

ANALYSIS OF HADITH ON WOMEN'S TESTIMONY FROM THE PERSPECTIVE OF JURGEN HABERMAS'S HERMENEUTICS: Ideological Critique and Rational Discourse

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Abstract: The hadith about women's testimony, which states that two women are equivalent to one man, is often understood literally, leading to debates regarding gender equality issues in Islam. This research aims to analyze the hadith through Jürgen Habermas's critical hermeneutics, which emphasizes the importance of rational discourse and critique of ideology in understanding the text. The research method is text analysis using a hermeneutic approach, which integrates the historical context of the hadith with a critique of the power structures that influence its interpretation. The research findings indicate that a literal interpretation of this hadith risks perpetuating gender injustice. Conversely, through inclusive discourse and contextual reinterpretation, this hadith can be understood as part of the social justice efforts relevant to Islamic values and contemporary challenges.

Keywords: Hadith, Women's Testimony, Habermas' Hermeneutics

Introduction

The hadith regarding women's testimony, which states that two women are equivalent to one man, has been the subject of long debate, especially in discussions related to Islamic law and gender equality issues. A literal understanding of this hadith is often used as a justification for differentiating the legal capacities between men and women, which ultimately perpetuates the perception of gender inequality. On the other hand, contemporary social, cultural, and scientific dynamics demand a more contextual and just interpretation of normative Islamic texts.¹ In this context, Jürgen Habermas's critical hermeneutics approach, which focuses on rational discourse

¹Masud, Muhammad Khalid, "Reinterpreting Islamic Tradition: Modernity and the Role of Ijtihad." In *Islamic Law and Society in Practice: Studies in Honor of Frank E. Vogel*, edited by A. Kevin Reinhart and Kristen Still (Leiden: Brill, 2003), 23-24.

and critique of ideological structures, can provide a new framework for understanding hadith in a more inclusive and relevant manner.

social changes occurring in society, especially regarding gender equality and women's rights. In many Muslim countries, the role of women in the legal field and social life continues to evolve, often contradicting traditional interpretations of religious texts. Meanwhile, textual interpretations that prioritize a literal understanding of this hadith are often used to uphold conservative views regarding the position of women in law and society. But in the context of Jurgen Habermas's ideas, analyzing religious texts is inextricably linked to challenging the ideologies and hierarchies of power that influence them. In order to reach a common understanding, Habermas highlights the value of logical discourse in which all participants including women can engage equally. Therefore, Habermas's critical hermeneutics, which emphasizes free speech and freedom from power distortions, can be used to examine the hadith regarding women's testimony. This method gives us the freedom to read the text in a way that is more flexible and pertinent to the present situation. It also creates room for more inclusive ideas about gender equality in Islam.

Some previous studies on this hadith have focused more on the philological aspects and Islamic law. For example, "Understanding Habermas's Critical Hermeneutics" by Ahmad Atabik, *Fikrah: Journal of Aqidah and Religious Studies*, Vol. 1, No. 2, 2022. This article discusses Jürgen Habermas's critical hermeneutics theory, which seeks to bridge the gap between objectivity and subjectivity, idealism and realism, as well as theory and practice.² "Fiqh Damai: Studi Hermeneutika Jurgen Habermas dalam Ayat-Ayat Jihad" (Santri: Journal of Pesantren and Fiqh Sosial, Vol. 6, No. 3, 2022). This article utilizes Habermas's critical hermeneutics to understand the verses of jihad, with the aim of creating a more peaceful and relevant interpretation for modern society. This study can be used to explore women's testimonies from a more contextual perspective.³

Therefore, the purpose of this essay is to investigate a fresh interpretation of the hadith regarding women's testimony using Jürgen Habermas's critical hermeneutics methodology. This method provides an analytical framework that takes into account the historical, social, and ideological circumstances that affect hadith interpretation in addition to textual comprehension. This study attempts to develop inclusive and pertinent interpretations by incorporating Habermas's ideas of rational discourse, especially with regard to gender justice and equality issues in modern Muslim countries. This essay thus illustrates the analytical utility of Habermas's theory of communicative activity in dismantling literal interpretations that frequently uphold patriarchal power structures. Therefore, it is anticipated that this work would advance Islamic thought that is more sensitive to social.

The Concept of Women's Testimony in Hadith: Textual and Contextual Analysis

One of the holy texts that frequently becomes the focus of discussion, particularly when it comes to questions of gender equity in Islam, is the hadith regarding women's testimony, which claims that two women are equal to one man. The distinction between men's and women's legal roles particularly with regard to court testimony is sometimes supported by a literal interpretation of this hadith. (*bayyinah*). However, in order to have a deeper understanding of this hadith, it is

²Ahmad Atabik, "Memahami Konsep Hermeneutika Kritis Habermas", *Fikrah: Jurnal Ilmu Aqidah dan Studi Keagamaan*, Vol. 1, No. 2, 2022.

³Muhajarah, K., Saekan, M., Ramadhani, S., Kusnanto, C., dan Hasanah, S. "Peaceful Fiqh: Jurgen Habermas's Hermeneutical Studies in the Verses of Jihad", *Santri: Journal of Pesantren and Fiqh Sosial*, Vol. 6, No. 3, 2022.

crucial to consider it as a product of Arab society's historical and social context during the time of Prophet Muhammad saw, in addition to being a normative text.

According to the Great Dictionary of the Indonesian Language (KBBI), the word “testimony” comes from the word “saksi” with the affixes “ke” and “an.” According to the Great Dictionary of the Indonesian Language (KBBI), “saksi” means: 1) a person who witnesses or knows an event or incident themselves; 2) a person who is asked to be present at an event and is considered to know about the event and can provide information if asked about the event; 3) a person who is asked to give testimony in front of a judge for the benefit of the accused or the accused; 4) information or evidence statements made by the accused or the accused. Thus, testimony is the information, statement, or declaration given by a witness.⁴

Meanwhile, in Arabic, “testimony” is usually referred to as *bayyinah* (explanation), *dalil* (evidence), and *syahadah*. (saksi). However, the definition of a witness that is further explored in this writing is with the wording of *syahadah*, because it is the term used in the verse. (al-baqarah [2] : 282). Etymologically, the word “*syahadah*” means news, report, or information.⁵ In *Mu’jam al-Wasith*, “*syahadah*” is defined as a certain, definite, and accurate report from someone that will be conveyed to another person. *Syahadah* also means the two sentences of the *shahadah*, which signify the *shahadah* of monotheism and the prophet.⁶

There is a distinction between the testimonies of men and women in classical fiqh books or classical mufassir interpretations of Surah Al-Baqarah [2]: 282. Specifically, the testimony of one woman is equal to half that of one man, or, to put it another way, the testimony of two women is equal to the testimony of one man. Since the Qur'an and Hadith support equality and fairness between men and women, this is what makes it intriguing to talk about further: it seems as though there is a gender bias in the testimonies of men and women. Furthermore, men and women are equal in Allah's eyes in theory; their piety is what sets them apart.

Al-Bukhari recounted the following hadith regarding women's testimonies in his Sahih book, index number 2658:

حَدَّثَنَا ابْنُ أَبِي مَرْيَمَ، أَخْبَرَنَا مُحَمَّدُ بْنُ جَعْفَرٍ، قَالَ: أَخْبَرَنِي زَيْدٌ، عَنْ عِيَاضِ بْنِ عَبْدِ اللَّهِ، عَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ رَضِيَ اللَّهُ عَنْهُ، عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: «أَلَيْسَ شَهَادَةُ الْمَرْأَةِ مِثْلَ نِصْفِ شَهَادَةِ الرَّجُلِ؟» ، قُلْنَا: بَلَى، قَالَ: «فَذَلِكَ مِنْ نُقْصَانِ عَقْلِهَا»⁷

“It has been narrated to us by Ibn Maryam, who was informed by Muhammad bin Ja’far, who said he was informed by Zaid from Iyad bin Abdillab from Abi Sa’id Al-Khudri, who said: The Messenger of Allah ﷺ said: ‘Isn’t the testimony of a woman equal to half the testimony of a man?’” We (the companions) answered, “Yes.” He said, “That is because of their lack of intellect.”

⁴Departemen Pendidikan Nasional, *Kamus Besar Bahasa Indonesia* (Jakarta : Pusat Bahasa, 2008), 1246.

⁵Munir al-Baalbaki, *al-Manrid :QamusInjilijy ‘Arabiy* (Beirut : Dar al-Ilmi, 1974), 323. Lihat juga Abu Husein Ahmad bin Fariz, *Maqayis al-Lughab*, Juz. III (Beirut : Ittihad al-Kitab al-‘Arabiy, 2002), 172.

⁶Harun Nasution, *Ensiklopedia Islam Indonesia*, Jilid. III (Jakarta : Djambatan, 2002), 1093.

⁷Al-Bukhari, *Sahib al-Bukhari*, juz 3, (Beirut: Dar al-Fikr, t.th.), 173.

This hadith is often associated with QS Al-Baqarah: 282, which states that two women can replace the testimony of one man in the recording of debt.

يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا تَدَايَنْتُمْ بِدَيْنٍ إِلَىٰ أَجَلٍ مُّسَمًّى فَاكْتُبُوهُ ۚ وَلْيَكْتُب بَيْنَكُمْ كَاتِبٌ بِالْعَدْلِ ۚ وَلَا يَأْبَ كَاتِبٌ أَنْ يَكْتُبَ كَمَا عَلَّمَهُ اللَّهُ فَلْيَكْتُبْ ۚ وَلْيَمْلِكِ الَّذِي عَلَيْهِ الْحَقُّ وَلْيَتَّقِ اللَّهَ رَبَّهُ ۚ وَلَا يَخْسِرْ مِنْهُ شَيْئًا ۚ فَإِنْ كَانَ الَّذِي عَلَيْهِ الْحَقُّ سَفِيهًا أَوْ ضَعِيفًا أَوْ لَا يَسْتَطِيعُ أَنْ يَمْلِكَ هُوَ فليَمْلِكْ وَلِيهِ بِالْعَدْلِ ۚ وَأَسْتَشْهِدُوا شَهِيدَيْنِ مِنْ رِجَالِكُمْ ۚ فَإِنْ لَمْ يَكُنَا رَجُلَيْنِ فَرَجُلٌ وَامْرَأَتَانِ مِمَّنْ تَرْضَوْنَ مِنَ الشُّهَدَاءِ أَنْ تَضِلَّ إِحْدَاهُمَا فَتُذَكَّرَ إِحْدَاهُمَا الْأُخْرَىٰ ۚ وَلَا يَأْبَ الشُّهَدَاءُ إِذَا مَا دُعُوا ۚ وَلَا تَسْمُوا أَنْ تَكْتُبُوهُ صَغِيرًا أَوْ كَبِيرًا إِلَىٰ أَجَلِهِ ۚ ذَٰلِكُمْ أَقْسَطُ عِنْدَ اللَّهِ وَأَقْوَمٌ لِلشَّهَادَةِ وَأَدْنَىٰ ۚ أَلَّا تَرْتَابُوا ۚ أَلَا أَنْ تَكُونُ تِجَارَةً حَاضِرَةً تُدِيرُونَهَا بَيْنَكُمْ فَلَيْسَ عَلَيْكُمْ جُنَاحٌ أَلَّا تَكْتُبُوهَا ۚ وَأَشْهَدُوا إِذَا تَبَايَعْتُمْ ۚ وَلَا يُضَارَّ كَاتِبٌ وَلَا شَهِيدٌ ۚ وَإِنْ تَفَلَّحُوا فَإِنَّهُ فُسُوقٌ بِكُمْ ۚ وَاتَّقُوا اللَّهَ ۚ وَيَعْلَمُكُمُ اللَّهُ ۚ وَاللَّهُ بِكُلِّ شَيْءٍ عَلِيمٌ ﴿٢٨٢﴾

"O you who have believed, when you contract a debt for a specified term, record it." Let a scribe among you write it down correctly. Let not the scribe refuse to write it as Allah has taught him. Let him write it down, and the debtor should dictate. (-nya). He should be mindful of Allah, his Lord, and should not reduce it even a little. If the debtor is of unsound mind, weak (in condition), or unable to dictate themselves, their guardian should dictate it correctly. Ask for the testimony of two male witnesses among you. If there are not two male witnesses, then one male and two female witnesses from among those you accept as witnesses, so that if one of the female witnesses forgets, the other can remind her. Let not the witnesses refuse when they are called upon. Do not be weary in recording it until its due date, whether it is small or large. That is more just in the sight of Allah, more likely to give rise to testimony, and more likely to prevent doubt, except in the case of a cash transaction that you conduct among yourselves. So, there is no sin for you if you do not record it. Take witnesses when you engage in trade, and let not the scribe be made to suffer (or be made to suffer), nor the witness. If you do (such a thing), it is indeed a wickedness for you. Fear Allah, Allah gives you guidance, and Allah is All-Knowing of everything.⁸

After examining the above hadith, a hadith verification will be conducted. The hadiths that discuss women's testimony are as follows:

1. Hadith narrated by Imam Muslim

9 - (889) حَدَّثَنَا يَحْيَىٰ بْنُ أَيُّوبَ، وَقُتَيْبَةُ، وَابْنُ حَجْرٍ، قَالُوا: حَدَّثَنَا إِسْمَاعِيلُ بْنُ جَعْفَرٍ، عَنْ دَاوُدَ بْنِ قَيْسٍ، عَنْ عِيَّاضِ بْنِ عَبْدِ اللَّهِ بْنِ سَعْدٍ، عَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ، أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، كَانَ يَخْرُجُ يَوْمَ الْأَضْحَى، وَيَوْمَ الْفِطْرِ، فَيَبْدَأُ بِالصَّلَاةِ، فَإِذَا صَلَّى صَلَاتَهُ وَسَلَّمَ، قَامَ فَأَقْبَلَ عَلَى النَّاسِ، وَهُمْ جُلُوسٌ فِي مُصَلَّاهُمْ، فَإِنْ كَانَ لَهُ حَاجَةٌ بِيَعْتٍ، ذَكَرَهُ لِلنَّاسِ، أَوْ كَانَتْ لَهُ حَاجَةٌ بغير ذلك، أَمَرَهُمْ بِهَا، وَكَانَ يَقُولُ: «تَصَدَّقُوا، تَصَدَّقُوا، تَصَدَّقُوا»، وَكَانَ أَكْثَرَ مَنْ يَتَصَدَّقُ النِّسَاءَ، ثُمَّ يَنْصَرِفُ، فَلَمْ يَزَلْ كَذَلِكَ حَتَّى كَانَ

⁸Al-Qur'an, Surah Al-Baqarah [2]: 282, dalam *Al-Qur'an dan Terjemahnya* (Jakarta: Kementerian Agama Republik Indonesia, 2019), 54.

مَرَوَانَ بْنِ الْحَكَمِ، فَخَرَجَتْ مُخَاصِرًا مَرَوَانَ حَتَّى أَتَيْنَا الْمَصْلَى، فَإِذَا كَثِيرٌ بِنِ الصَّلْتِ قَدْ بَنَى مِنْبِرًا مِنْ طِينٍ وَلَبْنٍ، فَإِذَا مَرَوَانَ يَنَازِعُنِي يَدَهُ، كَأَنَّهُ يَجْرِنِي نَحْوَ الْمَنْبَرِ، وَأَنَا أُجْرُهُ نَحْوَ الصَّلَاةِ، فَلَمَّا رَأَيْتُ ذَلِكَ مِنْهُ، قُلْتُ: أَيْنَ الْبِتْدَاءُ بِالصَّلَاةِ؟ فَقَالَ: لَأَ، يَا أَبَا سَعِيدٍ قَدْ تَرَكْتُ مَا تَعْلَمُ، قُلْتُ: كَلَّا، وَالَّذِي نَفْسِي بِيَدِهِ لَأَتَّوْنُ بِخَيْرٍ مِمَّا أَعْلَمُ، ثَلَاثَ مَرَارٍ ثُمَّ انصَرَفَ⁹

2. Hadith narrated by imam al-Nasa'i

1576 - أَخْبَرَنَا قُتَيْبَةُ، قَالَ: حَدَّثَنَا عَبْدُ الْعَزِيزِ، عَنْ دَاوُدَ، عَنْ عِيَاضِ بْنِ عَبْدِ اللَّهِ، عَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ، " أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ كَانَ يَخْرُجُ يَوْمَ الْفِطْرِ، وَيَوْمَ الْأَضْحَى إِلَى الْمَصْلَى فَيُصَلِّي بِالنَّاسِ، فَإِذَا جَلَسَ فِي الثَّانِيَةِ وَسَلَّمَ قَامَ فَاسْتَقْبَلَ النَّاسَ بِوَجْهِهِ وَالنَّاسُ جُلُوسٌ، فَإِنْ كَانَتْ لَهُ حَاجَةٌ يُرِيدُ أَنْ يَبْعَثَ بَعَثًا ذَكَرَهُ لِلنَّاسِ، وَإِلَّا أَمَرَ النَّاسَ بِالصَّدَقَةِ، قَالَ: «تَصَدَّقُوا» - ثَلَاثَ مَرَّاتٍ - فَكَانَ مِنْ أَكْثَرِ مَنْ يَتَصَدَّقُ النِّسَاءُ¹⁰

3. Hadith narrated by Ibn Majah

1288 - حَدَّثَنَا أَبُو كُرَيْبٍ قَالَ: حَدَّثَنَا أَبُو أُسَامَةَ قَالَ: حَدَّثَنَا دَاوُدُ بْنُ قَيْسٍ، عَنْ عِيَاضِ بْنِ عَبْدِ اللَّهِ قَالَ: أَخْبَرَنِي أَبُو سَعِيدٍ الْخُدْرِيُّ، قَالَ: كَانَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَخْرُجُ يَوْمَ الْعِيدِ، فَيُصَلِّي بِالنَّاسِ رَكَعَتَيْنِ، ثُمَّ يَسْلَمُ فَيَقِفُ عَلَى رِجْلَيْهِ فَيَسْتَقْبِلُ النَّاسَ وَهُمْ جُلُوسٌ، فَيَقُولُ: «تَصَدَّقُوا تَصَدَّقُوا» فَكَثُرَ مَنْ يَتَصَدَّقُ النِّسَاءَ، بِالْقِرْطِ وَالْخَاتِمِ وَالشَّيْءِ، فَإِنْ كَانَتْ لَهُ حَاجَةٌ يُرِيدُ أَنْ يَبْعَثَ بَعَثًا يَذْكُرُهُ لَهُمْ وَإِلَّا انصَرَفَ¹¹

The verse in QS Al-Baqarah: 282 is closely related to the hadith that states that a woman's testimony is equal to half of a man's testimony. This verse discusses the need to present witnesses and the documentation of debts in business transactions. According to the verse, one male and two female witnesses may testify if there aren't two male witnesses. The rationale for this is also revealed in that passage, which is so that another lady can remind the first one in case she forgets (*tadbilla*). The hadith then confirms the Quranic verse and adds that it has to do with what the Prophet ﷺ called *naqshul 'aql* (deficiency of intellect), which in this context relates to refers to women's limitations in certain matters such as financial transactions. According to Sheikh Ali Muhammad al-Jurjani, women typically utilize their emotions more while analyzing a situation, whereas males typically use their brains more. As a result, compared to men, women have lower willpower and more erratic emotions, particularly when they are experiencing intense emotional states like joy, despair, rage, or hatred. Because of this, Islamic law has decided that women's testimony is of lower quality than men's.¹²

So, neither the Qur'an nor the hadith mentioned above provides any evidence that allows women to give testimony in the realm of criminal law. Then what about the testimony of women in civil law? Hanafi scholars state that the testimony of two women and one man can be accepted in matters related to civil rights, whether in the form of property or rights, or in matters not related

⁹ Imam Muslim, *Sabih Muslim*, Juz 2, (Beirut: Dar Ihya' al-Turath al-'Arabi, t.th.), 605.

¹⁰ Imam an-Nasa'i, *Sunan an-Nasa'i*, Juz 3, (Beirut: Dar Ihya' al-Turath al-'Arabi, t.th.), 187.

¹¹ Ibn Majah, *Sunan Ibn Majah*, Juz 1, (Beirut: Dar al-Kutub al-'Ilmiyyah, t.th.), 409.

¹² Ali Muhammad al-Jurjani, *Kitab al-Ta'rijat* (Beirut: Dar al-Kutub al-'Ilmiyyah, 1983), 98.

to property such as marriage, divorce, iddah, hiwalah, waqf, will, gift, declaration, ibra', birth, and lineage. The acceptance of women's testimony is predicated on their credentials to testify, which include the ability to testify, strong recall accuracy, and testimony of what they have seen and/or heard. In the meantime, because women tend to forget more frequently and have weaker memory, the testimony of two women is equivalent to that of one man. In marriage and divorce proceedings, Ali bin Talib and Umar permitted both male and female witnesses.¹³

The Shafi'i, Maliki, and Hanbali scholars, in contrast to the Hanafi school, hold that women's testimonies are only permitted in cases involving property and matters connected to it, such as purchasing and selling, renting, giving, wills, pledges, and guarantees. Women's testimony has been rejected because they are often compassionate, have partial memories, and have little power in a variety of situations. However, only two men's testimonies can be used to establish matters that do not include property and are not meant to obtain property. These issues typically pertain to men and include marriage, reconciliation, divorce, agency, purposeful murder, and hudud, with the exception of the punishment for adultery. The Prophet Muhammad's practice is described in Zuhri.¹⁴

Next, what is the status of a woman's testimony without the accompaniment of a man? In this case, the majority of scholars agree that women's testimony can be accepted without the accompaniment of men in matters related to femininity, such as menstruation, virginity, childbirth, and other similar issues. It is the Sunnah of the Prophet and the two caliphs after him that the testimony of a woman, which cannot be replaced by a man, such as childbirth and women's secrets, is permissible.¹⁵ The historicity and socio-cultural and socio-historical conditions of Arab society during the Jahiliyah period, especially the pre-Islamic Arab reality, have been the subject of several literatures and studies by scholars. A hedonistic lifestyle, where material prosperity and grandeur are the only indicators of happiness and life satisfaction, is one feature of Jahiliyah Arab society.¹⁶ a patriarchal manner of life in which women are constantly denigrated, particularly in public settings. There were social classes in Jahiliyyah Arab culture, and even within a family, a male was considered to be in charge, therefore everyone had to follow his orders and wishes.

There are no restrictions on a man's ability to engage in polygamy, or multiple marriages, and he is not required to divorce his previous spouses. If the husband has a son, the child's inherited rights include his father's slaves and wives in addition to property. To put it another way, that son may sell his mother or engage in sexual intercourse with her. However, because women are seen as inferior and deplorable, even as inanimate objects, a lot of them are bought and sold, adultery is common, and it is relatively simple to locate brothels that are flagged to draw clients.¹⁷ Then, indeed legally, the specific hadith speaks about the status and quality of women's testimony at that time, which was not equal to men's, meaning the value of women's testimony was half that of men's. However, in terms of moral ideals, the verse applies universally to all Muslims, not limited by space and time, and this is referred to as deriving specific laws from general laws (specific-general). Then, after the law has been universalized or generalized, the next step is to apply that general law to

¹³Jamaluddin al-Zaiylai, *Tabyin al-Haqaiq Syarh Kanz al-Daqaiq*, cet. II, (Beirut: Dar al-Ma'rifah, t.th.), 209.

¹⁴Ibnu Hazm, *Al-Muhallab*, Jilid IX, (Beirut: Maktabah al-Tijari li al-Taba, t.th.), 298.

¹⁵Al-Tijari li al-Taba', t.th.), hlm. 298. 48 Jamaluddin al-Zaiyla'i, *Nasab al-Rayah...*, hlm. 79.

¹⁶Al-Raghib as-Sirjani, *Madz'a Qaddam al-Muslimun li al-'Alam Ishamat al-Muslimin fi al-Hadbarah al-Insaniyah...*, 32-

¹⁷M. Quraish Shihab, *Membaca Sirah Nabi Muhammad Saw. dalam Sorotan Al-Qur'an dan Hadis-hadis Shahih*, cet. I, (Jakarta : Lentera Hati, 2011), 113.

specific laws (general-specific) in the contemporary context. And this can be done by looking at the moral ideal in the verse. The current reality is very different from the reality when the verse was revealed.

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First, the Role of Women in Arab Society during the Time of the Prophet. During the time of Prophet Muhammad ﷺ, Arab society was a patriarchal society with a social structure that granted greater dominance to men in various aspects of life, including legal, political, and economic matters. The majority of women, especially among the general populace, had limited access to formal education and technical training, particularly in fields such as financial administration or trade transactions. Before Islam, women were often considered inferior in the social structure. The arrival of Islam brought significant changes by improving the status of women, granting them rights such as inheritance, education, and participation in society. However, this transformation was a gradual process, and early Islamic laws were often adjusted to the social realities of Arab society to provide practical and acceptable solutions.¹⁸

Second, the Financial Transaction Conditions during the Prophet's Time. In the Prophet's era, financial transactions and business contracts were often conducted verbally, without formal documentation as is common in modern times. In this context, witnesses become an important element to maintain the validity of transactions. The Qur'an in QS Al-Baqarah: 282 emphasizes the importance of recording debts with witnesses, so that disputes do not arise in the future.¹⁹ However, because women are generally rarely involved directly in large-scale economic activities, they are considered less experienced in understanding the details of such transactions. Therefore, it is proposed that if a female witness is presented, two women should be required to replace one man. This is to ensure that if one woman forgets or makes a mistake, the other can remind and help correct the testimony.²⁰

Third, the Social View on Women's Testimony. At that time, women's testimony was not considered entirely reliable in all types of cases. In serious criminal cases, such as hudud laws (for example, adultery), women's testimony is not accepted at all by the majority of scholars. On the other hand, in civil cases such as financial transactions or family matters, women's testimony is accepted, but with specific conditions as mentioned in QS Al-Baqarah: 282. This principle does not mean to undermine the intellectual capacity of women absolutely, but rather to acknowledge their limited access to knowledge in certain fields at that time. The Prophet ﷺ often provided contextual rules to address the specific needs of society at that time, while still adhering to the principles of justice and public welfare.

Fourth, the Purpose of the Women's Testimony Rule. The purpose of this provision is to ensure the accuracy of testimony in certain cases that require strong evidence, such as debt

¹⁸Zainuddin Ali, *Hukum Islam (Pengantar Ilmu Hukum Islam di Indonesia)* (Jakarta: Sinar Grafika, 2006), 8.

¹⁹Suriati Nazir, "Manajemen Hutang Piutang (Kajian Analisis terhadap Surah Al-Baqarah Ayat 282)," *Al-Idarah: Jurnal Manajemen dan Administrasi Islam*, Vol. 5, No. 2, 2021, 87.

²⁰Nur Asriaty, "Analisis Ayat Kesaksian dalam Transaksi Utang Piutang," *Jurnal Pemikiran Hukum dan Hukum Islam*, Vol. 7, No. 2, Desember 2018, 32.

transactions. This rule reflects caution in financial matters that could potentially lead to conflicts if not properly recorded. In this case, the Prophet ﷺ made the testimony of two women a practical solution, not as a form of discrimination, but as a step to ensure justice in a context where women might not have sufficient experience.²¹

Fifth, the Relevance and Acceptance of Law during the Prophet's Time. In the context of 7th-century Arab society, this rule was widely accepted because it aligned with their social realities. However, Islam also provides a foundation for women to enhance their roles in society. Along with the journey of the Prophet's mission, more and more Muslim women received education, became involved in economic affairs, and even participated in the fields of law and politics, such as Aisha bint Abu Bakr, who is known as one of the great scholars in the fields of hadith and jurisprudence.²²

The contextuality of Hadith during the Prophet's time regarding the testimony of women reflects the social and cultural conditions of society at that time. This rule emerged not to limit women, but to provide practical solutions in accordance with their level of participation and experience in certain fields. Although this rule was relevant during the time of the Prophet, the passage of time and social changes necessitate the reinterpretation of religious texts, including this hadith, to remain relevant in a modern context that emphasizes gender equality and women's participation in various fields of life.

Critical Hermeneutics of Jurgen Habermas: Critique of Ideology and Rational Discourse

Jurgen Habermas is a German philosopher and sociologist known for his thoughts on communication theory and critical hermeneutics.²³ Born in 1929, Habermas is one of the prominent figures in the Continental philosophy tradition, particularly in the Critical Theory movement influenced by the Frankfurt School.²⁴ His works often focus on the relationship between communication, rationality, and society, as well as how ideology and social structures influence our understanding of the world. The "Theory of Communicative Action," one of Habermas's key ideas, highlights the need of reasoned conversation in fostering social consensus and understanding between people. Habermas contends that social theory should work to free people from all types of injustice and oppression. He is also a strong opponent of the predominance of ideology in social systems. Understanding texts or social phenomena in a way that challenges prevailing ideologies and presents more inclusive and logical alternatives is the main goal of Habermas' critical hermeneutics method.²⁵

Habermas has had a significant influence on the development of modern social and political theory, with his thoughts delving into the interconnections between communication, democracy, and social justice. Critical hermeneutics developed by Jurgen Habermas is an approach to understanding texts that not only focuses on literal comprehension but also questions and critiques the ideological structures that shape our understanding of the text. The goal is to achieve a more

²¹"Persaksian Dalam Hutang (Studi Komparatif QS. Al-Baqarah [2]: 282 Perspektif Tafsir Jalalain dan Tarjuman al-Mustafid)", dalam *Proceeding International Conference on Quranic Studies*, (Proceeding IAIN Kudus, 2021, 128-129.

²²Nur Aisyah, "Kesaksian Perempuan," *Jurnal Al-Qadau: Peradilan dan Hukum Keluarga Islam*, Vol. 2, No. 2, 2015, 178.

²³Ulumuddin, Jurgen Habermas dan Hermeneutika Kritis (Sebuah Gerakan Evolusi Sosial), *Jurnal Humafa*, Vol 3, No 1, 2006, 75.

²⁴Gusti A. B. Menoh, *Agama dalam Ruang Publik*, cet. IV (Yogyakarta: kanisius, 2018), 46

²⁵Jurgen Habermas, *Teori Tindakan Komunikatif: Rasionalitas, Masyarakat, dan Modernitas*, ter. Mulyadi Kartanegara (Yogyakarta: Kreasi Wacana, 2006), 150-152.

free, fair, and inclusive understanding by reducing the influence of ideological domination in interpretation. The aim of critical hermeneutics is to liberate our understanding from the ideologies or structures of domination present in society. Habermas argues that a text cannot be well understood without considering the social context surrounding it. Therefore, understanding a text requires an understanding of the social conditions and ideological forces present at the time the text was written.²⁶

When we look at the hadith about women's testimony stating that two women are equivalent to one man, critical hermeneutics demands that we question whether this understanding stems from the patriarchal social structure of that time, which treated women unequally. This understanding may be dominated by a patriarchal ideology that considers women as beings less capable and intelligent compared to men. Ideological criticism in critical hermeneutics refers to the effort to identify and dismantle the ideology that dominates our understanding of a text. This ideology can serve to justify unjust or unequal social structures, such as patriarchy in societies that differentiate rights between men and women.

In the context of hadith about women's testimony, ideological criticism highlights how patriarchal social structures can influence the understanding of that hadith. Traditionally, women are considered to have lower intellectual capacity compared to men, which leads to the view that women's testimony is less valid. Habermas criticizes this by emphasizing that such ideologies must be expressed and dismantled through open discourse, in order to achieve a more just and rational understanding. An example in the context of hadith critiquing the ideology underlying this hadith means that we do not simply accept that women have "a deficiency in intellect" or ability in providing testimony, but rather revisit the social and cultural conditions in which the hadith was revealed, and question how this view has been internalized in the understanding of Muslim society for centuries.

Rational discourse is an open dialogue process where various parties can express their opinions without pressure or domination. In Habermas's approach, this discourse aims to achieve a rational and inclusive consensus, where each participant strives to understand the perspectives of others in the effort to seek the most just truth or solution.²⁷ The application in hadith is to address the patriarchal ideology that dominates the interpretation of hadith regarding women's testimony; Habermas advocates for us to engage in rational discourse. In this way, the understanding of women's testimony can be discussed openly, where all parties (both men and women, as well as religious thinkers and social scientists) can present arguments and see how the current social structure can influence our views on the role of women in Islamic law. For example, in a rational discourse, contemporary Muslim intellectuals can discuss and debate whether women's testimony should indeed be considered half of men's testimony, or whether it should be understood in specific historical and social contexts. This discourse allows for a broader understanding that accommodates the development of women's education and social changes in modern society.²⁸

After that, critical interpretation is carried out as an effort to interpret the text in a way that considers the social, cultural, and ideological context present when the text was revealed, as well as questioning the meaning and relevance of the text in the modern context. In this case, the hadith

²⁶K. Bertens, *Sejarah Filsafat Barat Abad XX*, Jilid II, (Jakarta: Gramedia, 1996), 166.

²⁷Habermas, Jürgen. *Discourse Theory of Law and the Relationship Between Law and Religion*. Core Research Papers, 2023, 2-9.

²⁸Halil H, *The Testimony of Women in the Qur'an* published in *Al-Bayan: Journal of Qur'an and Hadith Studies*, Vol. 14, Issue 1, 2016, 25-27.

about women's testimony can be reinterpreted by considering the social changes that have occurred. Critical interpretation allows us to see that although in the time of the Prophet there may have been certain reasons for establishing the testimony of two women as equivalent to one man, today, with the advancement of education and the social roles of women, this understanding can be questioned and adjusted to the current context. A critical interpretation of this hadith allows us to delve into a deeper meaning, suggesting that it might be more related to the social context of the past, where women were more limited in terms of education and experience in legal matters. Now, in the modern world, women who are educated and experienced in various fields of law have the same capacity as men to provide valid testimony.²⁹

The implementation of critical hermeneutics is the application of this approach in practice, where text interpretation is done in a more critical manner, taking into account the existing social context, and providing space for more just and inclusive ideologies to develop. The application of critical hermeneutics in reading hadith about women's testimony leads to a more open interpretation of women's position in contemporary Islamic society. This application demands that we do not merely repeat traditional interpretations constrained by patriarchal structures, but rather open space for dialogue that considers gender balance and women's contributions in various sectors of life.³⁰ One example of the implementation of critical hermeneutics in this case is when Muslim thinkers propose that this hadith be understood as a contextual rule, in accordance with the social and cultural conditions of the past, and not rigidly applied in the present context. In the modern world, gender equality has become part of the fundamental principles of justice, and the interpretation of religious texts must be able to adapt to these principles.

The application of Jurgen Habermas's critical hermeneutics to the hadith of women's testimony allows us to delve into the meaning of the text by considering the dominant ideological context of that time, as well as the importance of rational discourse to achieve a more just and inclusive understanding. By critiquing existing ideologies and prioritizing discourse free from domination, we can gain a more relevant and fair understanding of women's roles in Islam, and enable the reinterpretation of religious texts in accordance with the times.

Reinterpretation of Hadith on Women's Testimony: Integration of Habermas' Hermeneutics in the Modern Context

Habermas's hermeneutics in interpreting the hadith of women's testimony works through three main stages involving historical, critical, and dialogical analysis. This approach aims to understand hadith in its original context while also interpreting it to be relevant to contemporary social conditions, particularly concerning justice and gender equality. Here is a detailed explanation of how this approach works:

First, Historical Analysis: Understanding the Context of Hadith. The initial stage in Habermas's hermeneutics is historical analysis, which involves understanding hadith as a product of a specific social, cultural, and political context. In the case of women's testimony, the following steps were taken: a.) Social and Cultural Context: During the time of the Prophet 7th century Arab society was highly patriarchal, and women's roles in public life were very limited. Women were often not involved in matters such as finance, law, or administration. b.) Contextual Nature

²⁹*Ibid.*, 29.

³⁰Wasman, "A Critical Approach to Prophetic Traditions: Contextual Criticism in Understanding Hadith," *Al-Jami'ah: Journal of Islamic Studies*, vol. 60, no. 2, 2022, 312.

of Hadith: The provision that two women are equivalent to one man in testimony in the hadith narrated by al-Bukhari aims to protect women in a society that does not provide them with broad access to education and experience in the financial field. This is more related to the social conditions of the time than implying the universal incapacity of women. c.) The History of Testimony in Islamic Tradition: In certain cases, such as women's secrets (for example, childbirth or breastfeeding), women's testimony is actually accepted unconditionally. This step emphasizes that hadith should not be understood ahistorically, but rather positioned within the historical framework that encompasses it.

Second, Critical Analysis: Unpacking Bias and Domination. Habermas proposes a critical approach to liberate the text from distortions caused by power or social domination. In the context of hadith about women's testimony: a.) Identification of Patriarchal Bias: Hadith are often interpreted literally by exegesis traditions dominated by patriarchal bias, which consider women to have a lower capacity for testimony compared to men. b.) Liberation of Text Meaning: The critical approach aims to identify that the rules of women's testimony in hadith are not rooted in biological nature or inferiority, but rather in the social structure of that time. This condition has changed in the modern era, where women have full access to education and expertise. c.) Reinterpretation: By freeing hadith from biased distortions, this approach opens up space to understand that women's testimonies in various contexts, such as law and finance, should be assessed based on individual competence, not gender. This critical approach demands a reinterpretation based on the principles of justice (*al-adl*) and social emancipation.

Third, Rational Dialogue: Contextualizing Hadith. Habermas's hermeneutics emphasizes the importance of communication free from domination, where all parties can engage in rational dialogue.³¹ In the process of reinterpreting hadith, this stage involves: a.) Dialogue between Tradition and Modernity: This approach invites classical scholars, contemporary thinkers, and women's communities to critically discuss hadith in order to reinterpret its meaning according to the needs of the times. b.) Integration of Maqashid al-Shariah: Through dialogue, hadith can be understood within the framework of *maqashid al-shariah* (the main objectives of sharia), which is to realize justice and public interest. Women's testimony in the modern context must reflect this principle, especially because society now provides greater space for women in the fields of finance, law, and politics. c.) Contextualization of Testimony: The rules in hadith are no longer seen as universal provisions, but rather as responses to specific social conditions. In the modern context, women's testimony should not be limited by gender, but rather based on individual expertise and credibility. This dialogue allows for a dynamic and inclusive reading of hadith, without neglecting the fundamental values of Islam.

The hadith regarding women's testimony, which states that two women are equivalent to one man in providing testimony, faces significant challenges when applied in the context of modern society. These contextual challenges arise due to the social, cultural, and economic developments that are very different from the time when the hadith was revealed. Below are some challenges that arise in applying a literal understanding of this hadith in modern society:

First, the Changing Role of Women in Society. During the time of Prophet Muhammad ﷺ, women's roles in society were limited to the domestic sphere and some other social activities.³²

³¹Gusti Rian Saputra, "Hermeneutika Hadis sebagai Solusi Penyelesaian Hadis Mukhtalif tentang Larangan Wanita Ziarah Kubur," *Maqasid Journal*, Vol. 13, no. 1 (2024), 30.

³²Loeziana Uce, Prinsip Kesetaraan Gender dalam Al-Qur'an, *Jurnal Ilmiah Studi Gender dan Islam*, Vol. 6, No. 1, 2021, 92-94.

However, in modern society, women are now actively involved in almost all sectors of life, including education, work, politics, and law. Many women now have education levels equivalent to men and are engaged in professional professions such as judges, lawyers, doctors, and scientists.³³ With the existence of this equality, the idea that the testimony of two women is equivalent to one man feels irrelevant and contradicts the principles of equality upheld by many modern countries. Women's access to better education and their active participation in various fields of life have caused their roles in the legal and financial systems to no longer be limited to a status considered "half" of that of men.

Second, the Principle of Gender Equality. In the modern era, gender equality has become one of the main values upheld in global society. Many countries have enacted regulations that uphold gender equality in various aspects, including in the legal field.³⁴ For example, in the legal systems of many countries, both in the Western world and in progressive Muslim countries, women and men are considered equal before the law, including in terms of giving testimony.³⁵ A literal understanding of this hadith, which considers women's testimony to be inferior to men's, poses a significant challenge in achieving this principle of equality. In the context of modern law that prioritizes the principles of justice and equal rights, the application of that hadith is considered a form of discrimination against women, as it does not align with the development of social values that demand gender equality.

Third, Understanding "Lack of Intellect." The hadith stating that "the testimony of a woman is equal to half that of a man" is often accompanied by the explanation that this is due to "her lack of intellect." In the time of the Prophet, this statement might have been understood in the context of women's limited access to education and knowledge in certain fields, especially in legal and economic matters. However, in modern society, women have equal access to education and employment as men. Judging women as "lacking intellect" due to their limited knowledge at that time is no longer relevant.³⁶ In the current context, women who are highly educated and experienced in various fields of law and social sciences certainly cannot be equated with "lack of intelligence" in providing testimony. Therefore, this concept has the potential to be considered degrading to women's dignity if applied in a modern context.

Fourth, Acceptance of Religious Texts in the Era of Globalization. Globalization and the development of communication influence the way society views religious teachings and laws. Rapid and open information allows people to evaluate religious and legal texts more critically, including normative hadiths like this one. Criticism of literal understanding often arises in contemporary religious discourse, where many modern Muslim thinkers strive to reinterpret classical teachings with an approach more aligned with the realities of this era.³⁷ In a global context, more and more Muslim intellectual figures are proposing to revisit the interpretation of the hadith by viewing it as part of a specific social context, rather than as a universally applicable law. The hermeneutical approach, which considers the historical and social conditions at the time the text was revealed, becomes important to create space for a more inclusive understanding that is relevant to contemporary challenges.

³³Nur Aisyah, "Kesaksian Perempuan dan Kesetaraan Gender...", 180.

³⁴*Ibid.*, 182.

³⁵*Ibid.*, 183.

³⁶Asriaty, "Kontroversi Kesaksian Perempuan Dalam Qs Al-Baqarah (2): 282 Antara Makna Normatif Dan Substantif Dengan Pendekatan Hukum Islam, *Jurnal Pemikiran Hukum dan Hukum Islam*, Vol. 7, No. 1, Juni 2016, 179.

³⁷Terry Eagleton, *Teori Sastra: Sebuah Pengantar Komprehensif*, Yogyakarta: Jalasutra, 2006, 155.

Fifth, the Implementation of Islamic Law in Secular States. Many modern Muslim countries implement legal systems that adopt secular principles or a mix of Islamic and secular law. In this context, the application of laws based on classical texts, such as hadiths about women's testimony, often encounters obstacles, because modern society tends to prioritize human rights and legal justice that does not differentiate by gender. In countries with mixed legal systems, this contextual challenge becomes increasingly complex.³⁸ Modern courts strive to adapt Islamic law by considering the contemporary context, which often involves discussions on how to balance religious traditions with equal women's rights.

Sixth, Challenges in Religious Education and Understanding. In a more open and pluralistic society, the biggest challenge in applying a literal understanding of this hadith is religious education, which needs to introduce a more progressive and contextual perspective on Islamic teachings. Many Muslim communities around the world are striving to change the way religious teachings are conveyed, including providing a more inclusive understanding of women's rights.³⁹ On the other hand, another challenge is how to explain and disseminate this more modern and contextual interpretation to the more conservative circles, who still hold a literal understanding of religious texts. The discourse on women in Islam needs to continue evolving to ensure that religious teachings align with the principles of social justice and gender equality.

Conclusion

The contextual challenges of the hadith regarding women's testimony in modern society are significant, especially concerning gender equality values, the changing roles of women, and the interpretation of religious texts. The literal application of this hadith in the context of modern law can hinder the achievement of justice and equality in society. Therefore, it is important to revisit and interpret these hadiths with a more contextual approach, one that aligns with the current social and cultural conditions, as well as the principles of justice taught in Islam. A contextual approach to hadiths about women's testimony requires a methodology that considers the dynamics of social, cultural, and legal changes in the modern era.

One of the relevant approaches is critical hermeneutics, which not only focuses on the text but also on the historical context and the moral purpose of the text. This hermeneutics helps identify the normative aspects of hadith that are universal in nature, such as the principles of justice and equality, and distinguish them from specific rules bound to the social context of the time of Prophet Muhammad (PBUH). Jurgen Habermas, through the theory of communicative action and ideological critique, offers a framework for critically assessing hadith without disregarding its spiritual dimension. By applying this approach, the interpretation of hadith can be directed to promote inclusive rational discourse, where the values of Islamic justice can be aligned with the demands of the times. Moreover, this approach allows for the dismantling of patriarchal ideologies that may be embedded in the literal interpretation of hadith, resulting in a more relevant understanding for modern society.

In the context of contemporary Islamic law, the reinterpretation of this hadith can also help bridge the gap between religious norms and international legal principles related to gender equality. This is very important in ensuring that Islamic teachings remain a source of ethical inspiration that can be applied fairly in various modern legal systems. Thus, the reinterpretation of hadiths regarding women's testimony not only enriches academic discourse but also makes a tangible

³⁸Hauqola, "Hermeneutika Hadis: Upaya Memecah Kebekuan Teks," *Jurnal Theologia*, Vol. 22, No. 3, 2021, 200.

³⁹*Ibid.*, 201-202.

contribution to social improvement in the Islamic world. In practice, the results of this approach can be seen in the transformation of legal and social perspectives. For example, full recognition of women's testimonies in various fields, both in formal legal contexts and everyday life, without distinguishing them from men based on biased assumptions. Thus, this reinterpretation not only serves as an academic effort but also as a concrete step towards the application of Islamic values of *rahmatan lil 'alamin*, which are relevant in modern society.

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