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International Journal of Psychosocial Rehabilitation, Vol. 24, Issue 7, 2020 ISSN: 1475-7192

Normative Islamic Perspective (*Fiqh*) and Polemics of *Ulama* about Women Judges

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Abstract

Abstract: This study aims to reveal and discuss the validity of women judge based on normative Islamic perspective that called fiqh. This study also aims to analyse the polemics in several ulama's (Muslim scholars) perspective about women judge but still based on fiqh as the rules of Islamic law. Methodology used in this study is qualitative methods with content analysis and Focus Group Discussion (FGD). FGD is conducted at Faculty of Sharia and Law in Institut Agama Islam Negeri Syekh Nurjati Cirebon with several lecturer and Islamic law expert. The finding of this study is from at least three famous ulama or Muslim scholar found that the polemic that arose among fiqh scholars regarding the status of women judges was not only influenced by differences in the use of the problem-solving method and the perspective of the texts, but it was also largely influenced by socio-cultural factors and the conditions of the local ulama. Seeing these factors gives reason to give freedom for women to become a judge. This study can be useful for Islamic law study, gender study, and also socio-cultural study that relating to the position of a woman in the legal field as a judge. Originality of this study is reveal the validity of women jugde based on Islamic perspective which is among scholars is still a polemic or differences of opinion. This study can certainly provide clarity to the public regarding the status of female judges in an Islamic perspective.

Keywords: *fiqh; Islamic law; Islamic perspective; ulama; women judges*

INTRODUCTION

As a teaching that substantially carries the mission of universal justice, Islam positions the judiciary as something quite important and fundamental. With judicial instruments, it is expected that the principles of justice, and basic human rights can be maintained properly. Such is the significance of a judicial process, the texts on the formation of Islamic law regarding justice are paying quite an intense attention. No wonder then that the Prophet himself, in his day, was not only in the capacity of spiritual and political leaders, but also the holder of a judicial process.

In its development (after the Prophet and Companions), *Fiqh* (one of the Islamic Shariah which specifically discusses the laws governing various aspects of human life, both personal, social and human life with God (Djazuli, 2010; Sabiq, 1978)) scholars also paid the same attention to their predecessor figures. The concept of *Ikhtiath* (means a careful attitude and selective in deciding the law both from the sharia texts and issues that develop outside the texts. This attitude is very popularly known in the Shafi'i school of *fiqh* (A. Zahrah, 1978)) becomes a part of the *ulama*'s thinking in making the criteria for the validity of a judicial process and the subject being the actor. One of the concerns of *fiqh* experts (*Yurist*) as a form of commitment to the judiciary is its seriousness in making the criteria of a judge. Their efforts can be understood because of the idealism they have to build a judicial process that is relatively clean and authoritative and is expected to be as close as possible to the moral messages of the shariah texts. One agenda that became their discussion was about the validity of a woman to be a judge in a judicial process. This polemic is understandable because according to them (*ulama*) both historically, anthropologically, sociologically and even normative texts, women are seen to have many weaknesses when faced with a judicial process, more as an actor determining a judicial dispute (Judge) (Aziz, 2017; Mehdi, 2017; Sonneveld & Tawfik, 2015).

This study does not pretend to "deconstruct" the idea of women's emancipation, which - one of them - is now being carried out by many women's organizations, but merely wants to study scientifically the philosophical and sociological basis, why the Islamic religious scholars question the legitimacy

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of women as judge, because it is strongly suspected that the *ulama* were inspired by the bitter experiences of women and their social conditions when determining their opinions about women judges.

LITERATURE REVIEW

A. Normative Islamic Perspective (*Fiqh*)

As a product of "reason", Islamic jurisprudence not only provides a framework for Islamic legal thought in the narrow sense. However, it has also made a major contribution to the development framework of Islamic thought in a more comprehensive sense. The presence of *fiqh* in the midst of the struggle of Islamic scholarship since the period of the Companions until the emergence of the leaders of the schools of thought, apparently also accompanied the ups and downs of the development of Islam itself. Even in certain periods of the history of Muslims, *fiqh* in the historical level has provided many forms of religious thought for the development of Islam from time to time. Once the "rooted" understanding of the majority of Muslims towards *fiqh* (*fiqh* oriented) for centuries, then there was a quite scathing criticism from the reformers in particular that the factors causing ignorance in the Islamic scientific tradition, one of them is because Muslims fall into the tradition of *fiqh*, tend to too normative. Whereas in his development (*tasyrī* - legal determination) Islamic law is very elastic flexible (Ubadah, 1980, p. 10), and at its most vulnerable even sometimes to the point of considering "sacred" the *fiqh* products of the scholars (Al-Hajwi, 1977, p. 6). The most fatal consequence is the cessation of Islamic law at the freezing point of ignorance and the closing of the doors of *ijtihad* (the process of establishing Shari'a law by devoting all thoughts and energy seriously, where it is not discussed in the Qur'an and Hadith), even though ijtihad is the main key of the overall dynamics of Islamic teachings (Iqbal, 1965, p. 148).

This criticism may be reasonable because the historical phenomenon shows that most Muslims from a certain period even today, view *fiqh*, identical with Islamic law in the sense of God's law. With this perspective, jurisprudence is no longer seen as a historical product of human reasoning that can change (changeable, relative, adaptable and interpretable) but is seen as in line with God's absolute law. Such a view arises, it could be due to a lack of understanding of the jurisprudence factor itself in terms of social interaction. Whereas the history of Islamic institutions from the beginning noticed that law, (including Islamic law) always changes and colors social interaction, William C. Schuctz commented (Schutz, 1972, p. 458). In a somewhat different editorial William Friedman, put forward the same dissertation with C. Schutz, he said, so that there is a less complete understanding of *fiqh* (Islamic law), then it must first be understood proportionally the relationship between legal theory itself and social change as historical process. This is important considering that understanding is the most fundamental problem of Islamic law (Friedman, 1964, p. 19). Indeed, in many ways there are fundamental differences in the paradigm of Islamic law with law in a general sense. However, in certain aspects, there is actually a meeting point between the two. As a result of the weak historical insight of most Muslims, and the misunderstanding of *fiqh* which is considered God's law, it is not surprising then that the characteristics of the development of Islam in a particular era are very much dominated by the modes of understanding of *fiqh*. The result can be distortion of *fiqh*. This distortion at the most vulnerable point will give birth to sectarianism and fanaticism towards *fiqh* schools.

Apart from the emergence of these views in the history of the development of Islamic Jurisprudence, what should be recognized is that Jurisprudence historically was indeed the most valuable product of the times, Jurisprudence could be used as a basic foothold to examine the thinking of Muslims globally in a certain period of time. This is at least based on the assumption that the growth and development of *fiqh* is identical with the dynamics of the Islamic religious thought itself. In the meantime, a statement stating that Islamic Jurisprudence, which is said to have been born since the earliest times of the generation of Islam (companions), was born and developed together with the life of the people from each time of transition, increasingly obtaining obscurity. From there, a study of the history of *fiqh* is not merely a historical value, but it will automatically provide new offers for

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the development of universal Islamic studies in the next period. At the stage of the study which is the development of aspects of Islamic teachings, the scholars cannot then a priori (break away) to refer to the heritage of historical products that have been produced by generations of early Muslims (friends), without exception in the field of *fiqh*. In this aspect, the Companions have bequeathed many *fiqh* products with their diversity. Responsiveness to changing times, critical of the texts of the texts and even interpretative of the texts, turned out to have become a phenomenon in its own right among friends. So, no doubt in the time of friends has given birth to treasury which is quite valuable in the field of *fiqh*, as an important reference for the development of history in the field of *fiqh*.

Based on these various facts, the accusations of Western Orientalists that Islamic law was never born during the early generations of Islam, and Islam in the early generations, is merely a moral religion and not a religion of law, (thus Joseph Schacht's conclusion in his work The Origin of Muhammdan Jurisprudence, In a different editor even Norman J. Coulson supports the dissertation presented by Schacht (Coulson, 1964, p. 4), including the modern Islamic thinker Asaf AA Fyzee (Fyzee, 1964, pp. 26–28)). It seems to me that the writer's opinion is a historical accusation. It is evident that efforts to accelerate the revelation texts with social conditions to build a new paradigm of Islamic law that is more relevant to the context of the era (ijtihad), have been going on since the earliest times of the Islamic generation.

B. Argumentative Basis that Related with Women Judges

There are at least three groups of scholars who have different opinions regarding the validity of women judges. Each of them has an argumentative basis that is quite valid both from the shari'at texts and aqli, including:

1. First, women are not legal judges, this opinion is represented by famous school leaders such as Imam Malik, Shafi'i and Ahmad Ibnu Hanbal.
2. Second, women are legitimate to be judges, except in the case of hudud (criminal) and qishah, this opinion is represented by a rational *fiqh* figure, Imam Abu Hanifah.
3. Third, women are legitimate judges in all cases (civil, and pridana), this opinion is represented by Imam Ibn Jarir Al-Thabary. In line with Imam Thabary, Imam Ibn Hazm also expressed the ability of women as judges in absolute terms, not least in civil or criminal matters, this means that women are legitimate judges.

METHODOLOGY

This study uses qualitative method, including content analysis and Focus Discussion Group (FGD) that conducted in Institut Agama Islam Negeri Syekh Nurjati, Cirebon, Indonesia. The content analytics method, namely describing the particular object that related with the study. The object of study in this method is human ideas or thoughts revealed in the primary or secondary manuscripts. Data collection of this study uses library as primary sources which is analysed with the following steps: (a) description, (b) discussion, and (c) enrichment and criticism, then (d) conducting analytic studies of primary ideas through analysis of relationships, comparisons, and development of rational models (Suriasumantri, 2001). While FGD is a method to equating perceptions, classifying, verifying, and validating a case (Manoranjitham & Jacob, 2007; Masadeh, 2012; Stewart et al., 2012). Therefore, the content analytics result is discussed in FGD to strengthen the findings related to the polemic of the validity of a woman being a judge.

RESULTS/FINDINGS

Women Judge in the Polemic Expert *Fiqh*

The discourse on empowering women, which is now a trend in the development of thought, seems to be the climax process of the bitter journey of women in the past in any part of the world. The pre-

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Islamic era, for example, by observing one case of women in the city of Athens (Greece) experienced very bad treatment and tended to be very discriminatory. Women at that time were considered as animals that could be easily traded, were not given the right to manage the wealth he had, in the view of Greek law at that time was seen only as a "domestic servant" with the sole task of giving birth to children. Their sanctity is slumped lower than animals and even equated with unclean acts and Shaytan, when it is no longer needed by men (Al-Khuli, n.d., p. 7). This situation is experienced by almost all women - including pre-Islamic Arab societies - especially when Islam has not yet come to bring its mission.

Islam with the set of values it carries tries to carry out a "revolutionary" process of humanity's view of women in the Arab world. Slowly but surely, Islamic Sharia began to lift women from the long-standing discriminatory puddle in Arab society. women in the treatise of Islam are actually considered to have rights - which can be called the same - as men, have equal rights and obligations both in the spiritual, moral, economic and legal rights (in legal terms) (Lubis, 1991, p. 16). Legally formal women and men actually have rights and obligations that are reciprocal, the difference in the legal portion if there is actually more due to consideration of differences in biological aspects.

The position of women in Islam in the development of Islam has actually experienced significant enlightenment, only if then there was a polemic of the *ulama* in the capacity of women as judges, it was inseparable from the social settings of the scholars who looked at it at the time. Certain social, cultural, and community structure conditions are suspected to have had a significant contribution to the *ulama*'s thinking in viewing the position of women as Judges. Besides that, the judicial issue is still considered something risky if it has to be left to women. That is why *fiqh* scholars have made maximum efforts to make formal qualifications for a judge.

Normatively, classical *ulama fiqh* scholars for example have made quite selective requirements for a judge including, Islam, independence, men, mukallaf, 'fair, listening, can speak fluently, can write and most importantly have moral integrity and control Islamic Shariah. The logical consequence of this requirement is that prospective judges who do not have the criteria - if they impose - are not considered to have sufficient legal status. Because one of the conditions - explicitly - must also be a man, so if a woman becomes a judge, its validity cannot be justified legally. Another impact of this statement means that all decisions made from something that is not legal will certainly produce a product that is legally ill.

In the Focus Discussion Group forum organized by the Syari'ah Department of IAIN Cirebon related to the validity of female judges, the results of the analysis of at least were represented by well-known religious leaders (Muslim scholar) such as Imam Malik, Shafi'i and Ahmad Ibnu Hanbal. The result of analysis and discussion will be explained in detail in the discussion section.

DISCUSSION / ANALYSIS

A. Analysis of Argumentative Basis

This section provides the analysis of three group of Muslim scholars that related with validity of women judge, among others:

1. According to the records of Muhammad Abu Al-'Ainaini, the group of scholars who doubted the validity of women as judges, as represented by Malik and Shafi'i imams, were guided by the text of Al-Qur'an at An-Nisa verse 47. According to the interpretation of the clerics of this group, the word "excess" referred to in the verse is related to the use of logic and thought, which in many cases - especially in the context of the judicial process - women cannot do the same thing as men (Al-'Ainaini, 1983, p. 124). Furthermore, Hamid Muhammad Abu Talib argued that the presence of women in a judicial process - especially as a judge - could cause defamation, especially contrary to the prevailing norm in society, therefore their testimony should not be recognized legally. The presence of women in the judicial process is considered unusual and will weaken a

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judicial process because of the mental limitations and talents of women both as witnesses and - so - as defendants (Thalib, 1982, p. 76). Another argument put forward by this group is the Sunnah Rasul (Hadith), which narrates the death of king Kisra, the Prophet had raised a question among friends, "*who do you think (companions) who is worthy to replace king Kisra?*", the friends immediately replied, "*of course his daughter named Nora, in lieu of the king*," Then the Prophet immediately counter-answered the friend by stating "*Will not experience success, a nation if the leader is handed over to women.*" (al-Hadith). When interpreting the hadith some scholars who forbid judges from women also use the logic of syllogism (almost identical to the *qiyas*). The logic of syllogism used by scholars in understanding the hadith is that, the hadith is reproachful, while reproach carries a prohibition, and furthermore the prohibition means it also shows that something bad is prohibited (Al-'Ainaini, 1983, p. 24). From this statement, it is clear that whatever the reasons for the validity of women as Judges remain irresponsible, or in other words, as a judge. Not only using sharia texts as arguments for the prohibition of women as judges, but they also put forward historical factors that developed in the Islamic civilization. It is said that - according to them - it has never been recorded in history, the Messenger of Allah and his companions afterwards (khulafa al-Rasyidin), appointed women as judges that women do (Thalib, 1982, p. 76). Regardless of the accuracy of the arguments used by this first group of scholars, it is clear that women are not legitimate if appointed as judges.

2. It is different from the opinion of the first group, Imam Abu Hanifa instead put forward another argument, and concluded that it is legitimate if women become judges as long as the case they are dealing with is not a criminal case. (This opinion seems analogous to the status of women's testimony). As long as a woman's testimony is considered valid in a civil matter, she is also valid if she is in the position of judge on the matter (Al-Humam, n.d., pp. 252–253). Just to be understood, that Imam Abu Hanifah does not allow women as judges in criminal cases (hudud and qishah). Hudud is the limits of the provisions of Allah regarding the punishment given to someone who violates Islamic criminal acts while the qishahs are sentences imposed on someone who commits criminal acts in a similar retaliation, such as murder, injuring a limb and so forth regulated by shari'ah Islam (Mujib & et al, 1994, pp. 106&278). Hanifah does not allow women as judges in the cases of hudud and qishah because in shari'ah the testimony of one woman on the issue of hudud and qishah is unacceptable, so of course alone as a judge in matters the same one. So for Abu Hanifah the validity of women as judges is only on civil matters.
3. Meanwhile the third group of scholars (who allowed women as judges mutually) represented by Ibn Jarir Ath-Thabary, and Mrs. Hazm, argued on several points, namely (Al-Syirazy, n.d., pp. 17–18): (1) None of the verses in the Qur'an nor the statement of the Apostle (Hadith) expressly forbids women as judges; (2) In contrast to the first group that did not find historical data on female judges, according to Ibn Jarir it had historically been the appointment of a woman as a judge, during the time of Umar Ibn Khattab, who appointed women to be judges of the al-Syuq tribe, named Al-Syifa; (3) Using an analogy to the validity of a woman's fatwa which is considered valid, in other words if women's fatwa is considered valid, then of course her decision as a right can be considered valid.

B. Socio-Cultural Analysis of *Ulama*'s Thinking About Women Judges

Any legal theory, including Islamic law in the sense of *fiqh*, recognizes that the socio-cultural conditions of a place have a very significant contribution to the style and thinking of a legal figure (*ulama*) (Friedman, 1964). This is what is often pointed out in one of the rules, that "*It is undeniable, that law - without exception Islamic law always changes according to changes in time and circumstances*". This rule is quite popular among Western legal experts, that in order to comprehend comprehensively about law, it must be seen the relationship between legal theories themselves and social change as an ongoing historical process, because law itself is also born of social interaction.

In the history of Islamic *fiqh* formulations, it is usual for the *ulama* to always consider the socio-cultural implications and conditions in producing products of legal thinking, on this basis it is no wonder that *fiqh* products are actually very particularistic, in other words, *ulama*'s thoughts during

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the then it is not intended to be generally applied, this is understandable because the fuqaha products are actually born from the results of a particular environment and culture and from a certain period in the past. he might be relevant to the context of his time and the place where the scholars gave his fatwa, but it could be later no longer relevant if actualized in the context of the times and different social conditions. This condition also applies to *fiqh ulama* products in determining their opinions on the position of women as judges, it may be possible and even can be strongly suspected that socio-cultural environmental factors have a big contribution to differences among scholars.

As we know, madzhab figures such as Maliki and Syafi'i, argue that illegitimate women become judges, this is understandable because women in Hijaz (where Malik and also Shafi'i once lived), are still very attached to social structures to Arabans who tend to be exclusive, accustomed to the seclusion tradition. Their freedom to carry out activities outside the home is severely restricted. The conditions of Hijaz and Medina which tended to be modest, simple and far from the influence of outside cultures and their problems (Zaid, 1989), further reinforced local traditions for the population, including the status of women. "Tilted" towards women. This factor seems to have made the *ulama* limit the role of women in their capacity as judges.

Another factor that can be surmised as to why Imam Malik prohibits women as judges, is his attitude to commitment to the Rasul of the Prophet where explicitly as stated earlier, there are indications of the Prophet's hadith which prohibits women's involvement in the leadership process. True to his stance on this hadith in such a manner also seems to be Imam Malik not willing to take the risk by allowing women as judges. The same opinion was also conveyed by Imam Shafi'i, although he did not stay long in Medina, it could be that Malik's thought, which had become his teacher in the field of hadith, influenced Shafi'i (M. A. Zahrah, 1978). No wonder he also forbids women to become judges. As is known, Shafi'i thinking in the field of *fiqh* is a synthesis of two poles (Ahlu hadith represented by Malik and ahlu ra'yi represented by Abu Hanifah) then it can be suspected that thinking of Malik thinking is widely adopted by Shafi'i, one of which is about women judges.

Unlike the case with Imam Abu Hanifah - according to whom women may be judges - life in the Iraqi region where acculturation of foreign culture is already so thick, the thinking of the people is already as liberal. The conditions in Iraq where Hanafi lived had been more advanced than the Hijaz. Acculturation with the Persians who had advanced first had been built a long time ago. So that more or less developed Persian culture influenced the way of thinking of the Iraqi people. The more developed the nation's culture, the better their views on women. Therefore, the position of women in Iraq is better than the position of women in Hijaz.

This contrasting contrast seems to have also had a profound effect on the discourse of the scholars (Syarifuddin, 1993). So once again it can be understood if Abu Hanifah then allowed women as Judges, because the Iraqi culture at that time made it possible in that direction. Such socio-cultural conditions influence Islamic legal thinking from mujtahids, including Ibn Jarir At-Thabary and Ibn Hazm, who are more liberal in declaring the freedom and legitimacy of women as absolute judges. Ibn Hazm is a *fiqh* figure who tends to be literalist (textual), he is a follower of Imam Daud Adz-Dzhahiri's school of thought which is also known as a literalist figure.

Another factor why there are differences in the views of scholars in Hijaz and Iraq is, If in Hijaz tends to want to maintain the tradition of the texts and the hadith of the Prophet, then in Iraq it is more prioritizing the thought of reason and free reasoning. That was then the traditional Hijaz and Iraqi rational *fiqh*. The tradition of the use of ra'yu in such a way even then rapidly developed in the discourse of Islamic *fiqh*, which in turn also affects the style of *fiqh* that is developing. As a result the ability of women as judges embraced by the third group is also allegedly strong due to the freedom of ratio used as *istinbath* (activity carried out by *fiqh* or legal experts to reveal a proposition that is used as a basis in drawing a conclusion to answer a problem or solve a problem).

CONCLUSION

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The polemic of *fiqh* scholars (*Ulama*) regarding the status of women, besides due to differences in the use of the *istinbath* method and the perspective of the texts, it turns out that many are also influenced by socio-cultural factors and the conditions of local scholars. If in certain societies the tradition of seclusion against women is still so dominant, as in the Hijaz region when Imam Malik lived, then the fatwa on female judges was a reflection of this condition. Conversely, if the culture of society tends to be liberal, acculturation of culture enters swiftly like in Iraq when Hanafi lived, then even female judges are considered to have no problems and are legitimate. Likewise, the conditions of the community when Ibn Jarir At-Thabary lived. This is sufficient reason to give freedom to women as absolute judges.

LIMITATION AND STUDY FORWARD

The limitation of this study is that the majority of content analysis is sourced from books as libraries. So that for future research studies can be expanded by analysing the latest studies related to gender, especially the role of women as judges, especially in the current era of digital technology which is certainly still based on an Islamic perspective.

REFERENCES

Al-'Ainaini, A. F. M. A. (1983). *Al-Qhada wa Al-Itsbath fi Fiqh Al-Islami*. Dar Al-Kutub.

Al-Hajwi, M. H. (1977). *Al-Fikr al-Samī fī Tarīkh al-Fiqh al-Islāmī* (II).

Al-Humam, I. (n.d.). *Syarh Fath al-Qadir Juz V*. Dar al-Fikr.

Al-Khuli, I. A.-B. (n.d.). *Al-Mar'atu Baena Al-Bait wa Al-Mujtama'*. Dar Al-Kitab Al-'Araby.

Al-Syirazy. (n.d.). *Kitab al-Majmu' Syarh al-Muhadzdzab Jilid II*. Maktabah Al-Irsyad.

Aziz, M. (2017). Hakim Perempuan Dalam Perspektif Hukum Islam Dan Hukum Positif Indonesia. *AKADEMIKA*. https://doi.org/10.30736/akademika.v11i1.42

Coulson, N. J. (1964). *A History of Islamic Law*. Unversity Press.

Djazuli, A. (2010). *Kaedah-kaedah Fikih*. Kencana Prenada Media.

Friedman, W. (1964). *Law in a Changing Society*. Pelican Press.

Fyzee, A. A. A. (1964). *Outlines of Muhammadan Law*. Oxford University Press.

Iqbal, S. M. (1965). *The Recontruction of Religius Thought in Islam*. Ashraf.

Lubis, N. A. F. (1991). *Kepemimpinan Wanita dalam Islam*. IAIN Press.

Manoranjitham, S., & Jacob, K. S. (2007). Focus group discussion. *The Nursing Journal of India*. https://doi.org/10.1093/occmed/kqu118

Masadeh, M. a. (2012). Focus Group : Reviews and Practices. *International Journal of Applied Science and Technology*.

Mehdi, R. (2017). Lady Judges of Pakistan: Embodying the changing living tradition of Islam. *Women and Gender: The Middle East and the Islamic World*. https://doi.org/10.1163/9789004342200-009

Mujib, M. A., & et al. (1994). *Kamus Istilah Fiqh*. Pustaka Firdaus.

Sabiq, S. (1978). *Fiqh As-Sunnah*. PT. Al Maarif.

Schutz, W. C. (1972). *Encyclopedia of The Science* (9th ed.). The Macmillan Company and The Free Press.

Sonneveld, N., & Tawfik, A. (2015). Gender, Islam and judgeship in Egypt. *International Journal of*

Law in Context. https://doi.org/10.1017/S1744552315000142

Stewart, D., Shamdasani, P., & Rook, D. (2012). Analyzing Focus Group Data. In *Focus Groups*. https://doi.org/10.4135/9781412991841.d51

Suriasumantri, J. S. (2001). *Penelitian Ilmiah, Kefilsafatan, dan Keagamaan: Mencari Paradigma Kebersamaan. Dalam M. Deden Ridwan, Tradisi Baru Penelitian Agama Islam: Tinjauan Antar Disiplin Ilmu*. Nuansa.

Syarifuddin, A. (1993). *Pembaharuan Pemikiran Dalam Hukum Islam*. Angkasa Raya.

Thalib, H. M. A. (1982). *Al-Tanzhim Al-Qadha Al-Islami*. Mathba'ah al-Sa'adah.

Ubadah, M. A. (1980). *Tārīkh al-Fiqh al-Islāmī fī 'Ahd al-Nubuwah wa al-Shahābat wa al-Tābi'īn*. Dār al-Thibā'āh.

Zahrah, M. A. (1978). *Syafi'i, Hayatuhu, Wa Ashruhu Wa Arauhu Wa Fiqhuhu*. Dar Al-Fikr Arabi.

Zaid, F. A. (1989). *Hukum Islam Antara Tradisionalis dan Modernis*. P3M.