-progress-from-2002-to-2007.pdf> (accessed on 15 February 2016).
4. World Health Organization. *WHO Technical Consultation on Postpartum and Postnatal Care*. Geneva: WHO, 2010. http://apps.who.int/iris/bitstream/10665/70432/1/WHO_MPS_10.03_eng.pdf (accessed on 15 February 2016).
5. World Health Organization. *MATERNITY AT WORK: A review of national legislation*. Geneva: WHO, 2010. http://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms_124442.pdf (accessed on 15 September 2016).

the particular worker to maintain herself and her child and guarantees her of her job upon on-ramping.⁶

Different countries apply different maternity policies particularly on maternity leave. The European Union for example has allocated a minimum paid maternity leave of 14 weeks for each member state beginning 1992.⁷ The United States of America through The Family and Medical Leave Act (FMLA) of 1993, offers up to 12 weeks of unpaid leave with employer benefits for qualified medical and family reasons.⁸ In the case of Malaysia, the Employment Act 1955 (2012) provides female workers to get paid maternity leave of not less than 60 days for a birth up to five deliveries.⁹

Women today have become more selective when dealing with maternity policy of a firm as their participation have increased in the labour market. The Organisation for Economic Co-operation and Development (OECD) countries for example indicates an increase in women's participation in the labour market from 40 per cent in 1940 to 66.67 per cent in 2004.¹⁰ The study also indicates the trend of women delaying their fertility decision. This is based on the findings

-
6. "On-ramping" or the process of re-entering the workforce after taking a career break (usually to care for family). It is paired with the term "off-ramping", or exiting the workforce as a temporary career break.
 7. Yusuf Emre Akgunduz, and Janneke Plantenga. "Labour market effects of parental leave in Europe." *Cambridge Journal of Economics* 37 (2013): 845-862. doi: 10.1093/cje/bes052. <http://cje.oxfordjournals.org/content/37/4/845.full.pdf+html> (accessed 15 on September 2016).
 8. Executive Office of the President of the United States. "The Economics of Paid and Unpaid Leave." https://www.whitehouse.gov/sites/default/files/docs/leave_report_final.pdf (accessed on 29 September 2016) 3.
 9. Department of Labour of Peninsular Malaysia. "Employment Act 1955." <http://jtksm.mohr.gov.my/index.php/my/akta-dan-peraturan-perburuhan> (accessed on 14 February 2016).
 10. Alicia Adsera. "Vanishing Children: From High Unemployment to Low Fertility in Developed Countries." *American Economic Review* 95, no. 2 (2005): 189–93. doi:10.1257/000282805774669763. https://www.princeton.edu/~adsera/AER05_Final.pdf (accessed on 12 February 2016).

The Effects of Maternity Policy on Women's Fertility Decisions

that fertility rate in all developed countries (except the United States) are below the replacement level of 2.1.¹¹ For Malaysia, the country also experiences declines in total fertility rate of 2.2 in 2010, 2.17 in 2011 and 2.11 in 2012.¹² Adsera also believes that women may consider delaying to have children due to the maternity policy of the firm.¹³ These include maternity leave, job guarantee, cash benefits and others. In other words, the maternity policy of a firm may influence women in making decisions to have children.

This study was set out with several objectives. Firstly, to investigate the differences of maternity policy in public and private sectors and its impact on the fertility decision based on the understanding of the career mothers in the study. Secondly, to look for Islamic concerns in the maternity policies of the firms where the women worked. Lastly, to make some recommendations in approaches by employers to encourage women in making their fertility decisions such as to have children or to increase their number of children.

Methodology

The study was conducted by interviewing five respondents in peninsular Malaysia. All the respondents were working in the government sector, government-linked companies (GLCs) or the private sector. The demographic pattern of all the respondents is depicted in Table 1. The respondents were chosen based on several criteria such as religion, employer, age, salary and number of existing children. The interviews were conducted via phone call, e-mail and mobile application. Given the time for the study, such means were the best options

11. Ibid., 189.

12. Jabatan Perangkaan Malaysia. "Perangkaan Penting Malaysia 2010." http://www.statistics.gov.my/portal/images/stories/files/LatestReleases/vital/Vital_Statistics_Malaysia_2010.pdf (accessed on 30 October 2014).

13. Adsera, *Vanishing Children*, 190.

to represent the general female employee understanding on those sectors pertaining to their firms' maternity policy. The results do not represent Malaysia's implementation of maternity policy as a whole; rather, it stands as an indicative study.

Women Demographic Transition

Malaysia has experienced the changing role of women since 1958 when the government started to embark on an industrial-based economic policy. Traditionally, women have always played the role of managing household chores and raising children.¹⁴ This policy however has increased the demand for the labour market and influenced women to join the labour force. At the same time, Malaysia also has introduced several policies to eradicate poverty and improve education among the people as well as family policies that strengthen the new role of women.¹⁵ Improvements in such policies have changed women's lifestyle. No longer do they merely play the traditional role as the caregiver of the family, but they also participate in the labour market.

Despite massive changes in the demography, the natural function of women in giving birth to the new generation remains and has always been an important issue in the nation's development. Recognising the need for women's maternity demand for leave in the employment, the offer of maternity protection by a firm may therefore influence women's fertility decisions.

Low participation of women in the workforce as a result of child birth and child care in the early period of motherhood is not a favourable condition. This is because the shortage that

14. Zarinah Mahari et al., "Demographic Transition in Malaysia: The Changing Roles of Women." Paper presented at 15th Conference of Commonwealth Statisticians, New Delhi, India, on 7–10 February 2011. http://www.cwsc2011.gov.in/papers/demographic_transitions/Paper_1.pdf (accessed on 22 September 2016).

15. *Ibid.*, 13–14.

The Effects of Maternity Policy on Women's Fertility Decisions

exists in the labour market as a result of off-ramping has to be filled. At certain times, the shortage may be filled by foreign workers. The decision to reduce the number of births also causes a decline in population growth. As a result, the low number of the young generation might accelerate the ageing process of a country since there are only a few young people to replace the elderly.

One of the main consequences of the rise of the ageing population is the increase in the dependency ratio of the non-working to the working population or retirees to workers in social and economic development. The World Bank calculates the dependency ratio by taking the number of people younger than 15 or older than 64 to the working-age population.¹⁶ This means that the ratio indicates the load for every 100 working-age population.

The nature of women as mothers encourages them to spend time to raise children, especially in the early years of childhood. Participation of women in the labour market, however, has led them to have a constraint in time for that purpose which eventually results in a decrease in fertility rate.¹⁷ This view is also shared by Mahari et al. who add that fathers traditionally merely play a small role or do not contribute at all in the process of raising children.¹⁸

Moreover, demographic changes that occur from the participation of women in the labour market can cause an individual to defer marriage. This happens when women have the chance to acquire a higher level of education and skills.¹⁹ On the other hand, educational qualification is significant to place and rank of women in society.²⁰ As such, women may

16. The World Bank. *Age Dependency Ratio (% of working-age population)*. Retrieved from <http://data.worldbank.org/indicator/SP.POP.DPND> (accessed on 15 February 2017).

17. Adsera, *Vanishing Children*, 189.

18. Mahari et al., *Demographic Transition*, 3–4.

19. *Ibid.*, 16.

20. Che Rose and Ahmad, *Peningkatan Pendidikan Menjejaskan Fertiliti Penduduk Tempatan*, 52.

postpone their marriage and give birth at a later age that may eventually affect their fertility.

For a country that still adheres to the Eastern culture and Islam as a way of life such as Malaysia, marriage is the only legitimate way to conceive biological children. In most cultures, married women depend on their husbands for their financial source. The participation of women in the workforce today, however, generates a new perspective when women no longer solely rely on men as their financial source. Career women have become more independent since work allows them to have access to many things.²¹ Therefore, there is a tendency for women to remain single and this affects the fertility rate as a whole.²²

The value put on children also changes over time and affects fertility rate. Traditionally, children are considered as assets especially in an agriculture-based economy. As more children are born into one family, the potential labourers who can work on the farm also rise.²³

When changes take place in the social and economic structure in a nation, children are seen as a liability instead of an asset. For example, the education policy which requires a child to be sent to formal school increases the cost of bearing children. Participation of women in the workforce also requires care for their children while they are at work which incurs costs. Hence, due to such factors, the number of children is viewed as less significant compared to the quality of children in a family.

Islamic Perspective of Career Women

Islam regards both men and women equally based on their faith in the religion. On this account, women are capable and

21. Ibid., 53.

22. Mahari et al., *Demographic Transition in Malaysia*, 17–18.

23. Ibid., 13.

The Effects of Maternity Policy on Women's Fertility Decisions

required to carry out God's commands.²⁴ The general rule for women to work outside the home is based on the verse in the holy Qur'an that, "Men shall have a benefit from what they earn, and women shall have a benefit from what they earn."²⁵ Also, a ḥadīth narrated by Bukhārī that, "No food is better to man than that which he earns through his manual work"²⁶ indicates the general ruling for humans to work for a living. However, for Muslim women who decide to work outside the home, several conditions have to be met. Amongst the conditions are that they have to get permission from the *walī* or husband, to observe the *sharī'ah* requirements that is to ensure their *'awrah*²⁷ are properly covered and to not neglect their primary role towards the family and others.²⁸

In general, there are two major schools of thought regarding women in general and women in labour participation which are; the traditional *'ulamā'* and the modernist *'ulamā'*.²⁹ Sidani stresses the opinion of both the traditional views particularly that of Sheikh Abdel-Aziz Bin Baz (1912–1999), and the modernist *'ulamā'*, Muhammad Al-Ghazali (1917–1996), which did not oppose the idea of women in the labour market in general, but, highlighted the basis of segregation between males and females.

24. Yusuf Sidani. "Women, Work, and Islam in Arab Societies." *Women in Management Review* 20, no. 7 (2005): 498–512. https://www.researchgate.net/publication/235273264_Women_work_and_Islam_in_Arab_societies (accessed on 22 September 2016). doi:10.1108/09649420510624738.506.

25. *Al-Nisā'* (4):32.

26. Hadith narrated by Bukhārī; *Sahih Bukhārī*, 2 no: 1019. <http://sigir.uitm.edu.my/webhadis/dapatQH.php?bukhari=1&mula=0&pmul a=1&dan=1&akar=makanan&go=Cari> (accessed on 21 September 2016).

27. In Arabic, the word, *'awrah*, refers to, among other things, one's private area. This is defined according to Islamic laws the entire body, except the face and hands, of women.

28. Zaharuddin Abd Rahman. "Hukum Wanita Bekerja Dengan Keputusan Fiqh Dunia." 2007. <http://www.zaharuddin.net/lelaki-&wanita/582-hukum-wanita-bekerja-dengan-keputusan-fiqh-dunia.html> (accessed on 12 May 2016).

29. Sidani, *Women, Work, and Islam*, 502–503.

While the former made a strong opinion that women shall only work in female dominant areas (such as medical care, nursery care, education) and opposed the idea of women working in male dominant sector, the latter, however, acknowledged labour participation for women in an environment where a certain amount of mixing between the genders is expected within *sharī'ah* limits.

In general, as far as all *sharī'ah* requirements are concerned, women could work outside their home provided that they follow the guidelines accordingly. The requirements are drawn not to discriminate women in the labour sector but to protect and value them for their knowledge, skills and expertise.

Data Analysis and Discussions

Demographic Pattern

As one of the objectives of this research is to explore the Islamic concerns in maternity policy, it also indicates the respondents' understanding of their beliefs. Hence, all of the interviewees chosen for this study are Muslim women with children.

Two of the interviewees are from the government sector and GLCs. The remainder is from a small company in the private sector. The ages of all the respondents range between 30 to 49 years. The age range³⁰ is still considered as a productive period according to statistical perspective at least in Malaysia.³¹ In another country like the United States, the

30. The ages between 15–49 years old are considered as the reproductive age according to the statistical perspective of the Department of Statistics Malaysia.

31. Department of Statistics Malaysia. "Vital Statistic, Malaysia 2014." https://www.statistics.gov.my/index.php?r=column/cthemByCat&cat=165&bul_id=akZOby9EYThSQ3V3WHpZSEdjeU50dz09&menu_id=L0pheU43NWJwRWVVSZklWdzQ4TlhUT09 (accessed on 22 September 2016).

The Effects of Maternity Policy on Women's Fertility Decisions

reproductive ages are between 15 to 44 years old.³² WHO also refers the productive age for women between 15 to 44 years old.³³ However, for the purpose of this paper, this writer has considered the child-bearing age as used by the Department of Statistics Malaysia. These demographic patterns of the respondents as accordance to their sectors are depicted in Table 1 below:

Table 1: Demography of respondents

		Age	Education	Income	Years Worked	Number Of Children
GLCs	R1	30–39	Degree	≥RM5000	8	2
	R5	30–39	Degree	≤RM2000	10	1
Government	R2	30–39	Master's degree	≥RM5000	3	2
	R3	30–39	Diploma	≤RM2000	8 months	2
Private	R4	40–49	Master's degree	≥RM5000	5	5

Based on the interviews, all sectors have their structured maternity policy. It varies according to the size and type of the firm. In addition, the policy varies in terms of the post of the particular staff, that is, permanent or non-permanent (contract). All respondents indicated a certain degree of

32. Gladys Martinez, Kimberly Daniels, and Anjani Chandra. "Fertility of Men and Women Aged 15–44 Years in the United States: National Survey of Family Growth, 2006–2010." *National Health Statistics Reports*, no. 51 (2012): 1–28. <http://www.ncbi.nlm.nih.gov/pubmed/22803225> (accessed on 20 April 2016).

33. World Health Organization. *Women's Health*. Geneva: WHO (September 2013). <http://www.who.int/mediacentre/factsheets/fs334/en/> (accessed on 22 September 2016).

awareness in the maternity policy of each sector. However, not all of the interviewees were acutely aware of the particulars of such a policy.

Based on Table 2, respondents from all sectors had varied understanding on general maternity policy. Four of them, except R3 believed that maternity policy according to their understanding should include covered antenatal and postnatal healthcare, paid maternity leave and childbirth-related expenses. However, not all sectors provided such ‘standard’ provisions in their maternity policy. For example, even though respondent three (R3) was working in the government sector; she did not enjoy all of the ‘standard’ provisions in the maternity policy especially the paid maternity leave provision like her fellow government servant, respondent two (R2) as her employment was on contract basis.

Mothers who do not work in the government sector have different opinions about maternity policy. According to them, maternity policy also includes breastfeeding breaks. Moreover, they believe that paternal leave should also be included in the maternity policy of a firm.

A study by Hapsah Mohd Dusa et al. shows that there is lack of awareness among career mothers to exclusively breastfeed their children.³⁴ In addition, Daud and Kusrin believe that on-ramping is the primary factor why career mothers do not continue to breastfeed their children.³⁵ As the benefits of breastfeeding have only been discovered in recent times and it has become a global movement, this has led career mothers to demand flexibilities including breaks for them to

34. Syamilah Musa, Azimah Mohd Masr, and Mohd Norzi Nasir. “Penyusunan Susu Ibu Menurut Perspektif Islam.” Vol. 2015. <http://rnc.kuis.edu.my/world-ar/wp-content/uploads/2015/11/WAR-37-PENYUSUAN-SUSU-IBU-MENURUT-PERSPEKTIF-ISLAM.pdf> (accessed on 13 May 2016).

35. Normadiyah Daud, and Zuliza Mohd Kusrin. “Penyusunan Susu Ibu: Prinsip, Hak Dan Kewajipannya Menurut Perspektif Islam.” *Jurnal Pengajian Islam, Akademi Islam KUIS* 7, no. 1 (2014): 155–73. http://www2.kuis.edu.my/e-jurnal-pengajian-islam/wp-content/uploads/2014/11/Art_9.pdf. (accessed on 14 May 2016).

The Effects of Maternity Policy on Women's Fertility Decisions

continue breastfeeding when they are on-ramping.³⁶

On the other hand, the Malaysian government has started to implement the 90-day of maternity leave option since 15 October 2010.³⁷ For this option, a civil servant mother may choose a number of leave of 60 days up to 90 days per delivery that does not exceed 300 days of her lifetime service.

In the study conducted, all of the sectors were found to practise the option of the 90-day maternity leave. However, both private and GLC sectors are not obliged to follow the government's new provision on maternity leave. That is why both respondents from the GLC sector opted for a different number of maternity leave.

The reason to opt for a 90-day maternity leave varies among respondents. The common factor for these mothers is simply to have ample rest and regain their strength after delivery. Another reason is for them is to bond with the newborn. However, this author finds that even though the population welcomes the new amendment in the government maternity policy, the specific provision that binds mothers up to 300 days leave per lifetime service is similar to the old version.

In simple calculations, if a mother intends to take the maximum paid maternity leave of 90 days, she is only entitled to do so up to three deliveries. If she intends to have more than three children later, she only qualifies for unpaid leave or unpaid child care leave under the new provision.³⁸ The concern perhaps on the declining fertility rate in 2010 onwards has a relevance with the new provision. Nevertheless, such an assumption is still premature.

36. United Nations Children's Fund. *Penyusuan Ibu—Hak & Cabaran*. Geneva: UNICEF (n.d). http://www.unicef.org/malaysia/msl/Breastfeeding_Challenges_and_Rights_BM_-_edited.pdf. (accessed on 14 April 2016).

37. Public Service Department. "Pekeliling Perkhidmatan Bil 14 Tahun 2010. Kemudahan Cuti Bersalin Pegawai Perkhidmatan Awam JPA (Public Service Circular Vol. 14 Year 2010. Maternity Leave for Civil Servants)" 3, no. 63: 1–9 (2010). <http://docs.jpa.gov.my/docs/pp/2010/pp142010.pdf> (accessed on 23 April 2016).

38. *Ibid.*, 2.

Despite the issue, it is interesting to find that one respondent (R2) firmly expressed her willingness to take unpaid leave after her third delivery as long as she gets ample time to rest. However, in this particular case, the respondent (R2) is a civil servant and earns more than RM5,000 per month, which indicates that she might not face difficulties in terms of finance and job security if she were to choose the option.

Compared to respondent three (R3) whose salary is below RM2,000 per month and a civil servant too, financial constraints bound her to opt for the number of maternity leave she is eligible for since each non-working day would affect her financially. Thus, even though both expressed similar intention for more children in the future, one would be affected adversely due to financial constraint. The situation actually reveals implicitly that the current practice of maternity leave duration may affect the mother's decision to have more children if she so wished.

In the same interview, one GLC (R5) and private sector cover birth-related expenses up to 80 per cent which gives the mothers more options to choose other than government healthcare centre for delivery.

The comparison on awareness, understanding and differences of maternity policy among the various sectors is shown in Table 2 below:

Table 2: Comparison of understanding on maternity policy between different sectors

Sector		Awareness	General Understanding	Special Policy	Maternity Leave
Government	R2	Yes	Covered antenatal and postnatal healthcare, childbirth related expenses and paid maternity leave	No need to teach when almost due	90 days for ample rest
	R3	Yes	Covered antenatal and postnatal healthcare, childbirth related expenses	No special policies	60-day unpaid maternity leave
GLC	R1	Yes	Covered antenatal and postnatal healthcare, childbirth related expenses and paid maternity leave	five deliveries for a two-month leave and three deliveries for a three-month leave	90 days for ample rest
	R4	Yes	Covered antenatal and postnatal healthcare, childbirth related expenses, paid maternity leave and paternity leave	five deliveries for a two-month leave and three deliveries for three month-leave. Covers 70 per cent of the expenses	90 days

Sector		Awareness	General Understanding	Special Policy	Maternity Leave
Private	R5	Yes	Covered antenatal and postnatal healthcare, childbirth related expenses, paid maternity leave and breastfeeding breaks	80 per cent charges on maternity expenses covered by company	60 days due to company's policy

Provision on Breastfeeding Breaks

All sectors do not list breastfeeding breaks as one of the provisions of their maternity policy according to the respondents' understanding. Despite the absence of this policy, these sectors do not object to their female workers taking breastfeeding breaks. The implicit non-prohibiting policy indicates that all sectors acknowledge the practice of breastfeeding as part of a mother's routine even though it is not formally stipulated in the firms' policies.

Despite this, some mothers chose not to take breastfeeding breaks (R1 and R3) during working hours. The mother (R1) believed that lunch break was enough for her to do so. For other mothers (R2, R4 and R5), they were committed to taking the breaks to fully breastfeed their babies. The Baby Friendly Initiative Programme by UNICEF for example, suggests that a mother should not take a long gap of more than four hours during the day and six hours during the night to express her milk³⁹ in order to maintain the volume of milk supply for her baby. This is the reason why some mothers need breaks during

39. United Nations Children's Fund. *Assessment of breastmilk expression*. Geneva: UNICEF (n.d). http://www.unicef.org.uk/Documents/Baby_Friendly/Guidance/breastmilk_expression_checklist_may_2013.pdf (accessed on 23 April 2016).

The Effects of Maternity Policy on Women's Fertility Decisions

working hours to ensure that they are able to carry out their efforts.

In this survey, it is suggested that the existence of the breastfeeding provision in a firm's maternity policy does not affect the mother's decision to breastfeed her baby. An absence of this provision under the maternity policy also shall not affect the mothers' decision to conceive. This is because according to the interviews, the decision to take breastfeeding breaks depends on the mother's decision to feed her baby and the flexibility her work allows.

Family Planning

In this study, it is found that policies in the working sector do not influence the mother to practise family planning. Different respondents gave different reasons to practise family planning. In the GLCs, for example, respondent one (R1) did not practise family planning while another respondent, (R5) did so for medical reasons as professionally advised. On the other hand, in the government sector, respondent two (R2) stressed the duration of breastfeeding as the reason for her to practise family planning while her fellow civil servant chose not to. One respondent (R4) argued that many other factors had to be considered by women to practise family planning. These include the existing children, the age of the mother, her health condition and socio-economic status.

All respondents agreed that their firms' maternity policy did not influence their decision to practise family planning or, in other words, their decision to bear children.

Islamic elements in maternity policy

The discussions on maternity policy thus far have led to another salient issue which is Muslim career women. As stated earlier, Muslim women are able to have careers as their male counterparts when certain conditions are met. Thus, beyond

this permissibility and the necessity of women employment, Islam has concerns on matters that arise when career mothers adopt on-ramping, that is, in areas of social support system. One such concern of this so-called system is the maternity policy in the labour force.

Breastfeeding Routine

In this study, interviewees were asked the extent of their understanding about maternity policy from the Islamic perspective. All of the respondents except respondent five (R5) expressed only one common aspect; which is, Islam has underlined some guidelines to encourage career mothers to breastfeed until the baby reaches the age of two. In other words, the respondents' view that breastfeeding routine is the only aspect of maternity policy Islam touches on.

Daud and Kusrin⁴⁰ and Musa et al.⁴¹ also highlight breastfeeding routine upon on-ramping from the Islamic perspective. The continuation of breastfeeding is vital according to respondents and the studies cited even though the mothers are not around all the time with their babies. However, the Islamic aspect of maternity policy not only emphasises breastfeeding, but covers many other aspects pertaining to the needs of the career mother.

Antenatal and Postnatal Healthcare

Another salient issue under maternity policy is the provision for antenatal and postnatal healthcare. Antenatal routine check-ups require mothers to see medical personnel for various procedures such as regular blood pressure tests, regular urine tests, foetal locating, foetal heartbeat checks, blood test,

40. Daud and Kusrin, *Penyusuan Susu Ibu*, 170.

41. Musa et al., *Penyusuan Susu Ibu Menurut Perspektif Islam*, 245.

The Effects of Maternity Policy on Women's Fertility Decisions

ultrasound and others.⁴² Some of these procedures require the mother to reveal a part of her body such as the abdomen.

The issue of *‘awrah* for expectant mothers and other women in general is a concern when they are required to undergo some procedures that require them to reveal part of their *‘awrah* assisted either by the same or opposite gender of the medical personnel.⁴³ In general, the stance of the *fuqahā’* on such an act is that it shall be considered as permissible under *darūrah*⁴⁴—a life threatening situation—and *hājīyah*—a necessity.⁴⁵

Ismail et al. further explain that even though antenatal check-up is a routine procedure, disregarding such a procedure shall not fulfil the welfare objective of the expectant mother even though it threatens neither her nor the unborn child at the material time.⁴⁶ Therefore, the study refers such permissibility to reveal or touch the specific parts of the mother’s *‘awrah* (for certain antenatal procedures) as under *hājīyah*⁴⁷—a requirement

-
42. Baby Center Malaysia. *Pemeriksaan pranatal di klinik-klinik kerajaan*. Malaysia. <http://www.babycenter.com.my/a1050709/pemeriksaan-pranatal-di-klinik-klinik-kerajaan> (accessed on 12 January 2017).
43. In Malaysia, most government antenatal and postnatal check-ups (healthcare centres) for mother and baby are conducted by female medical personnel except for certain procedures, and doctor’s availability (when the mother is required to see the doctor) or for further specialist advice.
44. “A state of necessity on account of which one may omit doing something required by law or may do something illegal.” See *The Oxford Dictionary of Islam*. <http://www.oxfordislamicstudies.com/article/opr/t125/e505> (accessed on 17 January 2017).
45. Ismail et al. “Keperluan Membuka Aurat Ketika Rawatan Antenatal Menurut Perspektif Maqasid Al-Syari’ah” *Jurnal Islam Dan Masyarakat Kontemporari* 12 (2016): 57–69. <https://www.google.com.my/url?sa=t&rct=j&q=&esrc=s&source=web&cd=15&cad=rja&uact=8&ved=0ahUKEwjD44q1k7zRAhWLSl8KHeqLB1c4ChAWCDgwBA&url=https://journal.uniswa.edu.my/jimk/index.php/jimk/article/download/1477/112&usq=AFOjCNEOekfELGPqB7VSUy6u23evyfu8AA&bv=m=bv> (accessed on 16 January 2017).
46. *Ibid.*, 49.
47. “*The needs and wishes of human beings. It is to eliminate the difficulties and obstacles that can lead to hardship.*” See Jabatan Kemajuan Islam Malaysia. *Maqasid Shariah as the Basis of Community Well-Being*. http://www.islam.gov.my/images/eKhutbah/maqasid_syariah_asas_kesejahteraan_ummah_-_english.pdf (accessed on 17 January 2017).

to preserve the welfare of the mother and the unborn child; and to be considered as *rukhsah*.⁴⁸

However, since the *hukm* falls under *ḥājīyah*, Ismail et al. then explain that the permissibility shall consider merely the necessary areas; for example, when using the palpation technique to locate the foetus by touching the abdominal area, auscultation fetal heart tone, ultrasound and cardiotocography (CTG) by exposing the abdomen up to the area close to the vagina.⁴⁹ For other antenatal procedures that can be delayed, i.e. non-emergency situations such as other abdominal and vaginal inspection, the mother shall be given an option to refer to female medical personnel at a later time.⁵⁰

However, in such a modern age, some mothers prefer male medical personnel for their antenatal check-ups. The preference is solely based on the good reputation or services offered by private medical centres. In non-life threatening situations, Ismail et al. further explain that, the mother should seek female medical personnel.⁵¹ This is because the antenatal procedures are routine and are considered neither *ḍarūrah* nor *rukhsah*.

A study in the UK shows that women from ethnic minorities bear double risk of death due to pregnancy or delivery compared to white women.⁵² Amongst the reasons cited for the situation experienced by married couples from Muslim minority groups are discomfort and embarrassment

48. “An exception to a general law, granted to preserve life or remove hardship, such as the allowance for a pregnant woman to refrain from fasting during Ramadan.” See *The Oxford Dictionary of Islam*. <http://www.oxfordislamicstudies.com/article/opr/t125/e2029> (accessed on 17 January 2017).

49. Ismail et al., “Keperluan Membuka Aurat Ketika Rawatan Antenatal,” 49–50.

50. *Ibid.*, 50.

51. *Ibid.*

52. Nasreen Ali and Helen Burchett, Public Health Policy Officer & Maternity Alliance, *Experiences of Maternity Services: Muslim Women's Perspectives*. United Kingdom: Maternity Alliance. <http://www.maternityaction.org.uk/wp-content/uploads/2013/09/muslimwomensperiencesofmaternityservices.pdf> (accessed on 12 January 2017).

The Effects of Maternity Policy on Women's Fertility Decisions

due to the lack of privacy in hospitals and lack of female staff in attendance for some antenatal procedures.⁵³ Such a situation can be overcome since Islam values both the lives of the mother and the unborn child. Hence, members of the Muslim minority groups are allowed to receive antenatal check-ups despite the limited options available in terms of medical personnel and privacy in the hospital.

Maqāsid al-sharī'ah allows the *ḥukm* for mothers to get treatment under maternity consideration. Mothers are still allowed to undergo antenatal procedures even with limited options in terms of medical personnel, medical centres and others. In worse cases when they are just too embarrassed with male medical personnel, they have to be reminded of the importance of their health. On the other hand, they are not allowed to abuse the '*darūrah*' or '*rukhsah*' provision by 'purposely' choosing the opposite gender to conduct routine antenatal procedures on them when female medical staff are available.

This paper shows that the antenatal care and childbirth related expenses of all interviewees were covered by their employers. Specifically, R2 and R5 who worked in GLC and the private sector explicitly said that their maternity healthcare and child delivery expenses were 70 per cent and 80 per cent covered respectively by their employers. R1, who was also in a GLC, also enjoyed the same privilege even though she did not mention explicitly the coverage expenses range in the interview. In other words, they had the option to seek medical treatment from private medical centres that might offer them more choices in terms of medical personnel, privacy and satisfaction. Awareness on Islamic antenatal guideline therefore is essential for mothers that have such a privilege. In this paper, the interviewees had expressed the breastfeeding routine as the only Islamic element included in maternity policy rather than other aspects such as antenatal check-ups.

53. Ibid.

Terms and Conditions in Employment Contract

Awareness on the importance of participation of women in the workforce as well as the need for a strong, contented and balanced family is increasing; and therefore, demands women to strive for both goals. As such, issues on maternity protection constitute never ending discussions. Women all over the world keep demanding treatment like their fellow sisters in different areas in terms of maternity protection like paid maternity leave of up to six months, paternity leave, child care centres at the work place, more subsidies and others.

In this regard, Islam deals with the issue from the basic, that is, the hiring contract between the employer and the employee. A contract in general according to Islam is a legal relationship created from conjunctions of two declarations that bring legal consequences of the subject matter.⁵⁴ It consists of four pillars; the contracting parties, offer and acceptance, consideration, and subject matter.⁵⁵ The basis of hiring contract in Islam is *ijārah*—“a contract for hiring of services of a person for a specified period in exchange for a specified consideration.”⁵⁶ In an *ijārah*, both employer and employee are considered agreeable on the terms and conditions pertaining to the job offered once the offer and acceptance are concluded.

Thus, with regard to demands to improve maternity policy in a firm, the employee is deemed to agree to the firm’s policy once she accepts the employment offer. This applies to all the interviewees in the study conducted even though they believed their firm should improve the current practice. However, any suggestions to improve the firm can always be

54. Ahmad Mudahir Omar, “An Overview Of Shariah Contract Practice In Malaysian Islamic Banks.” Paper presented on 17 March 2010 at the Seminar on *Islamic Finance*. <http://www.bankislam.com.my/en/Documents/shariah/AnOverviewOfShariahContractPractice.pdf> (accessed on 16 February 2017).

55. *Ibid.*, 6.

56. Bank Negara Malaysia. *Ijarah*. (Kuala Lumpur: BNM, 2016).

forwarded to the management including that on maternity policy.

Usually, maternity policy incurs cost on a firm. The costs include salary for extended paid maternity leave, antenatal and postnatal healthcare, establishing childcare centre at the workplace and many more. Large and strong firms may consider deliberating the improvement in maternity policy for the sake of reputation and human resource productivity. On the other hand, a small firm will find any additional provision from the existing maternity policy a burden to them. Thus in Islam, it appears as an injustice to force all firms or sectors to practise the same policy when they are of different size, capital, production and others.

However, if such a demand is relevant and highly needed, therefore in Islam, the government intervention is required. For example, the current National Employment Act secures the minimum standard pertaining to maternity protection to be carried out by each employer like the Malaysia Employment Act 1955. Any important yet costly provision under maternity policy that needs to be nationalised, therefore should have government intervention in terms of granting subsidies, rebate, enforcement and others for the sake of human development and economic productivity.

Views on out-of-wedlock pregnancy

In the survey interview conducted, a sensitive question was raised pertaining to the rights of single mothers in the firm's maternity policy. A single mother in this survey refers to a non-married woman who conceives and delivers her biological child.

Table 4: Response on out-of-wedlock pregnancy

Respondent	Response
R1	Non-married single mothers should be covered in firm's maternity policy but acknowledged the condition as a serious social problem.
R2	Non-married single mothers should be covered in firm's maternity policy.
R3	Non-married single mothers should be covered in firm's maternity policy for the sake of innocent babies.
R4	Non-married single mothers should be covered in firm's maternity policy to protect the physical and emotional health of both mother and baby.
R5	Non-married single mothers should be covered in firm's maternity policy. However, the firm holds the ultimate decision.

This section intends to assess the extent of the relationship between the increasing number of children born out of wedlock in Malaysia specifically among Muslims⁵⁷ and the reality that the mothers need to raise them by means of formal work. The concern is to view how people and firms in various sectors react to the issue at a workplace especially in relation to maternity policy.

Formal discussions on how to deal with pregnant unmarried career women is rather scant. In the government sector, any individual convicted as guilty under the *shari'ah* guideline such as gambling and adultery shall be put under

57. According to the National Registration Department (JPN), registered Muslim children born without fathers' particulars increased from 13,545 in 2006 to 16,100 in 2007, 16,541 in 2008, 17,303 in 2009 and 17,490 in 2010. The same source also reveals one out of ten respondents in out-of-wedlock pregnancy is a civil servant. See Nur Syahidah Abdul Jalil, ed., *Menangani Zina & Pembuangan Bayi: Analisis Sosial Tentang Zina Berdasarkan Data Kajian Mengenai Kehamilan Luar Nikah di PPUKM*. (Kuala Lumpur: Penerbit IKIM, 2012), 15, 25.

The Effects of Maternity Policy on Women's Fertility Decisions

disciplinary action that include warning, wage or job suspension and even job loss.⁵⁸

Table 4 indicates all respondents believe that non-married single mothers should be included as beneficiaries in the firm's maternity policy for the sake of both the mother and baby's health. However, they acknowledge that it is a serious social problem and caution should be exercised in dealing with it.

Even though a deep concern was expressed by respondents in the interviews, it is understandable if any firm from any sector take disciplinary action or exclude the non-married single mother in their maternity policy since Malaysia is an Islamic country which adheres to high moral value and does not condone to such a social practice. However, any out of wedlock pregnancy case should be investigated. If such cases arise due to unwanted events such as rape, sex slavery, incest and others, the firm should take proper and suitable discretionary measures under its maternity policy towards the mother for her sake and that of her child.

Improvement in Maternity Policy

Even though one respondent from GLC (R1) believed that the current maternity policy in her workplace firm was sufficient to cater to the motherhood needs of its female employees, others believed otherwise. All other respondents argued that even though the breastfeeding provision was not explicitly stipulated in all sectors' maternity policy, the employer should encourage breastfeeding breaks by providing a nursing room in the firms. In addition to that, longer maternity leave of up to six months should be considered to enhance the mother's productivity after delivery since she would have ample time to rest and bond with her newborn.

58. Jabatan Perkhidmatan Awam. "Kelakuan dan Tata tertib." <http://www.jpa.gov.bn/BPK/Tatatertib.aspx> (accessed on 16 February 2017).

Another suggestion to improve the firm's maternity policy in this survey is by including married couples who adopt newborn babies. The provision may not be inclusive to the standard maternity policy but by giving appropriate maternity leave to the adopted mother, for example, may help her adapt to the new motherhood environment and bond with the adopted baby.

Findings and Conclusion

In the data analysis section, the survey shows that maternity leave does not give significant impact to the women's fertility as far as this study is concerned. Even though some sectors only offer 60 days of maternity leave or only three covered deliveries if the mother chooses 90 days of leave, the issue of the leave duration and its relation to the number of children delivered does not arise perhaps because the implementation of the 90-day leave is quite recent that is, in 2010 and it assumes to be ample for mothers. Be that as it may, a respondent has implicitly voiced out that longer maternity leave may incur financial loss on her since she is only entitled for unpaid maternity leave.

All sectors also do not implicitly object to breastfeeding even though it is not included as one of the provisions in their maternity policies. Family planning is regarded as a private matter for employees since the survey indicates that the firms' policies such as covered maternal and childbirth expenses up to five deliveries (for a 60-day leave per childbirth option) or three deliveries (90-day leave per childbirth option) do not give impact on the mothers' decision to have children.

Islam, in general, focuses on how to address any issues that arise pertaining to difficulties faced by career mothers and their employers. Islam upholds justice for both employer and employee. It does not generalise any standard requirement on either party. In addition, Islam urges for government intervention in any important and macro policy for the advantages of national development. This paper also

The Effects of Maternity Policy on Women's Fertility Decisions

finds that the misperception career mothers have of the two-year breastfeeding duration as the only factor that Islam gives concern over when there are other areas that have been overlooked. In fact, Islam lays down such concerns in the form of guidelines such as antenatal and postnatal healthcare and terms and conditions in employment contracts.

Besides that, all respondents viewed that sectors should improve their maternity policies. Some provisions such as providing childcare centre at the workplace, breastfeeding break, nursing room and extension of maternity leave up to six months should be taken into consideration to encourage women to stay in the labour market and to enhance their productivity after delivery. Moreover, as the establishment for childcare centre at the workplace has yet to be made mandatory, the maternity policy should also include special paid leave to tend to sick children.

Family policies as implemented by many countries may have several objectives such as improving child health and securing their welfare, reducing poverty, increasing fertility rates and others.⁵⁹ Specifically, the maternity leaves as introduced by governments act as a form of incentive to female employees⁶⁰ to be able to have children and work at the same time.

Studies carried out in developed economies have shown that female labour force participation is influenced by maternity leave⁶¹ and child care provision⁶². However, in this survey, it is found that maternity policy does not directly affect women's fertility at least in the respondents' firm. In fact, should they decide to deliver more children, then that is mainly for personal reasons which view children as blessings, and the experience of two years of breastfeeding as a meaningful life journey, among others.

59. Somali Cerise et al. *How Do Maternity Leave and Discriminatory Social Norms Relate to Women's Employment in Developing Countries?*. 2013. Paris: OECD. [https://www.oecd.org/dev/poverty/OECD_DEV_\(2013\)_-SIGI_and_Maternity_Leave.pdf](https://www.oecd.org/dev/poverty/OECD_DEV_(2013)_-SIGI_and_Maternity_Leave.pdf). (accessed on 16 May 2016).

60. *Ibid.*, 4.

61. Adsera, *Vanishing Children*, 190.

62. Cerise et al., *Maternity Leave and Discriminatory Social Norms*, 5.

In addition, it is important to realise the supporting role fathers play in caring for children as their wives enter the labour sector. This is because, taking a larger share of child caring responsibilities by men like provision of paternity leave represents a shift in attitudes towards equal parenting roles in the labour market. The situation therefore enables women to on-ramp the labour sector with minimal career disruption.⁶³

As the sample for the survey conducted is small, the result does not represent the whole segments of labour sectors in Malaysia nor Malaysian female employees. Further studies with bigger sample size should be conducted to get a more precise result on how maternity policy affects fertility since many of the literatures suggest a negative relationship between both aspects and the declining fertility rate.

63. Ibid.