

Living Hadith: The Role of Husband and Wife in Family Law

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ABSTRACT

In fostering a family, of course, husband and wife both have rights and obligations in playing their role. It's just that sometimes, each party does not fully understand each other's wars. So that what happens results in the erosion of the integrity of a family. This is more in the selfish attitudes that arise when problems occur. The husband proudly assumes that he has full power over his wife so that he must treat her badly. So the wife, sometimes always demands and blames her husband for not being able to provide all his needs and desires. Whereas in the words of the Messenger of Allah it is very clear that the husband has a role as a good leader, is responsible and must be understanding. His wife also as the leader must always obey and take care of household affairs as well as possible. This study uses library research with a living hadith approach. The results achieved are that there are four patterns of husband and wife roles: 1) Senior-Junior Partner pattern, 2) Equal Partner Relationship, 3) deliberation pattern and 4) maintenance and protection pattern.

ABSTRAK

Dalam membina sebuah keluarga, tentunya suami istri sama-sama memiliki hak dan kewajiban dalam menjalankan perannya. Hanya saja terkadang, masing-masing pihak tidak sepenuhnya memahami perang satu sama lain. Sehingga apa yang terjadi berakibat pada terkikisnya keutuhan sebuah keluarga. Ini lebih pada sikap egois yang muncul ketika masalah terjadi. Sang suami dengan bangga menganggap bahwa dia memiliki kekuasaan penuh atas istrinya sehingga dia harus memperlakukannya dengan buruk. Maka sang istri terkadang selalu menuntut dan menyalahkan suaminya karena tidak mampu memberikan segala kebutuhan dan keinginannya. Padahal dalam sabda Rasulullah sangat jelas bahwa suami memiliki peran sebagai pemimpin yang baik, bertanggung jawab dan harus pengertian. Istri juga sebagai pemimpin harus selalu patuh dan mengurus urusan rumah tangga dengan sebaik-baiknya. Penelitian ini menggunakan penelitian kepustakaan dengan pendekatan living hadits. Hasil yang dicapai adalah terdapat empat pola peran suami istri: 1) pola Senior-Junior Partner, 2) Hubungan Mitra Sederajat, 3) pola musyawarah dan 4) pola pemeliharaan dan perlindungan.

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I. INTRODUCTION

The roles of men and women appear more stretched when the marriage has begun to form an Islamic family.¹ The culture and customs in Indonesian Islamic families, men as husbands have a role, and women as wives also have a role which of course should not be the same as the husband's role. The husband is the head of the family while the wife is the housewife. The head of the family is in charge of earning a living, nurturing and guiding his wife and children. Meanwhile, the wife is identical with the domestic affairs of the family. Managing the household, taking care of children and cooking (cooking, macak and manak).² In the early 20th century, the Dutch succeeded in brainwashing women since ethical politics was introduced. At that time, the Dutch established schools in the country which then had an impact on the entry of women into the public sphere with men as partners. For example, it can be seen with the coronation of Katini as an Indonesian female hero. Besides that, women have started to have the will to progress and get out of the clutches of patriarchal culture. As a result, women have a dual role in Islamic family life in Indonesia. The dual role referred to here is a domestic role and a public role born of self-actualization needs and financial needs.³

Mufidah in her research on *Gender in Islamic Boarding Schools*, reveals some interesting facts about the role of women in Indonesian Islamic families. He explained the fact that the husband's job is to make a living (the public), while the wife is in charge of taking care of the household at home and the domestic world. In addition, according to him, society allows women to work in public spaces if in an emergency and urgency. And even then on the basis of permission and pleasure from the husband. Because public space is not the habitat of women.⁴ Issues that come back related to womanhood seem to blame Islam. Because Islam is alleged to have dwarfed the role of women. Islam is considered the cause of poor understanding of women which seems to be the cause of slander. So the interpretation of az-Zamakhsyari, Fakhruddin ar-Razi, Ibn Kathir and al-Maraghi which emphasizes the superiority of men over women in interpreting surah an-Nisa' verse 34, as well as Imam Shafi'i which states that women are half men who have territory work only in the domestic field, is considered patriarchal. This understanding is purely because of differences in understanding the sacred texts. Because it is impossible for Allah swt to create women with inferior qualities and be the cause of fitnah.⁵

The rule of Islamic family law in Indonesia became legal and binding after the birth of the Marriage Law (UUP) Number 1 1974. Then, Presidential Instruction (Inpres) number 1 of 1991 related to the dissemination of the Compilation of Islamic Law (KHI) which included marriage, inheritance and waqf increasingly provide a bright spot on the state's attention to Islamic family law in Indonesia. This is a milestone in the history of the implementation of Islamic law in Indonesia, especially with regard to the field of munakahat or marriage. So that the Islamic family rules contained in the Koran, hadith and classical fiqh can be brought to life, become the basis and guidelines and are binding with the legalization of the state.⁶

The existing literature to the best of the author's knowledge can be seen in the following articles: 1) Mufidah Ch, *Gender in the False Islamic Boarding School, Why Not?...*, 160; 2) Insiyah, "Analysis of the Equality of Rights and Duties of Husband and Wife from the Perspective of Musdah Mulia in the Concept of Renewing Islamic Families in Indonesia." *Indonesian Journal of Islamic Law*, Vol. 1, No.

¹ Zahra Zaini Arif, "Peran Ganda Perempuan Dalam Keluarga Perspektif Feminis Muslim Indonesia," *Indonesian Journal of Islamic Law* 1, no. 2 (August 26, 2019): 97-126. (*Indonesian Journal of Islamic Law*, Vol. 1, No. 2, Juni 2019: 97-126)

² Santoso, "Eksistensi Peran Perempuan Sebagai Kepala Keluarga (Telaah terhadap Counter Legal Draft-Kompilasi Hukum Islam dan Qira'ah Mubadalah)." (Marwah: Jurnal Perempuan, Agama Dan Jender Vol. 18, No. 2, 2019, Hal.107-120)

³ Arif, "Peran Ganda Perempuan Dalam Keluarga Perspektif Feminis Muslim Indonesia." (*Indonesian Journal of Islamic Law*, Vol. 1, No. 2, Juni 2019: 97-126)

⁴ Mufidah Ch, *Gender di Pesantren Salah, Why Not?...*, 160.

⁵ Insiyah, "Analisis Kesetaraan Hak Dan Kewajiban Suami-Istri Perspektif Musdah Mulia Dalam Konsep Pembaharuan Keluarga Islam Di Indonesia." *Indonesian Journal of Islamic Law*, Vol. 1, No. 2, Juni 2019: 39-49

⁶ Santoso, "Eksistensi Peran Perempuan Sebagai Kepala Keluarga (Telaah terhadap Counter Legal Draft-Kompilasi Hukum Islam dan Qira'ah Mubadalah)." (Marwah: Jurnal Perempuan, Agama Dan Jender Vol. 18, No. 2, 2019, Hal.107-120)

2, June 2019: 39-49; 3) Santoso, "The Existence of the Role of Women as Heads of the Family (A Study of Counter Legal Drafts - Compilation of Islamic Law and Qira'ah Mubdalam)." (Marwah: Journal of Women, Religion and Gender Vol. 18, No. 2, 2019, pp. 107-120) and 4) Fahmi Basyar, Husband and Wife Relationships in the Family according to Islamic Law and Law Number 1 of 1974, Journal: Islamic Economics and Law Volume 4, Number 2, October 2020. The results achieved in his research show that the roles of husband and wife in the family do not have to be the same. There are differences in roles between the two that must be emphasized in order to be able to realize the goals of the family as a whole and perfectly in accordance with the mandate of the Qur'an, Hadith and human nature. Indeed, gender may need to be doubted but is it because there are inequalities in a role. But what needs to be seen is that physically and naturally men and women have never been recognized for their similarities. From that, it is important in terms of the structures formed in society where the formation of values is certainly not only from a culture, but there is a role for religious teachings that are understood by them according to what is contained in the hadiths of the Prophet Muhammad.

II. METHOD

Normative research as research that focuses on descriptive data analysis chosen by the researcher as the type of research. Library research (library research) was chosen by the researcher as the research method, with reference to the normative approach. So that the source of the data taken is the primary book of Hadith, syarah and comments. In addition, it is equipped with UUUP, the Compilation of Islamic Law (KHI), books and journals that are related to the problems studied by researchers.

III. RESULTS AND DISCUSSION

a. The Main Hadith of the Role of Husband and Wife in the Family

Rasulullah SAW explained in his hadith as well as reminded about the responsibility of each person: *"Be careful. Everyone is a leader (shepherd) and everyone will be held accountable. A leader (caliphate) is responsible for his citizens and will be questioned about how to settle the affairs of the community. A man is a guardian (guardian) of his family members and will be asked about their physical and mental condition. A woman is the guardian (guardian) of the household of her husband and children, later she will be asked how to manage the household and take care of her children. A slave is the guardian of his master's property and will be asked how to maintain this belief Be careful, every one of you is a guard and every one of you will be questioned about this belief."* (HR Muslim:1829).⁷

1. Syarah Hadith

The word Raa'in As mentioned above basically literally means shepherd. But if it is reviewed more deeply, it means a person who can guard and be trusted to guard what is mandated to him (eg children and wife), and he is required to act fairly and be able to carry out according to his duties and full responsibility based on benefit.⁸ So he must try his best to maintain the mandate that has been charged and must not be negligent or give up. The word amir is a person who has authority over several laws (judges).⁹ While what is meant by *والرجل راع على أهل بيته* is the responsibility of a

⁷ Imam Muslim, *Shahih Muslim*, Juz 3, hal. 1459, tahqiq, Fuad Abdul Baqi: Maktabah Syamilah. Lihat juga di Shahih al-Bukhari: 2554, Sunan al-Turmudzi: 1705, Sunan Abi Daud:2928 dan Musnad Imam Ahmad: 2/5, 54-55.

⁸ Ziyah Yusriana Asri and Indal Abror, "Hadith of Women Leadership in the Qira'ah Mubadalah Approach," *Jurnal Living Hadis* 6, no. 1 (n.d.): 73-85.

⁹ Khoirul Anam, "STUDI LIVING HADIS PEMAHAMAN SANTRI PONDOK PESANTREN BUSTANUL ULUM MLOKOREJO TERHADAP HADIS-HADIS MISOGINIS," 2020.

husband to his family (wife and children) including being able to provide a living according to his needs whether he is in a state of difficulty or not, ordering his family to do good, and giving advice regarding the needs of the Shari'ah. While what is meant by *المراة راعية على بيت زوجها وولده* It is the responsibility of a wife to take care of herself and to be able to maintain the dignity of her family (husband and children) with an open heart, so all of this is done because of the understanding, sincerity, and love of a wife for her husband and children.¹⁰

b. The Role of Husband and Wife in the Family

a) Husband's Role

1. Leading the Family, Protecting and Protecting the Wife from Everything that is Not Good and the Obligation to Educate Her.

The duty of a husband as a leader is to protect his wife from everything that damages her honor, insults her dignity. The husband must also guard his wife from promiscuity with strangers, not allow her to corrupt her morals or religion, or violate the commands of Allah and His Messenger. The husband must order him to do his duties and order him to leave what is forbidden.¹¹ The Messenger of Allah said:¹² *"Be careful. Everyone is a leader (shepherd) and everyone will be held accountable. A leader (caliphate) is responsible for his citizens and will be questioned about how to settle the affairs of the community. A man is a guardian (guardian) of his family members and will be asked about their physical and mental condition. A woman is the guardian (guardian) of the household of her husband and children, later she will be asked how to manage the household and take care of her children. A slave is the guardian of his master's property and will be asked how to maintain this belief Be careful, every one of you is a guard and every one of you will be questioned about this belief."* (HR Muslim: 1829).¹³

2. Getting along well with the wife (ma'ruf)

A husband should treat his wife well, respect her, be gentle with her, caress her, be gentle with her, discipline her, teach her what is beneficial to her, pity her, be kind to her, refrain from hurting her, and so on that can reconcile her heart and bring love and compassion. ¹⁴Dear. The Messenger of Allah said: *"Be kind to women, for they were created from a rib, and the most crooked part of the rib is the uppermost part. If you try to straighten it out; You will break it, and if you let it, it will stay bent; then be kind to women."* (Mutafaq alaih: al-Bukhari: 5186, Muslim: 1468)

3. Giving Dowry and Livelihood to Wife in Good Faith

The wife can make a living by providing what she needs, such as housing, clothing, food, medicine and the like, both rich and poor: *"From Jabir, fear Allah in matters of women, because you married them with a burden of trust from Allah swt, you also justify them according to the word of Allah swt, And do not let people you don't like trample your bed, and if they do so, hit them with a light stroke. And you are obligated to provide them with food and clothe them with kindness."* (Muslim:1218)

b) Wife's Role

Rasulullah SAW. said: "From Ibn Umar ra. said, Rasulullah SAW. He said: *"Every one of you is in charge and everyone is asked to be responsible for his leadership, an imam is in charge of his people,*

¹⁰ Ibnul Hajjaj, al-KAUKAB al-Wahhaj Syarah Shahih Muslim Ibnul Hajjaj, juz 20, hal. 22 :Maktabah Syamilah

¹¹ Nurul Afifah, "Hak Suami-Istri Perspektif Hadis (Pemahaman Hasyim Asy'ari Dalam Dha'u Al-Misbah Fi Bayan Ahkam Al-Nikah)," *Jurnal Living Hadis* 2, no. 1 (2017): 19–47.

¹² Hasbela Ardini, "PANDANGAN ULAMA TERHADAP KEPEMIMPINAN PEREMPUAN DI JEMBER (STUDI LIVING QUR'AN SURAH AN-NISA'AYAT 34)," 2022.

¹³ Imam Muslim, *Shahih Muslim*, Juz 3, hal. 1459, tahqiq, Fuad Abdul Baqi: Maktabah Syamilah. Lihat juga di Shahih al-Bukhari: 2554, Sunan al-Turmudzi: 1705, Sunan Abi Daud:2928 dan Musnad Imam Ahmad: 2/5, 54-55.

¹⁴ Althaf Husein Muzakky, "Interpretasi Ma'nā Cum Maghza Terhadap Relasi Suami-Istri Dalam QS al-Mujadalah [58]: 1-4," *HERMENEUTIK* 14, no. 1 (2020): 179.

he is asked to be responsible for his leadership, a husband is responsible for his family, he is asked to be responsible for his leadership, a wife the person in charge of her husband's household (When the husband leaves), he is asked to be responsible for his leadership." (HR. Ahmad, Abu Dawud and Tirmidhi). The description of the wife's role in the family in other hadiths can also be seen in the following points:¹⁵

1. Lighten the burden of husband's dowry

Hadith of Rasulullah SAW:

"The best woman is the woman who has the least dowry." (HR. Thabarani). Therefore, if the wife finds out that her husband finds it difficult to pay off the dowry that is still owed, it is highly recommended that the wife relieve it, this can be done by reducing or eliminating it altogether, but it should be noted that the husband should not try to pressure his wife into releasing him from the obligation to pay the dowry.

2. Maintaining Your Husband's Self-Esteem and Wealth

Hadith of Rasulullah SAW. : "From Abdullah bin Salam ra, Rasulullah SAW. said: The best wife is the one who pleases you when you look, obey you when you tell him, take care of himself and your treasure when you leave." (HR. Thabarani) and Hadith of Rasulullah SAW. : "The worst person in the sight of Allah on the Day of Resurrection is a husband and wife who have sex, then one of them tells another person the secret of his partner." The above hadith instructs the wife to obey her husband, guard the husband's property and maintain his honor when the husband is not at home, obey in the sense of following the right orders, which are not contrary to religious provisions.

3. Must not undermine the husband's leadership.

Hadith of Rasulullah SAW: "From Abi Bakrah ra, from the Prophet SAW. Said: "Perish men who obey their women" (HR. Ahmad and Thabarani). So a wife must obey/obey her husband, should not decide something for family needs by herself and must be discussed with her husband, such as buying a table, chair, etc. It must be agreed by the husband, if the husband does not agree and the wife goes on. The wife's actions like this have damaged the husband's authority in the family.¹⁶

4. Do not betray your husband.

The wife's acts of betraying her husband are such as: oblivious, cheating, hiding something from her husband's knowledge, leaving the house without his permission, meeting other men when her husband is not around, etc. "Rasulullah SAW. Said: "Your greatest enemy is your local wife who sleeps with you and your slave"(HR. Dailamy). Increase righteous deeds, because later in the hereafter the husband cannot help his wife and the wife cannot help her husband from the torment of Allah SWT, do not ever depend on your husband's fate in the afterlife, even though you believe your husband is a pious person. Hold fast to your husband's secret even though you are in serious trouble, because sticking to goodness is a pious wife's character and is guaranteed by Allah with the reward of heaven.

c. Analysis of the Roles of Husbands and Wives as Hadith Implications

However, the reality in society, as the researchers found in the mini-research in the field, reveals that in fact women as wives recognize and realize that the role of the public is a burden that is indeed the main task of a husband. Meanwhile, a wife has the main domestic role. This, according to their admission is indeed caused by several factors. Among them are biological, sociological and

¹⁵ Itsbat Itsbat, "Hak Dan Kewajiban Suami Istri Dalam Kitab'Uqud al-Lujjain (Analisis Kesetaraan Gender Perspektif Husein Muhammad)," 2021.

¹⁶ Hafid, Moh. "The Concept of Istihsan Abu Hanifah in Indonesian Islamic Family Law (Review of Marriage Registration as an Accumulative Condition)." *LEGAL BRIEF* 11.2 (2022): 583-595.

psychological factors between men and women.¹⁷ In addition, there is also a factor in the level of understanding of the hadith which suggests that women's roles are not outside. However, being inside, the rest of the outside roles can only be played by a man as a husband.¹⁸ In addition, the majority of wives in matters of breaking up decide in an issue still waiting for the final decision from a husband. This means that their wives remain obedient and respect a husband who acts as the absolute leader of the family. However, behind that, there is also an interesting phenomenon that even though a wife has the main role in domestic affairs, many also go out to the public to help their husbands cultivate crops in the fields. This is in accordance with the interviews and observations of researchers in the field.¹⁹ Leadership in the family as described by Nandang Abdurrohim and Hapid Ali in their research there are two categories. That is the category of *instrumental leadership* (birth) which aims to advance the family and the second is inner leadership which regulates protection, psychological protection and emotional comfort that is directed at the balance of psychological peace. The first form of leadership is manifested in the form of economic and political leadership which is generally played by men. Then the leadership in the second form is manifested in the form of household domestic affairs, the majority of which are played by a wife.²⁰

Anatomical differences between men and women receive recognition from religious texts as has been conveyed in many of the hadiths above. Not only that, it has also recognized the differences in carrying out the functions of each gender member that have been well formulated in the local culture. Because if it is not so, it means that the hadith of the Prophet has no empathy and is not accommodating to the differences that are born as a result of the culture that has been built.²¹ Because this is part of the purpose of the Qur'an to deal with society.²² According to Muzdhar and Nasution quoted by Fahmi Basyar, discussions related to women in Islam always lead to the conclusion that Islam is not friendly to women. This can be proven by looking at the Qur'an, Hadith and the products of classical scholars' thoughts which seem to view women as inferior in terms of their roles and relationships in the family. Thus, women are seen as subordinate and patriarchal by men. This happens, because the understanding of the ulama is confined to the doctrine of the text and also the cultural culture in the structure of the society in which they live and issues their products of thought in the form of fiqh.²³

Women in the public sphere, including participating in religious activities, giving speeches and occupying leadership positions such as village heads and so on, are still not absolutely possible.²⁴ According to the state school of jurisprudence (KHI), men and women in Indonesian Islamic family life have an equal relationship regarding status, rights, responsibilities and obligations.²⁵ The rights and obligations of husband and wife have been regulated in Indonesian law, Article 30: Husband and wife have a noble obligation to uphold the household which is the basic foundation of the structure of society. Article 31: 1) The rights and position of the wife are balanced with the rights and position

¹⁷ Ali Muhtarom, "Perempuan Perspektif Kiai: Studi Terhadap Kedudukan Perempuan Dalam Hukum Keluarga," *El-Usrah: Jurnal Hukum Keluarga* 4, no. 1 (2021): 31-46.

¹⁸ Wawancara dengan bapak Syamsul Arifin, M.H., istrinya, Ibu Siti Mariatul Qamariya M.Pd., keduanya sama-sama dosen Sekolah Tinggi Ilmu Syariah As Salafiyah Pamekasan, 12, Juni 2022. Wawancara juga dilakukan dengan masyarakat dusun Baban Desa Bujur Timur Batumarmar Pamekasan, yaitu bapak Ma'i dan Istrinya Suryana, ibu Mujib, bapak Saiful Bahri dan Istrinya, Khairiyah dan juga beberapa jamaah kaum muslimatan asuhan peneliti, 14, juni 2022.

¹⁹ ibid

²⁰ Abdurrohim, "Kontekstualisasi Kedudukan Dan Peran Perempuan Dalam Kitab Taqrib." *Jurnal Perspektif* Vol.3 No. 1 Mei 2019 Page 57-74

²¹ Isti'anah Isti'anah, "Relasi Suami Istri Dalam Keluarga Feminis Perhimpunan Rahima: Studi Analisis Hermeneutika Fenomenologi Paul Ricoeur," 2020.

²² Eko Andy Saputro, Peranan Perempuan Dalam Perspektif Hukum Islam *Jurnal al-Hikmah* vol. 5 no. 1 Maret 2017

²³ Fahmi Basyar, Relasi Suami Istri dalam Keluarga menurut Hukum Islam dan Undang-Undang Nomor 1 Tahun 1974, *Jurnal: Ekonomi dan Hukum Islam* Volume 4, Nomor 2, Oktober 2020

²⁴ Mansur, *Perempuan Dalam Ruang Publik Islam (Studi Metode Istinbat Hukum Dalam Buku Ahkamul Fuqaha)* E3KONOMIC: Jurnal Ekonomi & Hukum Islam, Vol. 9 No. 22019

²⁵ santoso, "Eksistensi Peran Perempuan Sebagai Kepala Keluarga (Telaah Terhadap Counter Legal Draft-Kompilasi Hukum Islam Dan Qira'ah Mubadalah)." (Marwah: Jurnal Perempuan, Agama Dan Jender Vol. 18, No. 2, 2019, Hal.107-120)

of the husband in household life and social life together in society; 2) Each party has the right to take legal action; 3) The husband is the head of the family and the wife is the housewife. In Article 32: Husband and wife must have a permanent residence, the house where they live as referred to in paragraph (1) of this article is determined jointly by husband and wife. Article 33 Husband and wife are obliged to love, respect, be faithful, and give each other physical and spiritual assistance. And Article 34: The husband is obliged to protect his wife and provide all the necessities of household life according to his ability. The Legal Compilation states that the husband's obligations are regulated in article 80. Article 80: 1) The husband is a guide for the wife and household, but husband and wife decide important household matters together: 2) The husband is obliged to protect his wife and provide all the necessities of household life according to his ability: 3) The husband is obliged to provide religious education to his wife, providing opportunities to learn useful and beneficial knowledge for religion, the homeland and the nation: 4) According to his income, the husband bears: a living, *kiswah* and wife's residence, household expenses, medical expenses, and medical expenses for the wife, wife and children, Children's education costs: 5) The husband's obligations to his wife as referred to in paragraph (4) letters a and b above come into force after the wife dies. *plete tamkin*: 6) The wife can release her husband from his obligations to himself as referred to in paragraph (4) letters a and b.: 7) The husband's obligations as referred to in paragraph (5) are void if the wife is *nusyuz*.²⁶

IV. CONCLUSION

Observing some of the hadiths above, the facts that occur in the field are an implication of the hadith and also Indonesian Islamic Family Law which is reflected in Law Number 1 of 1984 and the Compilation of Islamic Law (Fiqh Madhhab Negara) confirms that the role of husband and wife can be described with four patterns. First, the Senior-Junior Partner pattern, which focuses on mastering earning a living is the husband's responsibility. However, it is also a shared responsibility between husband and wife. Second, Equal Partner Relations, which essentially means that husband and wife can collaborate and exchange roles in the household. Third, the pattern of deliberation (Head Complement Relations) in decision making, where husband and wife both have the right to make decisions by sharing together first. Fourth, the pattern of maintenance and protection, husband and wife in this case still see the interconnectedness of each other. Until finally, there was complete surrender to Allah, the Most Protector.

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²⁶ Reni Nur Aniroh, "Hak Dan Kewajiban Suami Istri (Kritik Realitas Atas Aturan Hukum Keluarga Di Indonesia)," *Progres Hukum Keluarga Islam Di Indonesia Pasca Reformasi: Dimensi Hukum Nasional-Fiqh Islam-Kearifan Lokal*, Yogyakarta: CV. Istana Agency Bekerja Sama Dengan ADHKI (Asosiasi Dosen Hukum Keluarga Islam Indonesia, 2020, 88-105.

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