

Cogita

MULTIDISCIPLINARY RESEARCH JOURNAL

Vol. XV, no. 1/March, 2023

Bucharest, 2023
ISSN 2068-6706

**Cogito Journal is published under the aegis of
“Dimitrie Cantemir” Christian University**

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RELIGIOUS MODERATION PHENOMENON IN INDONESIA: THE ROLE OF KH. M. HASYIM AS'ARI PRINCIPLES OF THOUGHT

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Abstract: *KH M. Hasyim Asy'ari's philosophy looks traditional in nature. It can integrate ru>h al-Jiha>d into two categories: Jiha>d filla>h, which is oriented towards the spread of Islamic teachings; and Jiha>d fisabi>lilla>h, which is understood as resistance and even war against invaders. Thus, the essence of this research is to show that the relationship between Islam and Pancasila (the Ideology of the Republic of Indonesia) is a modality to build religious moderation (nationalist-religious) originating from Hasyim Asy'ari's thought. This research uses qualitative research, a combination of historical, documentary, and survey research. Data collection techniques were obtained from documentation, interviews, and observations. Data analysis techniques involve inductive, deductive, and comparative analytical methods. This research shows that Hasyim Asy'ari, with the principles: Al-Jiha>d (Struggle), Al-Ittiha>d (Unity), At-Tasa>muh (Tolerance), Al-I'tima> d'ala an-Nafs (Independence), Al-Ikhla>s (Sincerity), Uswah Hasanah (Exemplary), is a solution to the conflictual relationship between religion and the state. These principles can be systematically strengthened for the sustainability of Uhuwah Islamiyah (brotherhood), Uhuwah Watoniyah (mutual respect), and Uhuwah Insaniyah (brotherhood among mankind), which is an abstraction of ru>h al-Ittiha>d (unity). This can also be translated into the two spirits of al-Jihad: jiha>d filla>h, which is oriented to religious teachings; and jiha>d fi sabi>lilla>h, which means war against foreign control of the state.*

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Keywords: *religious moderation, principles of thought, nationalism-religious.*

Introduction

The terminology of moderation in Islamic diversity in the West and America is different from that in the context of Islamic diversity in Indonesia. The moderation of Islamic religion in the West and America may emphasise a religious that is critical-reflective, pro-democracy, and human rights and supports the ideology of secularism¹. However, the latter's features of moderation are a problem in the context of Islam in Indonesia. According to Teemu Mantsinen, an essential aspect of religious moderation in Finland is the process of identity-making through the personal experiences of individuals there². In religious developments, generations have different backgrounds and identifications, and the research only focuses on the older and millennial generations³. Islamic values positively moderate Muslim behaviour⁴. In Indonesia, moderation is defined as the refusal to accept violence as an ideological and battle line⁵.

The conceptual vocabulary of moderation is not easy to define. The topic is strongly debated among Muslims and non-Muslims alike. They are interpreted differently depending on who approaches them and the context⁶. Even some Muslims with a strong religious spirit (*gi>rah di>niyah*) reject the term "moderation of Islam"⁸. Adina Leah Bankier moderated Karp's mediation analysis, which showed that the sophisticated

¹ D. Iribarnegaray and J. Bert, "Islam and the West: interplay with modernity." *Journal of Alternative Perspectives in the Social Sciences*, 7, 4, 2016, p. 522.

² U. Khasanah, Contemporary Issues of Islamic Religious Education in The Scope of Delegate Vocational High School (SMK) Muhammadiyah. *AL-HAYAT: Journal of Islamic Education*, 3, 2, 2019, p. 200.

³ T. Mantsinen, Conversion and the transformation of culture in the Finnish Pentecostal movement. *Approaching Religion*, 5, 1, 2015, p. 56.

⁴ A. Begum, et al., Evaluating the Impact of Environmental Education on Ecologically Friendly Behavior of University Students in Pakistan, *Sustainability*, 13, 18, 2021, p. 75.

⁵ M. Hilmy, Quo-Vadis Islam Moderat Indonesia? Menimbang Kembali Modernisme Nahdlatul Ulama dan Muhammadiyah. *MIQOT: Jurnal Ilmu-Ilmu Keislaman*, 36, 2, 2012.

⁶ L. Esposito, Moderate Muslims: A Mainstream of Modernists, Islamists, Conservatives, and Traditionalists. *American Journal of Islamic Social Sciences*, XXII, 3, 2005, p. 12.

⁷ Z. Hamid, Appraising the Moderation Indonesian Muslims with Special Reference to Muhammadiyah and Nahdlatul Ulama. *Addin: Media Dialektika Ilmu Islam*, 12, 1, 2018, p. 20.

⁸ M. Khan, Islamic Democracy and Moderate Muslims. *American Journal of Islamic Social Sciences*, Vol. XXII, 03, 2005.

conceptual and methodological insights into how religious connectedness happens are a better way to study spiritual connectedness⁹¹⁰.

Umma Farida's research discusses the contribution and role of KH. Hasyim Asy'ari in framing religious moderation in the perspective of the Koran and Hadith. As stated in his book *Risalah Ahl as-Sunnah wa al-Jama'ah*, his analysis reveals that Hasyim Asy'ari's role in teaching Islam emphasises character development, courtesy, tenderness, and comprehension of moderate Islam¹¹. He also tells us to be kind to people no matter what religion they are, loves the Prophet, and makes unity, brotherhood, and tolerance the basis for moderation among Indonesia's religious groups¹².

According to Imam Subchi, his opinion is different from the results of research conducted on 578 state Islamic university students in Indonesia. This means that religious intellectualism, ideology, public activity, private practise, and religious experience help an individual become spiritual, moderate, and able to combat bigotry and extremism. Socioeconomic factors, such as gender and parental income, also have a big effect on religious moderation¹³.

From the statement above, the emphasis and importance of religious moderation are very much needed because there are still those who think that religious moderation has nothing to do with the welfare of a nation. According to Andrew Fenelona and Sabrina Danielsen, religious believers have poorer health and lower well-being than consistently affiliated (socialists) and consistently unaffiliated individuals¹⁴ and can threaten the continuity of social activity (gambling) in the United States that has existed for a long time¹⁵.

The present paper examines the dynamics of moderation in Indonesian Islamic diversity and its relation to the principles of thought of KH M. Hasyim Asy'ari, who became a central figure in building Islamic moderation at the beginning of Indonesian independence¹⁶¹⁷¹⁸. Because

⁹ L. Bankier-Karp, Catalysts of Connectedness: A Case for Greater Complexity in Religious Identity Formation Research. *Review of Religious Research*, 64, 1, 2022.

¹⁰ A. Nasrullah, A Combination of Cultural Wisdom and Religious Values in Bina Damai in Gunungsari District. *Al-Hayat*, 3,2, 2018, p. 23.

¹¹ R. Putra, Menilik Nilai – Nilai Keislaman dalam Etika Profesi Personal Pengembang Teknologi Pembelajaran. *Journal of Islamic Education*, 6, 1, 2021, p. 15.

¹² U. Farida, *Kontribusi dan Peran KH . Hasyim Asy ' ari dalam Membingkai Moderasi Beragama Berlandaskan al Quran dan Hadis di Indonesia*. 8, 2020, p. 311.

¹³ I. Subchi et al., Religious Moderation in Indonesian Muslims. *Religions*, 2022, p. 11.

¹⁴ A. Fenelon and S. Danielsen, Leaving my religion: Understanding the relationship between religious disaffiliation, health, and well-being. *Social Science Research*, 57, 2016, p. 49.

¹⁵ K. Beyerlein and J. Sallaz, Faith's wager: How religion deters gambling. *Social Science Research*, 62, 2017, p. 204.

¹⁶ M. Asad, *Al-'Allāmah Muhammad Hāsylim Asy'ari Wādhih Libnati Istiqlāli*

KH M. Hasyim Asy'ari, according to Mohamad Hasan, is categorised as an Islamic traditionalist figure who upholds moderation and eclecticism¹⁹. The question being developed is the principles of thought that can form moderate ideas. Is there an attitude of moderation of Islamic diversity unique to the KH M. Hasyim Asy'ari model? What is the reflection of religious moderation in Indonesia today?

Method

This is a qualitative research combination of historical, documentary, and survey research. Thus, research data can be obtained from documentation, interviews, and observations²⁰. In terms of its objectives, this study has two main goals^{21,22}, namely: first, to analyse and discover the principles of thought through factual historical research of the character K.H.M. Hasy'ari so that the singularity of these thoughts can be obtained; second, to explain the impact of his thinking on the concept of religious moderation in Indonesia through a rationalistic postpositivism approach, which has the following points of thought: (a) placing the specific object of research in a holistic totality; (b) using a specific type of mindset; and (c) continuing research on meaning²³. The data analysis methods used in this research include: a. inductive and deductive; b. reflective; and c. constant comparability, i.e., an analysis method with the following work stages: 3) Creating a theory :4) writing theory; d. methods of typological analysis²⁴.

Results and Discussion

Moderation of Islam in Indonesia

Generically, moderation means a middle way, a choice between the two extremes of religious thought. Extremity is often defined as *al-ghuluw*, which Yusuf al-Qardhawi calls *al-mut} at} arrif* and moderation is often

Indonesi. Dār as-Shodiq, 1971.

¹⁷ J. Benda, *The Crescent and the Rising Sun: Indonesian Islam under the Japanese Occupation 1942-1945*, 1958.

¹⁸ Z. Misrawi, *Hadratussyaikh Hasyim Asy'ari: Moderasi, Keumatan, dan Kebangsaan*. Penerbit Buku Kompas, 2010.

¹⁹ M. Hasan, *Al-Wasatīyah al-Intiqāiyah al-Taqlīdiyah: Dirāsāt Haula Harakāti wa Afkārī Kiāi Hāji Hāsyim Asy'arī fi Fiqh al-Siyāsah al-Ijtimā'iyah bi Indūnisiā. Al-Ihkam: Jurnal Hukum Dan Pranata Sosial*, 16, 2, 2021, p. 597.

²⁰ W. Creswell and N. Poth, *Qualitative Inquiry and Research Design: Choosing Among five Approaches*. Sage publications, 2016.

²¹ Z. Bakker, *Metodologi Penelitian Filsafat*. Kanisius, 1990.

²² A. Ikhwan, *Metode Penelitian Dasar (Mengenal Model Penelitian dan Sistemikanya)*. STAI Muhammadiyah Tulungagung, 2020.

²³ N. Muhadjir, *Metodologi Penelitian Kualitatif*. Rake Sarasin, 2001.

²⁴ A. Bakker, *Metodologi Penelitian Filsafat*. Kanisius, 1990.

referred to as *al-wast* which means the middle way²⁵. In general, moderation is understood as a point of view, attitudes and behaviour, always taking a position in the middle, always acting reasonably, and not being extreme²⁶.

Jillian Schwedler asserted that “moderation -a process rather than a category- entails change that might be described as movement along a continuum from radical to moderate”²⁷. Moderation is implicitly (and occasionally expressly) associated with liberal concepts of individual rights and democratic notions of tolerance, plurality, and cooperation. According to the research, for actors to become more moderate, they must become more receptive to the prospect that other opinions are valid, if not equally so²⁸.

To define moderation, *al-Sallabi*, as a Muslim scholar, this article first investigates the linguistic implications of the Arabic equivalent, “wasatiyyah.” In Arabic dictionaries, the term wasatiyyah typically refers to multiple shades of meaning, including justice or balance (*al-'adl*), merit or perfection (*al-faḍl*), and better (*al-khairiyyah*), as well as middle (*al-bainiyyah*)²⁹. Some commentators interpret *al-wasatiyyah* as follows:

1. *Wasat* is justice and the optimal choice. Any growth beyond what is expected constitutes excess, whereas any decrease constitutes neglect. Both excess and failure are contrary to the norm. Therefore, it is bad and blameworthy. The optimal choice lies between two alternatives³⁰;
2. *al-Wasat* is “a balance that equilibrates the two opposite ends, in which neither ends stand alone with its supremacy or banish its counterpart; in which neither ends take more than it deserves and dominates its opponent.³¹”;
3. *al-Wasat* denotes moderation and balance (*i'tidāl*) in belief, morals, and character, in the method of treating others, and in the applicable systems of sociopolitical order and administration in the common lingo of the people of our day³².

²⁵ H. Wehr, *Modern Written Arabic*. Göttingen: Otto Harrassowitz Verlag, 1979.

²⁶ A. Tim, *Moderasi Beragama*. Jakarta: Badan Litbang dan Diklat Kementerian Agama Republik Indonesia, 2019.

²⁷ J. Schwedler, *Faith in Moderation: Islamist Parties in Jordan and Yemen*. Cambridge University Press, 2008.

²⁸ T. Islam and A. Khatun, “Islamic Moderation” in Perspectives: A Comparison Between Oriental and Occidental Scholarships. *International Journal of Nusantara Islam*, 3,2, 2015, p. 70.

²⁹ M. Al-Sallabi, “al-Wasatiyyah fi al-Quran al-Karim.” *Amman: Jordan, Dar Al-Nafais & Dar Al-Bayariq*, 1999.

³⁰ R. Rida, *Tafsir Al-Manar*. Egypt: Al-Hayyah al-Misriyyah al-Ammah li al-Kitab. 1990.

³¹ A. Yusuf, *Kalimat Fi Al-Wasatiyyah Al-Islamiyyah wa Maalimiha*. Qahira: Misr, Dar al- Shuruq, 2011.

³² W. Al-Zuhayli, *Qadaya Al-Fiqhwa Al-Fikr Al-Muasir*. Damascus: Dar al-Fikr, 2006.

According to the diverse interpretations of the Qur'an, moderation is defined as a movement from the edge, which always moves toward the centre or axis (centripetal). In contrast, extremism goes away from the centre or axis and toward the extremes (centrifugal). A dynamic motion, like a pendulum clock, does not stop at one extreme but tends towards the centre³³.

Foundations and Indicators of Religious Moderation

The moderation of religiosity in the text of the verses of the Qur'an can be found in Surah Al-Baqarah (2), verse 143 as follows: "And thus we have made you a just community that you will be witnesses over the people and the Messenger will be a witness over you" (QS al-Baqarah [2]: 143). In that verse, Allah SWT describes the Muslim ummah as the *Wasat Ummah* } a. There are many interpretations by the interpreters of the Qur'an related to the meaning of *ummah wasat* } an, including:

- a. at-Tabari, interpreted the term *wasatan* as "the best, the fair and the chosen that are different from the extreme attitude of the Jew and the Christians"³⁴;
- b. Ibn Kathir, interpreted it as "the best, most humble and being fair"³⁵;
- c. Ar-Razi interpreted *wasatan* meaning: fairness, not to choose a side between two opposing parties or two extreme ends. Second, anything of the highest quality. Third, the most modest and flawless. Fourth, is not to be religiously extremist³⁶.

Thus, the teachings of *wasat* } *iyah*, as described above, are one of the foundations of the essence of Islamic teachings. The word has at least three meanings: middle, fair, and best. The Hadith of the Prophet (peace and blessings of Allah be upon him) confirms this meaning: "The middle is appropriate. We have made you a seat (best) ummah (HR, Tirmizi and Ahmad).

There are four signs of religious moderation: 1) national dedication, 2) tolerance, 3) anti-violence, and 4) respect for local culture³⁷. This indicator is in line with the meaning of the characteristics of religious moderation in the context of contemporary Islamic thought: 1) the ideology of non-

³³ A. Tim, *Moderasi Beragama*, p. 42.

³⁴ M. At-Tabari and J. bin, *Tafsir at-Tabari al-Musamma Jami' al- Bayan fi Ta'wil al-Qur'an*. Beirut, Lubnan: Dar al-Kutub al-'Ilmiyyah, 1992.

³⁵ A. Kathir and I. al-F, *Tafsir Al-Qur'an Al-'Azim*. Beirut, Lubnan: Dar al-Ma'rifah, 1992.

³⁶ F. Ar-Razi, *at-Tafsir al-Kabir aw Mafatih al-Ghayb*. Beirut, Lubnan: Dar al-Kutub al-'Ilmiyyah, 1990.

³⁷ A. Tim, *Moderasi Beragama*, p. 45.

violence in Islamic preaching; 2) adopting the pattern of modern life and all of its consequences, including science and technology, democracy, and human rights; 3) applying rational thought to Islamic teachings. 4) utilising a contextual approach to comprehend the origins of Islamic doctrine; 5) the application of *ijtihad* to Islamic law (*ist'ina>t*)³⁸.

Islamic moderation also functions to create a dialogue between Islam and modernity. Islam is not in a position to reject or accept modernity as a whole. This promotes a critical stance in order for modernism to evolve into a positive rather than a negative value.

When Muslim countries are so strict and conservative about changes and products of modernity, Indonesia can use it as *da'wah* media by including the spirit of Islam in it³⁹.

In this way, indicators of religious moderation can be stated as follows: 1) commitment to nationality; 2) non-violent ideology; 3) tolerance; 4) accommodating to local culture and modern life; 5) using a contextual approach, and 6) the use of *ijtihad*.

The phenomenon of Islamic Religious Moderation in Indonesia

Muslims must develop moderation of Islamic diversity in Indonesia in the sense of grounding moderate Islamic teachings towards mercy for the universe (*rah matan li al-'A>lami>n*). In reality, some people are still extreme, radical and intolerant and are even considered terrorists.

Religious moderation must be viewed as a balanced religious attitude between the (exclusive) practise of one's own religion and respect for the spiritual practises of those with differing views (inclusive). This equilibrium or middle ground in religious practise will unquestionably prevent extremist, fanatical, and revolutionary views in religion⁴⁰. In addition, Islamic religious moderation must also be contextualized within the state (nationalism)⁴¹.

Indonesian Muslims have a paradigm setting in which the values of religion and the state coexist, do not negate each other and do not destroy pluralism. The Indonesian nation is not interested in establishing a secular state, and neither is a religious state (*daulah Islamiyah*)⁴². Even the

³⁸ M. Hilmy, Quo-Vadis Islam Moderat Indonesia?, p. 63.

³⁹ N. Faiqah and T. Pransiska, Radikalisme Islam Vs Moderasi Islam: Upaya Membangun Wajah Islam Indonesia Yang Damai. *Al-Fikra: Jurnal Ilmiah Keislaman*, 17, 1, 2018, p. 35.

⁴⁰ E. Sutrisno, Aktualisasi Moderasi Beragama di Lembaga Pendidikan. *Jurnal Bimas Islam*, 12, 2, 2019, p. 326.

⁴¹ K. Fuad, Islamic Moderation in the NKRI Frame. *Social Science Studies and Sustainability Issues*, 1, 2019.

⁴² Ibid, p. 43.

intrinsic values of religion have inspired the founders of the nation and the aspirants of the state to realize a national life based on religious teachings. Religious discounts are even reflected in Pancasila as the state ideology, especially in the First Precept, "God Almighty", and other principles. KH Hasyim Muzadi noted that all of these are the efforts of his predecessors, who have built a solid foundation of diversity and nationality as milestones of Islamic moderation⁴³.

The moderation paradigm in the Indonesian context is not only interpreted as moderation of religious thought but also as a national commitment to accepting all its attributes; the philosophy of Pancasila, the 1945 Constitution and also the final form of the state.

The Principles of Kh M. Hasyim Asy'ari's Thought

Biography of KH M Hasyim Asy'ari

K.H. M Hasyim Asy'ari is a great scholar known to have brilliant thoughts covering many fields from religion, education, and social to political matters. Some of his ideas are contained in the titles of various books he wrote and have been collected by M. Ishom Hadzik with *Irsha>d al-Sari* and the book of Mahakarya Hadrastussyaiikh KH M. Hasyim Asy'ari⁴⁴. KH Abdurrahman Wahid even said that he wrote about 20 themes in books and treatises⁴⁵. In addition, he is a founding figure of Nahdlatul Ulama and *jam'yah al-Ijtimaiyah* (religious and community organizations)⁴⁶, which is the largest religious organization in Indonesia⁴⁷, Masjumi leader, and the only Nahdlatul Ulama (NU) leader who was given the title *Rais Akbar*⁴⁸. For his services of uniting the ummah and brotherhood among the ummah⁴⁹, Alwi Shihab calls him '*Syaikhul Akbar*' because he is considered a leading figure par excellence with a significant contribution to spreading the ideology of *Ahlusunnah wal Jama>ah* and Sunni Sufism in Indonesian. In an Egyptian published book, he was called

⁴³ Ibid, p. 44.

⁴⁴ H. Asy'ari, *Mahakarya Hadratussyaikh KH M Hasyim Asy'ari*. Jombang: Pustaka Tebuireng, 2021.

⁴⁵ A. Wahid, *Islamku Islam Anda Islam Kita*. Yayasan Abad Demokrasi, 2011.

⁴⁶ A. Purwono, Organisasi Keagamaan dan Keamanan Internasional: Beberapa Prinsip dan Praktik Diplomasi Nahdlatul Ulama (NU) Indonesia. *JPP (Jurnal Politik Profetik)*, 1, 2, 2013.

⁴⁷ A. Hadi, *K.H. Hasyim Asy'ari: Sehimpun Cerita, Cinta, Dan Karya Maha Guru Ulama Nusantara*. Diva Press, 2018.

⁴⁸ F. Fakturmen and Z. Arif, Pengaruh KH. Hasyim Asy'ari dalam Membangun Serta Menjaga Nusantara dan Kemaslahatan Islam Dunia. *Jurnal Indo-Islamika*, 10, 1, 2020, p. 37.

⁴⁹ Z. Misrawi, *Hadratussyaikh Hasyim Asy'ari*, p. 21.

*Haḍrah al-'Allāmah, Syams al-Bahjah al-Fuḍalā', Durrah 'Iqd ḡawī at-Tahqīq anNubalā', al-Ustāz al-Kabīr, al-Fahhāmah asSyahīr, A'jubat az-Zamān, Ma'dān al-Fudhalā' wa al-'Irfān*⁵⁰. The scholars gave him the title of *Hadratussyayikh*, which means *maha ulama* and *maha guru*. He was raised in the Sufi tradition of the Sunnis in Java, studying and working in society at the time of the emergence of the Wahhabi movement in the Islamic world⁵¹.

History records that he built the stability of unity among Muslims in the archipelago. This can be seen in his efforts to restrain and rectify all matters that could divide Muslims, such as the formation of MIAI (Majlis Islam A'la Indonesia) in 1937⁵², and he was also one of the founders of the first stone for Indonesian independence⁵³⁵⁴. The Dutch and Japanese colonials had tried hard to carry out diplomacy with KH M Hasyim Asy'ari to be invited to cooperate but failed. Even though assistance continues to be disbursed to the Tebuireng *pesantren* (Islamic Boarding School), he still firmly rejects it⁵⁵. The events of 10 November 1945, which were very heroic, were influenced by the fatwa of his jihad and were continued by the issuance of the Jihad Resolution⁵⁶⁵⁷, which in turn influenced the civil society resistance event against British colonial attempts to control Indonesia through Surabaya and the incident. The resistance was made on Heroes' Day in Indonesia⁵⁸.

KH. Hasyim Asy'ari was born and raised in a *pesantren* environment. He also studied a lot of knowledge and is directly involved in it, particularly in the background of Islamic religious education. Everything he experiences and feels becomes his experience and influences his mindset and views on educational issues, especially Islamic boarding

⁵⁰ P. Tim, *Ensiklopedia Ulama Terpilih Indonesia, Jilid 1*. Yayasan Amanah Kita, 2020.

⁵¹ M. Hamlan, "Tipologi Pemikiran Pendidikan Indonesia: Telaah Historis-Filosofis Pendidikan K. H. Ahmad Dahlan dan K.H. Hasyim Asy'ari." *Jurnal Pendidikan Dan Ilmu Sosial*, 7, 2, 2020, p. 229.

⁵² M. Asad, *Al-'Allāmah Muhammad Hāsyim Asy'ari Wādhīh Libnati Istiqlāli Indonesi*, p. 54.

⁵³ A. Shihab, *Islam Sufistik: Islam Pertama dan Pengaruhnya hingga Kini di Indonesia*. Mizan, 2001.

⁵⁴ R. Fadli and A. Sudrajat, Keislaman Dan Kebangsaan: Telaah Pemikiran KH. Hasyim Asy'ari. *Khazanah: Jurnal Studi Islam Dan Humaniora*, 18, 1, 2020, p. 109.

⁵⁵ A. Amiq, "Two Fatwas on Jihad Against the Dutch Colonization in Indonesia A Prosopographical Approach to the Study of Fatwa." *Studia Islamika*, 5, 3, 1998.

⁵⁶ H. Frederick, Visions and heat, the making of the Indonesian revolution. *Asian Affairs*, 21, 1990, p. 95.

⁵⁷ M. Van Bruinessen, *NU; Tradisi, Relasi-relasi Kuasa, Pencarian Wacana Baru*, LKIS, 1994.

⁵⁸ A. Setiawan and Y. Rahmadi, Konsep Resolusi Jihad Hasyim Asyari Dalam Buku Sang Kiai. *Skripsi, IAIN Surakarta*, 2017.

school education⁵⁹.

According to the Indonesian Minister of Religion, the number of Islamic boarding schools in Indonesia has reached 28 (*salaf, khalaf* and combination) with 5.000.000 *santri* living. WITH students going back and forth from home to Islamic boarding schools and Koran education parks and madrasas, the number of the students reached 18.000.000⁶⁰.

Principles of Thought of KH M. Hasyim Asy'ari

On a historical journey, K.H. M. Hasyim Asy'ari and his profound educational, socio-political and religious-philosophical views created extraordinary principles of thought⁶¹. These principles directly impact the diversity of Islam and the state in Indonesia.

Al-Jihad (Struggle)

The value of struggle (*al-Jihad*) is used as the basis for building and developing Tebuireng *pesantren*. K.H.M Hasyim Asy'ari never resigned in the face of the threat of the community around the *pesantren*, which was still damaged at the time and the threat of the Dutch colonialists who wanted to stop their movement in *syi'ar Islam*.⁶² He explained his stance "Broadcasting Islam means improving humans. If humans are good, what will be improved thereof. To fight means facing hardships and making sacrifices. In his struggle, the Prophet has shown these examples" (Salam, 1963). One of the ideas that have always been kindled to liberate Indonesia from colonialism which has been used as the basis for the struggle of the Indonesian nation, is *ru>h al-jihad*⁶³.

The issuance of a Jihad Resolution whose substance is the same as Fatwa Jihad and Jihad Resolution is the most evident evidence in KH M. Hasyim Asy'ari. This resolution resulted from a meeting of NU delegates which took place on 21-22 October 1945 at the PB NU (General Manager Nahdlatul 'Ulama [NU]/ Islamic organizations in Indonesia) Bubutan Surabaya office⁶⁴. The jihad resolution was issued to determine the

⁵⁹ N. Pilo, Pemikiran Pendidikan K.H. Muhammad Hasyim Asy'ari. *Jurnal Ilmiah Islamic Resources FAI UMI Makasar*, 16, 2, 2019, p. 208.

⁶⁰ M. Ashari, Peraturan Turunan UU Pesantren Disiapkan, Menteri Agama Tegaskan Satu Hal. *Pikiran Rakyat Com*, 2020.

⁶¹ Mardiyah, *Kepemimpinan Kiai dalam Memelihara Budaya Organisasi* (M.Y.A. Bakar (ed.); Ke-IV). Aditya Media Publishing, 2019.

⁶² F. Akarhanaf, *Kiai Hasjim Asj'ari; Bapak Umat Islam Indonesia*. Pesantren Tebuireng, 1950.

⁶³ S. Zuhri, *Sejarah Kebangkitan dan Perkembangan Islam di Indonesia*. Bandung: PT. Al-Maarif, 1980.

⁶⁴ R. Suratmin, Peranan Pondok dalam Badan Pengembangan Kebudayaan dan Pariwisata. *Patra Widya: Seri Penerbitan Penelitian Sejarah Dan Budaya*, 4, 1, 2003, p. 65.

attitude towards NICA. As a result of this resolution echoing throughout Java and Madura, the enthusiasm and courage of the Indonesian civilians to fight against the allies and the NICA was burning everywhere. The effectiveness of this call was proven by the heroic battle of 10 November 1945. Frank Palmos described the heroism of the fighters at that time, including giving notes on the contribution of the ulama in moving the people of Surabaya. Including the figure of a scholar who gave lucky water to the fighters in Blauran, even after providing prayers, this kyai accompanied the soldiers to the front. Therefore, Amiq juxtaposed KH M. Hasyim Asy'ari with Sayyid Utsman in supporting the revolution for independence by using the term jihad against the Dutch⁶⁵.

Some of the values of *al-Jihad* instilled by Hasyim Asy'ari as the founder of the Tebuireng Islamic Boarding School in his students include a). Jihad for oneself, b). Jihad with assets for the benefit of religion and society, in the form of *infaq*, *sadaqah*, *waqf* and others⁶⁶, and c). Jihad with physical either in the form of physical warfare or opinion wars, information wars, movements, forces and so on⁶⁷. Thus, in the view of KH M. Hasyim Asy'ari can be understood as a whole of personal, religious, national and national interests, both material and non-material such as opinions, and information warfare, to benefit the people.

Al-Ittihad (Unity)

KH M. Hasyim Asy'ari is a peacemaker in Nahdlatul 'Ulama and Muslims. He tried to bridge the gap between the old and the young on many issues by saying that the older generation should love the young and the young should respect the old. In the introduction of his speech at the third conference in 1930 with the title "*Muqaddimah Al-Qanu>n al-Asa>si Lil Jami'a>t Nadhat al-Ulama>*" (Opening of the Articles of Association of Nahdlatul Ulama)⁶⁸, he called on Muslims to unite (*Al-Ittiha>d*)⁶⁹. The theme of unity (*Al-Ittiha>d*) at the 11th muktamar in 1936 in Banjarmasin in his speech in Arabic with the theme "*al-Mawa>iz*}" (sayings) invites the scholars to put aside differences and end group fanaticism (at-ta'assub), forget the insults and insults to others and maintain the unity of the people⁷⁰.

⁶⁵ A. Amiq, "Two Fatwas on Jihad Against the Dutch Colonization in Indonesia, p. 64.

⁶⁶ H. Soekadri, *Kiyai Haji Hasyim Asy'ari*. Depdiknas, 1980.

⁶⁷ A. Haidari, *Masa Depan Pesantren dalam Tantangan*, p. 43.

⁶⁸ A. Ikhwan et al., Development of Curriculum Keaswajaan (Nahdlatul 'Ulama) in Character Formation. In *Global Perspectives on Teaching and Learning Paths in Islamic Education*, IGI Global, 2019, p. 94.

⁶⁹ L. Khuluq, *KH. Hasyim Asy'ari, Religious Thought Political Activities (1871-1947)*. Logos, 2000.

⁷⁰ M. Van Bruinessen, *NU; Tradisi, Relasi-relasi Kuasa*, p. 43.

He also invited traditionalist and modernist Muslims to unite, not divorce because of trivial matters because, according to him, Islam is one. This invitation attracted the hearts of modernists such as Mas Mansur from Muhammadiyah and Wondoamiseno from Syarekat Islam, who were invited to the Nahdlatul Ulama Congress⁷¹⁷². They then realized KH's invitation. M. Hasyim Asy'ari cooperate with traditionalists represented by Abdul Wahab Hasbullah and Ahmad Dahlan by forming a federation body for Islamic organizations to coordinate the activities of Islamic organizations and unite them in facing threats and everyday interests. This organization was established on 18-21 September 1937 under MIAI (*Majlis Islam A'la Indonesia*)⁷³⁷⁴.

At-Tasa>muḥ (Tolerance)

Etymologically, tolerance is defined as a generous attitude to accept differences, tolerate what is disliked and get other people's perspectives. Nur Cholis Madjid defines tolerance as the value of taking all differences sincerely or always seeking the truth without prioritizing bigotry aspects or not shackling one's soul with certain beliefs⁷⁵. Another definition was conveyed by a Turkish Sufi figure named Fethullah Gulen, who stated, "Tolerance does not mean being influenced by others or joining them. It means accepting others as they are and knowing how to get along with them"⁷⁶. Tolerance is understood as an attitude of accepting differences and being able to live together between them.

The various sparks of KH M Hasyim Asy'ari's thoughts in multiple fields he wrote reflect the concept of *tasa>muḥ*, not exclusive thinking⁷⁷. He also agrees and is willing to form the Republic of Indonesia, not based on a particular religion. This shows a high level of *tasa>muḥ* attitude, even though he has done the services of a great struggle in realizing an independent Indonesia⁷⁸.

⁷¹ D. Noer, *Gerakan Moderen Islam di Indonesia, 1900-1942*. LP3ES= Lembaga Penelitian, Pendidikan dan Penerangan Ekonomi dan Sosial, 1982.

⁷² H. Soekadri, *Kiyai Haji Hasyim Asy'ari*, p. 43.

⁷³ J. Benda, *The Crescent and the Rising Sun*, p. 64.

⁷⁴ A. Ikhwan, *Manajemen pengembangan kurikulum Keaswajaan dan Kemuhammadiyah dalam Pembentukan karakter: Studi Multikasus di Sekolah Tinggi Agama Islam Diponegoro dan Sekolah Tinggi Agama Islam Muhammadiyah Tulungagung* [Universitas Islam Negeri Maulana Malik Ibrahim Malang], 2016.

⁷⁵ K. Rahman, Strategi Pengembangan Nilai Toleransi dan Pluralisme dalam Pendidikan Pesantren. *Hikmah Journal of Islamic Studies*, 12, 1, 2016, p. 107.

⁷⁶ F. Gülen, *Toward a Global Civilization Love Tolerance*. Tughra Books, 2010.

⁷⁷ L. Khuluq, KH. Hasyim Asy'ari Contribution to Indonesian Independence. *Jurnal Studia Islamica*, 1, 1998, p. 46.

⁷⁸ L. Khuluq, KH. Hasyim Asy'ari, *Religious Thought Political Activities*, p. 63.

Zamakhsyari Dhofier describes KH M. Hasyim Asy'ari as a figure who follows tradition, with *tasa>muh* as its foundation and is consistent in maintaining Islamic traditionalism, not alienated by colonialism⁷⁹. *Fikrah Tasa>muh}iyah* (tolerance thinking) is one of the characters (typical} a> is}) of NU-style thinking, in addition to moderate thinking (*fikrah at}-t} awasutiyah*), *fikrah isla>h}iyah* (reformative thinking), *fikrahtat} a>wuriyah* (dynamic thinking), and *fikrah manhajiyah* (methodological review)⁸⁰. In addition, NU has contributed to producing an egalitarian, plural and inclusive constitution, which is in line with *qanu>nasa>* delivered by KH M. Hasyim Asy'ari⁸¹.

The understanding of tolerance in the person of KH M. Hasyim Asy'ari is the result of the influence of one of his teachers, KH Saleh Darat Semarang, who is very prominent in promoting *tasa>muh* (tolerance) attitudes. However, in the end, KH M. Hasyim Asy'ari founded the NU organization that did not reject tradition as part of Islamic teachings. In contrast, KH Ahmad Dahlan (KH Darwis) later founded an organization that criticized and dismissed the existence of practice as a *bid'ah* (innovation) and *khura>fah* (superstition)⁸².

Inclusivism and tolerance of KH M. Hasyim Asy'ari are in thought and shown in his attitude in the field of education with his agreement to introduce classical methods in the teaching system of pesantren since 1916 to complement the sorogan and wetonan systems that are similar to public lectures. Thus, two educational systems developed in Tebuireng, namely the salaf system that used the sorogan and weton systems, as well as a more modern classical system. The classical system was named "*salafiyah sha>fi'iyah*"⁸³.

In 1934, Wahid Hasyim realized the renewal of the education system at Pesantren Tebuireng by establishing Madrasah Nizamiyah, which introduced English in addition to the previously known Dutch language. The madrasah curriculum consists of general knowledge (70%) of the entire curriculum⁸⁴. All Islamic boarding schools eventually followed this pattern and education system. Therefore, the breakthrough in the madrasah system (classical system) carried out by the Tebuireng Islamic

⁷⁹ Z. Dhofier, *Tradisi Pesantren: Studi tentang Pandangan Hidup Kyai*. Lembaga Penelitian, Pendidikan, dan Penerangan Ekonomi dan Sosial, 1982.

⁸⁰ M. Manshur, Typical literary works of pesantren on righteousness teaching within cultural transformation. *Journal of Social Studies Education Research*, 11, 4, 2020, p. 148.

⁸¹ Z. Misrawi, *Hadratussyaikh Hasyim Asy'ari*, p. 24.

⁸² A. Mas'ud, al-Taqalid al-Islamiyah al-Iqlimiyah bi Indusiya. *Journal of Indonesian Islam*, 7, 1, 2013.

⁸³ H. Soekadri, *Kiyai Haji Hasyim Asy'ari*, p. 64.

⁸⁴ B. Adnan, *Kemelut di NU, antara kyai dan politisi*. Mayasari, 1982.

Boarding School is considered an innovator and pioneer in reforming the traditional Islamic education system in the country.

Al-I'tima>d 'ala an-Nafs (Independence)

In 1899, Pesantren Tebuireng was established, and only in 1906 was Pesantren Tebuireng officially recognised by the Dutch East Indies government. It's not that K.H. M. Hasyim Asy'ari cooperated with the Dutch East Indies government. On the other hand, he sticks to the principle of "*al-i'tima' d'ala an-nafsi*", or being independent, which does not depend on others, which in Dutch is called "zelf help"⁸⁵. KH M Hasyim Asy'ari emphasised that other parties will not quickly subdue an independent person because he does not depend on anyone. KH M Hasyim Asy'ari is also a farmer who owns hectares of rice fields and a trader. Someone dependent on other parties will likely not have their independence, which is equivalent to giving other people the opportunity to rule us. By depending on people, we are mortgaging our freedom, pride, and spirit. As many people say, nothing is free globally, especially at this time. There is a shrimp behind the stone, and if someone gives something to us, especially a fantastic gift, it should be suspected that the facility has a specific purpose or plan, although not all of them are. Therefore, pesantren must be *i'tima>d alan nafsi* (independent and confident)⁸⁶. His personal and *pesantren's* independence was proven when the Dutch government offered him an award star in 1935 through an Islamologist (orientalis) named *Van der Plas*. Still, he refused it gently (Tim Penulis, 2020). Therefore, the independence of education, especially in pesantren, must be kept and will definitely be able to survive and grow as times change⁸⁷.

The principle is not only raised by the Tebuireng Islamic Boarding School but also in the kiai's personality. He had to live with the results of his own business. Even a portion of his business profits were used to benefit his pesantren. They did not teach two days a week at the *pesantren* to take care of tens of hectares of rice fields and gardens, sometimes even leaving for Surabaya to trade horses, iron, and sell agricultural produce. He also recited Sufism to Kyai Abdul Syakur, who taught the book *Al-Hikam Ibnu Atho'illah As-Sukandari*⁸⁸. Van Bruinessen concluded that the

⁸⁵ H. Soekadri, *Kiyai Haji Hasyim Asy'ari*, p. 66.

⁸⁶ M. Ansori, M, KH M Hasyim Asy'ari Sosok Pemimpin Luar Biasa. *Majalah Tebuireng*, 2015, pp. 7–8.

⁸⁷ A. Haidari, *Masa Depan Pesantren dalam Tantangan Modernitas dan Tantangan Kompleksitas Global*. IRD Press, 2004.

⁸⁸ A. Sunyoto, KH Hasyim Asy'ari, Sang Ulama Pemikir dan Pejuang, Jakarta: Museum Kebangkitan Nasional, Kemendikbud, 2017.

kyai who had a high sense of independence became the moral pillars of the organisation (both NU and pesantren)⁸⁹. For him, defending freedom or autonomy is the independence individuals and institutions must own.

The thought of Indonesian independence prompted KH M. Hasyim Asy'ari to proclaim the values of jihad and struggle undoubted, accompanied by the importance of unity and non-division in the land of Indonesia, especially among Muslims⁹⁰.

Al-Ikhlāṣ (Sincerity)

The personal sincerity of the Kiai cannot be doubted since he founded his pesantren. With a spirit of sacrifice and devotion (worship), KH M. Hasyim Asy'ari built a pesantren as a private educational institution. As a result, he gave more than he received from his cultivated educational institutions. He taught without receiving a salary. The reward that is expected is only from Allah SWT, as the stance exemplified by the Prophets and Messengers, as the words of Allah swt, which means: "*And I never ask you for a reward for those invitations; my reward is none other than from the Lord of the worlds*" (QS. Al-Shu'ara [26]: 109).

In a book he wrote, *Guruku dari Pesantren*, KH Saifuddin Zuhri narrates the sincerity of KH M Hasyim Asy'ari. He would provide money and food to the fighters who would go to the battlefield⁹¹. According to KH M. Hasyim Asy'ari, in the world of education, can be described in the ethics of teacher-student relations. Educators should be genuinely professional in science and spirituality so that they can truly develop the skills of students or students in science and *spirituality*. For students, it is possible to be serious about following the learning process, both at the time of the learning process and beyond. That must be based on ethics and morals⁹².

The ethical relationship between teachers and students is written in *Adab al-'alim wa al-muta'allim fi ma yakhtaj ilai al-muta'allim fi ahwal ta'allum ma yatawaqqaf alaih al-mu'allim fi makamat al-ta'lim* (Ethics of teachers and students about what students need in learning activities and matters relating to teachers in learning activities). This book has eight chapters: (1) the virtue of knowledge and scholars and the virtue of learning and teaching them; (2) the student's ethics toward himself; (3) the ethics of the student and the teacher; (4) the students' ethics with their

⁸⁹ M. Van Bruinessen, *NU; Tradisi, Relasi-relasi Kuasa*, p. 47.

⁹⁰ F. Hidayatullah, *Hidden Movement KH. Hasyim Asy'ari dalam Kajian Fiqih Siyasah. Tafáqquh: Jurnal Penelitian Dan Kajian Keislaman*, 5, 2, 2017, p. 78.

⁹¹ S. Zuhri, *Guruku Orang-Orang dari Pesantren*. LKiS, 2001.

⁹² N. Anzumi, "Teacher and Student Ethic Concept: A Study Toward the Thought of KH Hasyim Asy'ari." *Journal of Research in Islamic Education*, 1, 2019, p. 5.

lessons; (5) the teachers' ethics toward their rights; (6) the teachers' ethics with the subject matter; (7) the ethics of teachers and their students; and (8) the ethics of books as a source of knowledge⁹³.

Good ethics must be present in students, both in their learning situations and in their interaction with the environment in which they live. KH M. Hasyim Asy'ari says that some ways to show love for the Prophet Muhammad SAW are to be faithful to following him, to practise his sunnah, to follow all of his words and deeds, to follow all of his commands, to stay away from what is forbidden, and to be moral by his morals, even when things are hard, easy, busy, or forced⁹⁴.

Teacher-student interactions, in the view of KH M. Hasyim Asy'ari, are very significant based on religious ethics and are ideological, theological, and transcendent. It seeks to bring the learning environment to the level of teacher diligence and authority in its knowledge and teaching. Students as individuals who learn show seriousness and seriousness in learning as a sign of fighting power in the acquisition of learning taught by the teacher to seek the pleasure of Allah Almighty and reap its benefits.

Sincerity is the fundamental value of Islamic boarding school education. Mardiyah calls it an essential value along with other values such as simplicity, independence, *ukhuwah Islamiyah*, and freedom, as it is called *Pancajiwa*, which is enforced in the educational environment of the boarding school which is affiliated with Pondok Modern Gontor Ponorogo⁹⁵. The sincerity of the kyai in teaching and the sincerity of the students in learning, as described by KH M. Hasyim Asy'ari, are based on ethical relationships.

Uswah Hasanah (Exemplary)

Uswah Hasanah, or the role model of KH M. Hasyim Asy'ari, can be seen from his personal and scientific aspects. He is diligent, active at work, warm-hearted, humble, likes to live and work regularly, and is disciplined as a role model for his students, even scholars throughout Java and Indonesia. KH Said Aqiel Siradj gives the example of KH M. Hasyim Asy'ari, who is a spiritualist, a mujahid, a mujaddid, an ulama, a national teacher, and a successful farmer in Tebuireng Jombang⁹⁶.

⁹³ H. Asy'ari, *Mahakarya Hadratussyaikh KH M Hasyim Asy'ari*. Jombang: Pustaka Tebuireng, 2021.

⁹⁴ Ibid, p. 32.

⁹⁵ Mardiyah, *Kepemimpinan Kiai dalam Memelihara Budaya Organisasi di Pondok Modern Gontor, Lirboyo Kediri, dan Pesantren T ebuireng Jombang*. *Tsaqafah*, 8,1, 2012, p. 67.

⁹⁶ A. Siradj, *Tasawuf sebagai Solusi atas Problem Modernitas*. In *Wasiat Tarekat Hadratus Syaikh Hasyim Asy'ari*. Ar-Ruzz Media, 2011.

In his lifetime, KH M. Hasyim Asy'ari prioritised the interests of society more than his own. This increases the respect of members of the community towards him. He was judged by society as a trustworthy person, so he was considered their leader, and even he was often considered a parent, a place to ask and complain, discuss the issues they face, and a place to pour out all feelings⁹⁷. He is a state scholar who NU and other Muslims in Indonesia should emulate. When he preached to people of different sects, he did so gently (rather than harshly and rudely). Contrary to people who violate the rules of *qa>thi'*, he returned the Qur'an and hadith⁹⁸.

The wisdom of KH M. Hasyim Asy'ari is not used to fight against the broadcasting of Islam, which is purely an act of worship. He also used his knowledge to fight for Indonesian independence. The fatwa of the holy war (Jihad Resolution), dated October 22, 1945, stirred the war spirit of Indonesian Muslim youth in Surabaya in defending Indonesia's independence, which was proclaimed in 1945⁹⁹. Thus, KH M. Hasyim Asy'ari is a Sufi figure who brings order to life by balancing the aspects of Islamic teachings (*akidah-syariah* and *tasawuf*), physical-spiritual, moral-spiritual, and parts of inner birth. The file of Ijtihad services and products, the implications posed on the attitude of religion and nationalism in Indonesia, became quite dynamic, so that the Indonesian nation's order of life improved.

The Role of KH. M. Hasyim Asy'ari in realizing Religious and State Moderation

The six principles of KH M. Hasyim Asy'ari's thought have provided the foundation for the religious thinking of Islamic religious leaders before and after Indonesian independence. In subsequent developments, it can give rise to moderate thoughts and attitudes of religious moderation in the Muslim community who take the direction of *Sunnah wal Jamaah* in particular and Indonesian society in general.

The pioneer of Islamic religious moderation in Indonesia is Nahdhatul Ulama, the largest religious community organisation in Indonesia and even globally, founded in 1926. The main characteristic of its religious moderation thought is the amalgamation of the spirit of Islam (*ghirah Islamiyah*) and the spirit of nationality, marked by the existence of the relationships between Islam and Pancasila; relations between Islam and the Republic of Indonesia (the Unitary State of irit of nationality, marked by the existence of the relationships between Islam and Pancasila;

⁹⁷ H. Soekadri, *Kiyai Haji Hasyim Asy'ari*, p. 63.

⁹⁸ K. Hasib, KH. Hasyim Asy'ari dan Pelurusan Akidah. *Insists*, 2012.

⁹⁹ M. Al-Gharani, *The Great Mothers*. LAKSANA, 2018.

relations between Islam and the Republic of Indonesia (the Unitary State of Indonesia); and *ukhuwah* in a state frame based on the character *i'tida>l* (being fair), *tawa>zun* (being balanced), and *tasa>muh* (being tolerant), by avoiding extreme thinking (*tatarruf*), which causes religious and state deviations and abuses. The acceptance of Muslims, especially NU, towards Pancasila and the Indonesian state in historical chronology can be drawn as a linear line since the NU Congress in 1936 by accepting and obliging to maintain the status of the land of the Dutch East Indies (Indonesia) even though the Dutch non-Muslim rulers are ruling it. The acceptance of the Islamic ummah (NU) of the state and its ideology (Pancasila) in Jakarta on 17–18 August 1945 is stated in the introduction to KH Abdurrahman Wahid in the book *NU and Pancasila*¹⁰⁰.

The relationship between Islam and Pancasila was emphasised by KH M Hasyim Asy'ari at the event discussing the issuance of the 1945 Jihad resolution, with fundamental questions about the legal status of the Unitary State of the Republic of Indonesia based on Pancasila, which Soekarno-Hatta proclaimed on August 17, 1945. KH M Hasyim Ay'ari answered firmly: the status is legal in fiqh. Therefore, Islam is obliged to fight to defend it.¹⁰¹

The assertion of acceptance of Pancasila as the basis of the state is also based on religion, placing faith and Pancasila in their respective places without having to be contradicted. The foundation of constitutional ideology and Islamic beliefs according to the understanding of Ahlus Sunnah *waljama'ah* (aswaja) as the foundation of faith cannot be disputed. People-based on Pancasila because they believed in God Almighty (first precept). Thinking is an act of critique of Pancasila in one of the areas of national life, namely religious life. The mutually supportive relationship between aqeedah and asas, or between Islam as a religion and Pancasila as an ideology, is a complementary creative relationship which will nurture both¹⁰².

KH M. Hasyim Asy'ari was the first person to lay the foundation of nationalism-religious nationalism on Indonesian Muslims. Until now, religious nationalism has developed and become the key to resolving the issue of religious, national, and state relations. In addition, KH M Hasyim Asy'ari, in the religious-political movement, is categorised as a traditionalist, i.e., holding fast to the chain of history and the thought of classical scholars in his religious behaviour. He was successful in

¹⁰⁰ M. Sitompul, *NU dan Pancasila*. Pustaka Sinar Harapan, 1989.

¹⁰¹ R. Fadhli and B. Hidayat, KH. Hasyim Asy'ari Dan Resolusi Jihad dalam Usaha Mempertahankan Kemerdekaan Indonesia Tahun 1945. *SWARNADWIPA*, 2, 1, 2018.

¹⁰² A. Hana, Pemikiran KH. Achmad Siddiq Tentang Ukhuwah Islamiyah, Wathaniyah, Basyariyah. *Study Islam*, IV, 2004.

integrating *ru>h al-jiha>d* into two movements; first, *jiha>d filla>h*, which is a da'wah movement based on science; and second, *jiha>d fi sabi>lilla>h*, i.e., a concept of movement leading to war against the colonizers.

Furthermore, the principle of *Al-ittiha>d* KH M. Hasyim Asy'ari was developed by KH Achmad Shiddiq with three domains, which include *ukhuwah bashariyah (insa>niyah)*, *ukhuwah al-Wat aniyah*, and *ukhuwah Isla>miyah*¹⁰³¹⁰⁴. The meaning of the three *ukhuwah* is as follows:

1. *Ukhuwah Isla> Miyah* is a *ukhuwah* that grows and develops because of equality of security or religion, both national and international.
2. *Ukhuwah Wataniyah* is a brotherhood that grows and develops based on a sense of nationalism.
3. *Ukhuwah Insa> Niyah (bashariyah)* is an *ukhuwah* that grows and develops on the basis of humanity¹⁰⁵.

Thus, the development of *ukhuwah Islamiyah* requires the existence of a common perspective, especially on several critical matters, without overriding the differences regarding non-essential issues. The growing *Ukhuwah Islamiyah* in Indonesia does benefit Indonesian Muslims, the Indonesian state and nation, and Muslims throughout the world¹⁰⁶.

Ukhuwah Wathaniyah is the capital for social interaction and dialogue with various components of the Indonesian nation. Islam recognises the existence of groups of people, nations, and tribes and the presence of religious differences. People should not be distinguished only because of differences in religion and belief, as in the process of the formation of the Indonesian nation. Muslims, together with other people, are in the process of forming this nation¹⁰⁷. The manifestation of *al-Ittiha>d* can be achieved when each person and group share a common understanding of differences, whether genetic or cultural, and accept each other's differences through dialogue and association without having to criticise each other. This is the peak of the success of education.

¹⁰³ Ibid, p. 32.

¹⁰⁴ M. Mustofa, Konsep Islam dan Negara Menurut KH. Achmad Siddiq. *Al-Daulah: Jurnal Hukum Dan Perundangan Islam*, 6, 2, 2016, p. 299.

¹⁰⁵ S. Ni'am, *The Wisdom of KH. Achmad Siddiq; Membumikan Tasawuf*. Erlangga, 2008.

¹⁰⁶ Ibid, p. 301.

¹⁰⁷ A. Zahri, M. Puspitasari and H. Lubis, The narrative of *ukhuwah wathaniyah* as nationalisme project based on sustainable development. *IOP Conference Series: Earth & Environmental Science*, 716, 2021, p. 9.

Conclusions

The moderation of Islamic diversity in Indonesia, which is now the study of scholars, cannot be separated from the context of Islamic teachings, nationality, and statehood. The relationship between Islam and Pancasila (the ideology of the Republic of Indonesia) and Islam with the state and nation is a modality for building Islamic religious moderation. KH. M. Hasyim Asy'ari, with the principles of thought, including *Al-Jiha>d* (Struggle), *Al-Ittiha>d* (Unity), *At-Tasa>muh* (Tolerance), *Al-I'tima> d'ala an-Nafs* (Independence), *Al-Ikhla>s* (Sincerity), *Uswah Hasanah* (exemplary), has succeeded in laying the foundation of religious-nationalism, which has been the primary basis for solving problems of religious and state relations, which need to be systematically strengthened. The formation of the terms *ukhuwah Islamiyah*, *ukhuwah watoniyah*, and *ukhuwah insaniyah (bashariyah)* is an abstraction of *ru>h al-Ittiha>d* (unity). While in the context of the Islamic political movement, KH M. Hasyim Asy'ari is classified as a traditionalist, he has succeeded in putting the spirit of al-Jihad into two categories: *jiha>d filla>h*, which is oriented towards religious teachings; and *jiha>d fi sabi>lilla> h*, which means fight and war against the invaders.

References:

- Adnan, A.B., (1982), *Kemelut di NU, antara Kyai dan Politisi*. Mayasari.
- Akarhanaf, (1950), *Kiai Hasjim Asj'ari; Bapak Umat Islam Indonesia*. Pesantren Tebuireng.
- Al-Gharani, I.M., (2018), *The Great Mothers* (M. A. Fakhri (ed.)). Laksana.
- Al-Sallabi, A.M., (1999), *Al-Wasatiyyah Fi Al-Quran Al-Karim*. Amman: Jordan, Dar al-Nafais & Dar al- Bayariq.
- Al-Zuhayli, W., (2006), *Qadaya Al-Fiqhwa Al-Fikr Al-Muasir*. Damascus: Dar al-Fikr.
- Amiq, (1998), Two Fatwas on Jihad Against the Dutch Colonization in Indonesia A Prosopographical Approach to the Study of Fatwa. *Studia Islamika*, 5(3), 85.
- Ansori, M., (2015), KH M Hasyim Asy'ari Sosok Pemimpin Luar Biasa. *Majalah Tebuireng*, 7–8.
- Anzumi, A.I.A.Q. and N., (2019), A Study Toward the Thought of K.H. Hasyim Asyari. *Journal of Research in Islamic Education*, 1(1), 9.
- Ar-Razi, F. ad-D., (1990), *at-Tafsir al-Kabir aw Mafatih al-Ghayb*. Beirut, Lubnan: Dar al-Kutub al-'Ilmiyyah.
- Asad, S.M., (1971), *Al-'Allamah Muhammad Hāsyim Asy'ari Wādhih*

Libnati Istiqlāli Indonesi. Dār as-Shodiq.

Ashari, M., (2020), Peraturan Turunan UU Pesantren Disiapkan, Menteri Agama Tegaskan Satu Hal. *Pikiran Rakyat Com.*

Asy'ari, K.M.H., (2021), *Mahakarya Hadratussyaikh KH M Hasyim Asy'ari*. Jombang: Pustaka Tebuieng.

At-Tabari, A.J.M. bin J., (1992), *Tafsir at-Tabari al-Musamma Jami' al-Bayan fi Ta'wil al-Qur'an*. Beirut, Lubnan: Dar al-Kutub al-'Ilmiyyah.

Bakker, Anton dan Zubair, A.C., (1990), *Metodologi Penelitian Filsafat*. Kanisius.

Bankier-Karp, A.L., (2022), Catalysts of Connectedness: A Case for Greater Complexity in Religious Identity Formation Research. *Review of Religious Research*, 64(1). <https://doi.org/10.1007/s13644-022-00486-1>

Begum, A., Jingwei, L., Marwat, I. U., Khan, S., Han, H., & Ariza-Montes, A. (2021). Evaluating the Impact of Environmental Education on Ecologically Friendly Behavior of University Students in Pakistan: The Roles of Environmental Responsibility and Islamic Values. In *Sustainability* (Vol. 13, Issue 18). <https://doi.org/10.3390/su131810188>

Benda, H. J. (1958). *The Crescent and the Rising Sun: Indonesian Islam under the Japanese Occupation 1942-1945*.

Beyerlein, K., & Sallaz, J.J., (2017), Faith's wager: How religion deters gambling. *Social Science Research*, 62, 204–218.

<https://doi.org/https://doi.org/10.1016/j.ssresearch.2016.07.007>

Creswell, J.W., & Poth, C.N., (2016), *Qualitative Inquiry and Research Design: Choosing Among five Approaches*. Sage publications.

Dhofier, Z., (1980), *The Pesantren Tradition: A Study of the Role of the Kyai in the Maintenance of the Traditional Ideology of Islam in Java* (Disertasi). The Australia National University.

Dhofier, Z., (1982), *Tradisi Pesantren: Studi tentang Pandangan Hidup Kyai*. Lembaga Penelitian, Pendidikan, dan Penerangan Ekonomi dan Sosial.

Esposito, J.L., (2005), Moderate Muslims: A Mainstream of Modernists, Islamists, Conservatives, and Traditionalists. *American Journal of Islamic Social Sciences*, XXII(3), 12.

Fadhli, M. R., & Hidayat, B., (2018), KH. Hasyim Asy'ari Dan Resolusi Jihad dalam Usaha Mempertahankan Kemerdekaan Indonesia Tahun 1945. *SWARNADWIPA*, 2(1).

Fadli, M. R., & Sudrajat, A., (2020), Keislaman Dan Kebangsaan: Telaah Pemikiran KH. Hasyim Asy'ari. *Khazanah: Jurnal Studi Islam Dan Humaniora*, 18(1), 109–130.

Faiqah, N., & Pransiska, T., (2018), Radikalisme Islam Vs Moderasi Islam: Upaya Membangun Wajah Islam Indonesia Yang Damai. *Al-Fikra: Jurnal Ilmiah Keislaman*, 17(1), 33–60.

Fakturmen, F., & Arif, M. Z., (2020), Pengaruh KH. Hasyim Asy'ari dalam Membangun Serta Menjaga Nusantara dan Kemaslahatan Islam Dunia. *JURNAL INDO-ISLAMIKA*, 10(1), 35–50.

Farida, U., (2020), *Kontribusi dan Peran K. Hasyim Asy'ari dalam Membingkai Moderasi Beragama Berlandaskan al Quran dan Hadis di Indonesia*. 8, 311–328. <https://doi.org/10.21043/fikrah.v8i1.7928>

Fenelon, A., & Danielsen, S., (2016), Leaving my religion: Understanding the relationship between religious disaffiliation, health, and well-being. *Social Science Research*, 57, 49–62.

<https://doi.org/https://doi.org/10.1016/j.ssresearch.2016.01.007>

Frederick, W.H., (1990), [BOOK REVIEW] Visions and heat, the making of the Indonesian revolution. *Asian Affairs*, 21, 93–94.

Fuad, A.J., (2019), Islamic Moderation in The NKRI Frame. *SOCIAL SCIENCE STUDIES AND SUSTAINABILITY ISSUES*, 1.

Gülen, M.F., (2010), *Toward a Global Civilization Love Tolerance*. Tughra Books.

Hadi, A., (2018), *K.H. Hasyim Asy'ari: Sehimpun Cerita, Cinta, Dan Karya Maha Guru Ulama Nusantara*. Diva Press.

Haidari, A., (2004), *Masa Depan Pesantren dalam Tantangan Modernitas dan Tantangan Kompleksitas Global*. IRD Press.

Hamid, F.Z., (2018), Appraising the Moderation Indonesian Muslims with Special Reference to Muhammadiyah and Nahdlatul Ulama. *Addin: Media Dialektika Ilmu Islam*, 12(1), 1–30.

Hamlan Andi Baso Malla, Andi Markarma, Herlina, M., (2020), “Tipologi Pemikiran Pendidikan Indonesia: Telaah Historis-Filosofis Pendidikan K.H. Ahmad Dahlan dan K.H. Hasyim Asy'ari.” *Jurnal Pendidikan Dan Ilmu Sosial*, 7(2), 229.

Hana, R. Al., (2004), Pemikiran KH. Achmad Siddiq Tentang Ukhuwah Islamiyah, Wathaniyah, Basyariyah. *Study Islam*, IV.

Hasan, M., (2021), Al-Wasaṭiyah al-Intiqâiyah al-Taqlîdiyah: Dirâsat Haula Harakâti wa Afkâri Kiâi Hâjî Hâsyim Asy'arî fî Fiqh al-Siyâsah al-Ijtimâ'iyah bi Indûnîsiâ. *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial*, 16(2), 595–623.

<https://doi.org/https://doi.org/10.19105/al-lhkam.v16i2.5309>

Hasib, K., (2012), KH. Hasyim Asy'ari dan Pelurusan Akidah. *Insists*.

Hidayatullah, M.F., (2017), Hiden Movement KH. Hasyim Asy'ari dalam Kajian Fiqh Siyasah. *Tafâqquh: Jurnal Penelitian Dan Kajian Keislaman*, 5(2), 73–90.

Hilmy, M., (2012), Quo-Vadis Islam Moderat Indonesia? Menimbang Kembali Modernisme Nahdlatul Ulama dan Muhammadiyah. *MIQOT: Jurnal Ilmu-Ilmu Keislaman*, 36(2).

Ikhwan, A., (2016), *Manajemen pengembangan kurikulum*

Keaswajaan dan Kemuhammadiyah dalam Pembentukan karakter: Studi Multikasus di Sekolah Tinggi Agama Islam Diponegoro dan Sekolah Tinggi Agama Islam Muhammadiyah Tulungagung [Universitas Islam Negeri Maulana Malik Ibrahim Malang]. <http://etheses.uin-malang.ac.id/9992/>

Ikhwan, A., (2020), *Metode Penelitian Dasar (Mengetahui Model Penelitian dan Sistematikanya)*. STAI Muhammadiyah Tulungagung.

Ikhwan, A., Ju'subaidi, J., Mu'awanah, E., & Rohmad, A., (2019), Development of Curriculum Keaswajaan (Nahdlatul 'Ulama) in Character Formation. In *Global Perspectives on Teaching and Learning Paths in Islamic Education* (pp. 92–117). IGI Global. <https://doi.org/10.4018/978-1-5225-8528-2.ch006>

Islam, T., & Khatun, A., (2015), "Islamic Moderation" in Perspectives: A Comparison Between Oriental and Occidental Scholarships. *International Journal of Nusantara Islam*, 3(2), 69–78.

<https://doi.org/10.15575/ijni.v3i2.1414>

Kathir, A.-H. A. al-F. I. I., (1992), *Tafsir Al-Qur'an Al-'Azim*. Beirut, Lubnan: Dar al-Ma'rifah.

Khan, M.A.M., (2005), Islamic Democracy and Moderate Muslims: The Straight Path Runs through the Middle. *American Journal of Islamic Social Sciences*, Vol. XXII(03).

Khasanah, U., (2019), Contemporary Issues of Islamic Religious Education in The Scope of Delegate Vocational High School (SMK) Muhammadiyah. *AL-HAYAT: Journal of Islamic Education*, 3(2), 200–211. <https://doi.org/10.35723/ajie.v3i2.81>

Khuluq, L., (1998), KH. Hasyim Asy'ari Contribution to Indonesian Independence. *Jurnal Studia Islamica*, 1, 41–67.

Khuluq, L., (2000), *KH. Hasyim Asy'ari, Religious Thought Political Activities (1871-1947)*. Logos.

Manshur, F.M., (2020), Typical literary works of pesantren on righteousness teaching within cultural transformation. *Journal of Social Studies Education Research*, 11(4), 114–148.

Mantsinen, T., (2015), Conversion and the transformation of culture in the Finnish Pentecostal movement. *Approaching Religion*, 5(1), 44–56. <https://doi.org/10.30664/ar.67562>

Mardiyah, (2012). Kepemimpinan Kiai dalam Memelihara Budaya Organisasi di Pondok Modern Gontor, Lirboyo Kediri, dan Pesantren Tebuireng Jombang. *Tsaqafah*, 8(1), 67.

<https://doi.org/10.21111/tsaqafah.v8i1.21>

Mardiyah, (2019), *Kepemimpinan Kiai dalam Memelihara Budaya Organisasi* (M.Y.A. Bakar (ed.); Ke-IV). Aditya Media Publishing.

Mas'ud, A., (2013), *al-Taqlid al-Islamiyah al-Iqlimiyah bi Indusiya*.

Journal of Indonesian Islam, 7(1).

Misrawi, Z., (2010), *Hadratussyaikh Hasyim Asy'ari: Moderasi, Keumatan, dan Kebangsaan*. Penerbit Buku Kompas.

Mufron, A., Ikhwan, A., Syuhada, M., & Ridlowi, A., (2021), Optimizing the Organizational Structure in Transforming Human Resources Who Can Manage Work Stress With a Religious Culture. *European Journal of Molecular & ...*, 08(03), 1110–1126.

Muhadjir, N., (2001), *Metodologi Penelitian Kualitatif*. Rake Sarasin.

Mustofa, M., (2016), Konsep Islam dan Negara Menurut KH. Achmad Siddiq. *Al-Daulah: Jurnal Hukum Dan Perundangan Islam*, 6(2), 296–317.

Nashir, H., (2019), Moderasi Indonesia dan Keindonesiaan: Perspektif Sosiologi. *Pidato Pengukuhan Guru Besar UMY, Yogyakarta*, Available at: *Google Scholar*.

Nasrullah, A., (2018), A Combination of Cultural Wisdom and Religious Values in Bina Damai in Gunungsari District, West Lombok, Indonesia. *Al-Hayat: Journal of Islamic Education*, 3(2), 22–36.

Ni'am, S., (2008), *The Wisdom of KH. Achmad Siddiq; Membumikan Tasawuf*. Erlangga.

Noer, D., (1982), *Gerakan Moderen Islam di Indonesia, 1900-1942*. LP3ES= Lembaga Penelitian, Pendidikan dan Penerangan Ekonomi dan Sosial.

Pilo, N., (2019), Pemikiran Pendidikan K.H. Muhammad Hasyim Asy'ari. *Jurnal Ilmiah Islamic Resources FAI UMI Makasar*, 16(2), 208.

Purwono, A., (2013), Organisasi Keagamaan dan Keamanan Internasional: Beberapa Prinsip dan Praktik Diplomasi Nahdlatul Ulama (NU) Indonesia. *JPP (Jurnal Politik Profetik)*, 1(2).

Putra, R.A.R., (2021), Menilik Nilai – Nilai Keislaman dalam Etika Profesi Personal Pengembang Teknologi Pembelajaran. *JIE (Journal of Islamic Education)*, 6(1), 158–172.

<https://doi.org/https://doi.org/10.52615/jie.v6i2.218>

Rahman, K., (2016), Strategi Pengembangan Nilai Toleransi dan Pluralisme dalam Pendidikan Pesantren. *Hikmah Journal of Islamic Studies*, 12(1), 107–140.

Rida, M.R., (1990), *Tafsir Al-Manar*. Egypt: Al-Hayyah al-Misriyyah al-Ammah li al-Kitab.

Rifa'i, M., (2009), *KH. Hasyim Asy'ari Biografi singkat 1871-1947* (yogyakarta (ed.)). Yogyakarta: Garasi.

Salam, S., (1963), *K.H. Hasyim Asy'ari: Ulama Besar Indonesia*. Djaja Murni.

Schwedler, J., (2008), *Faith in Moderation: Islamist Parties in Jordan and Yemen*. Cambridge University Press.

Setiawan, A., & Rahmadi, Y., (2017), Konsep Resolusi Jihad Hasyim

Asyari Dalam Buku Sang Kiai. *Skripsi, IAIN Surakarta*.

Shihab, A., (2001), *Islam Sufistik: Islam Pertama dan Pengaruhnya hingga Kini di Indonesia*. Mizan.

Siradj, K.S.A., (2011), Tasawuf sebagai Solusi atas Problem Modernitas. In *Wasiat Tarekat Hadratus Syaikh Hasyim Asy'ari*. Ar-Ruzz Media.

Sitompul, E.M., (1989), *NU dan Pancasila*. Pustaka Sinar Harapan.

Soekadri, H., (1980), *Kiyai Haji Hasyim Asy'ari*. Depdiknas.

Subchi, I., Zulkifli, Z., & Latifa, R., (2022), Religious Moderation in Indonesian Muslims. *Religions*, 1–11.

Sunyoto, K.N.H.A., (2017), KH Hasyim Asy'ari, Sang Ulama Pemikir dan Pejuang. In Tim Museum Kebangkitan Nasional (Ed.), *KH. Hasyim Asy'ari, Pengabdian Seorang Kyai Untuk Negeri* (pp. 31–57). Jakarta: Museum Kebangkitan Nasional, Kemendikbud.

Suratmin, (2003), Peranan Pondok dalam Badan Pengembangan Kebudayaan dan Parawisata. *Patra Widya: Seri Penerbitan Penelitian Sejarah Dan Budaya*, 4(1), 64–65.

Sutrisno, E., (2019), Aktualisasi Moderasi Beragama di Lembaga Pendidikan. *Jurnal Bimas Islam*, 12(2), 323–348.

Tim Penulis, (2020), *Ensiklopedia Ulama Terpilih Indonesia, Jilid 1*. Yayasan Amanah Kita.

Tim Penyusun Kementerian Agama, (2019), *Moderasi Beragama*. Jakarta: Badan Litbang dan Diklat Kementerian Agama Republik Indonesia.

Van Bruinessen, M., (1994), *NU; Tradisi, Relasi-relasi Kuasa, Pencarian Wacana Baru*. LKIS.

Wahid, A., (2011), *Islamku Islam Anda Islam Kita*. Yayasan Abad Demokrasi.

Wehr, H., (1979), *Modern Written Arabic*. Göttingen: Otto Harrassowitz Verlag.

Yusuf Al-Qaradawi, (2011), *Kalimat Fi Al-Wasatiyyah Al-Islamiyyah wa Maalimiha*. Qahira: Misr, Dar al- Shuruq.

Zahri, T.A., Puspitasari, M., & Lubis, P.H., (2021), The narrative of ukhuwah wathaniyah as nationalisme project based on sustainable development. *IOP Conference Series: Earth & Environmental Science*, 716, 1–8. <http://10.0.4.64/1755-1315/716/1/012098>

Zuhri, K.H.S., (2001), *Guruku Orang-Orang dari Pesantren*. LKiS.

Zuhri, K.S., (1980), *Sejarah Kebangkitan dan Perkembangan Islam di Indonesia*. Bandung: PT. Al-Maarif.

TO CARE FOR, OR NOT TO CARE FOR. FEMINISTS AND LIBERTARIANS ON CHILDCARE AND THE LEGAL IMPLICATIONS OF THEIR ENCOUNTER

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Abstract: *The article investigates the issue of childcare from the perspective of political philosophy. It aims at presenting and comparing contributions in the field under study provided by the two contradictory veins of political philosophy: feminism and libertarianism. The preliminary assumption of the article, inspired by the so-called horseshoe theory, was that the analysis of the two politically contradictory approaches to the same issue would show their convergence. The first part of the article is devoted to the feminist views on childcare. It presents apparent divisions of feminist thought concerning the issue under discussion and shows ambiguous feminists' stance toward childcare. The following part regards libertarians' reflections concerning childcare. Both parts comment on the sources of duty to care for children, as perceived by representatives of feminism and libertarianism; the distinction between the moral and legal nature of such duties is recognised. The third part of the article indicates similarities and differences between the two explored strands of political philosophy in the field of childcare. Moreover, their legal implications are discussed.*

Keywords: *feminism, libertarianism, childcare, responsibility, the duty of care, abandonment of a child*

Introduction

The article investigates the issue of childcare from the perspective of political philosophy. It aims at presenting and comparing contributions in the field under study provided by the two contradictory veins of political philosophy: feminism and libertarianism. The preliminary assumption of the article, inspired by the so-called horseshoe theory, was that the analysis of the two politically contradictory approaches to the same issue would show their convergence. The application of the horseshoe theory explains why feminism, as a representative of the political left, and libertarianism, as right-wing thought, have been chosen to compare.

The first part of the article is devoted to the feminist views on childcare. It presents apparent divisions of feminist thought concerning the issue under discussion and shows ambiguous feminists' stances toward

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childcare. The following part regards libertarians' reflections concerning childcare. Both parts comments on the sources of duty to care for children, as perceived by representatives of feminism and libertarianism; the distinction between the moral and legal nature of such duties is recognised. The third part of the article indicates similarities and differences between the two explored strands of political philosophy in the field of childcare. Moreover, their legal implications are discussed.

Feminists and care – child as a burden

It is a misconception to speak about a uniform feminist thought. Contemporary feminist philosophy encompasses a broad range of stances, often contradictory or at least incoherent. Not only do feminists argue when it comes to methods of achieving predetermined goals (conciliatory liberal feminism *versus* militant radical feminism), but are also unable to conciliate any common ends of their efforts. The variety of contemporary trends characterising feminist thought is not new. It is worth noting that each wave of feminism proposed different goals and means, perceived the hierarchy of importance of identified problems differently. Nevertheless, the thesis that there are certain common points among feminists could be put forward. Feminists challenge prevailing liberal political philosophy, claiming that it is gender-blind and limits principles of justice to the public realm, which brings harmful effects on the oppressed, particularly women. For instance, feminists see no reason for not covering family relations by purportedly universal principles of equality; what is more, they provide us with convincing arguments in favour of doing so – families are “schools of moral learning”. Proponents of feminist thought question the stiff boundary between the public and the private sphere and advocate the view that “personal is political”¹.

At least since the second wave of feminism, its discourse has drawn attention to the abovementioned issues. Representatives of the trend under study have noticed that the terms: mother, woman, and child “have been written into one another” and then “revealed both the relations between the regulation of motherhood and childhood and how such forms play a crucial role in securing class privilege and empire”². It shows how

¹ D. Satz, “Feminist Perspectives on Reproduction and the Family”, *The Stanford Encyclopedia of Philosophy* (Summer 2017 Edition), E.N. Zalta (ed.), accessible: <https://plato.stanford.edu/archives/sum2017/entries/feminism-family/> (last accessed 23.1.2022); L.T. Kessler, “Transgressive Caregiving”, *Florida State University Law Review* vol. 33 no. 1/2005, p. 38; W. Kymlicka, *Współczesna filozofia polityczna*, transl. A. Pawelec, Fundacja Aletheia, Warszawa 2009, p. 463-466.

² R. Thomson, L. Baraitser, “Thinking through childhood and maternal studies. A feminist encounter”, in: *Feminism and the Politics of Childhood. Friends or Foes?*, ed. R. Rosen, K. Twamley, UCL Press, London 2018, p. 67.

allegedly private matters have clear political implications. Feminists' studies opened the door for the conclusion that mothers' activity "remains a highly politicised topic in both research and policy"³. As motherhood (and other issues personally affecting women, formerly considered as private) became a central problem for feminists' research, feminism appeared as the most influential trend of political philosophy in the field of family studies⁴, which was not surprising.

It cannot be unnoticed that one of the most popular stances among feminists, i.e. ethics of care, directly refers to the issues discussed in this article and constitutes a perfect example of the challenge facing the liberal framework of justice⁵.

As confronted with principles of liberal justice, the concept of ethics of care relies first of all on the assumption that it is possible to connect representatives of two different genders with characteristic moral stances, approaches, and ways of moral reasoning. In brief, according to Carol Gilligan who initiated this trend of research, feminine ethics depends rather on a sense of duty and relies on real human relations, whereas masculine ethics, in contrast to feminine one, relies on a concept of abstract rights, entitlements, and principles. "Feminine" ethics of care is heavily contextual, while "masculine" ethics of justice is more abstract and inclined toward universalism.

Gilligan's perspective faced prolific criticism, including essentialism allegations. This brings to our attention a fundamental split among feminists, the split which entails serious consequences in the field of care, namely the division into essentialism and constructivism. Feminist proponents of the former perspective share the view that women are natural caregivers; features enabling and inducing them to provide care are inherent for women. Care bearing is the natural attribute of femininity due to both the psychological and physical properties of women. This perspective could be stretched to cover the issue of family, which in consequence is perceived as a natural, pre-political institution. The latter perspective, i.e. constructivism, presupposes that terms such as mother, family, child are social and historical constructs that, at a certain level of social development, even became legal concepts, which ultimately petrified their meaning. Constructivists put into question essential differences between men and

³ G. Crivello, P. Espinoza–Revollo, "Care labour and temporal vulnerability in woman–child relations", in: *Feminism and the Politics of Childhood*, op. cit., p. 139.

⁴ M. Baca Zinn, H.E. Dillaway, "Introduction: Special Issue on Feminism and Family Life", *Michigan Family Review* vol. 10/2005, p. 1.

⁵ W. Kymlicka, *Współczesna filozofia polityczna*, 478-503; G. Crivello, P. Espinoza–Revollo, "Care labour and temporal vulnerability in woman–child relations", in: *Feminism and the Politics of Childhood*, op. cit., p. 141-142.

women or claim that these differences should be perceived as irrelevant when it comes to social roles performed by representatives of both sexes⁶. In response to that, some essentialists have made efforts to portray the caring relationship as a universal ideal, regardless of the gender of the persons in the relationship. In this view, the institution of care becomes what is “essential” (for all humans), not the gender.

Presented division overlaps with another equally important one, i.e. the split between maternalists and nonmaternalists, developed by Laura T. Kessler⁷. Proponents of the first stance share the essentialists’ view that “Traditionally, women have been—and women continue to be – caretakers of dependents, the young, the old, and others unable to care for themselves. Women have done this work for no pay, in their own families, or for low pay, when caring for dependents in other women’s families”⁸. They treat the role of mothers and caretakers as crucial for their personal identity and fundamental for themselves. What might differ maternalists from essentialists is that the former are conscious of the negative consequences of such stiffly settled social roles. They recognize that caregiving could be not only a source of pride and satisfaction but also a great burden or source of oppression. Nonmaternalists share far-reaching awareness in this field, but instead of proposing solutions to soften the negative consequences of caretaking for caregivers (what is maternalists’ goal), they reject mothering as inevitably linked with women. As Laura T. Kessler elucidates:

legal maternalism and nonmaternalism constitute two strands of legal feminism which can be characterized primarily by their fundamentally different stances on the centrality of reproduction to women’s identity. Nonmaternalists do not view women’s reproduction as inevitable or desirable. They envision a world in which women’s identity is not defined by this institution, and they eschew legal strategies that focus on women’s reproduction to

⁶ D. Satz, “Feminist Perspectives on Reproduction and the Family”; V.L. Olesen, “Who cares? Women as Informal and Formal Caregivers”, in: *Women’s Health: Complexities and Differences*, ed. S. Ruzek, V. Olesen, A. Clark, Ohio State University Press 1997, p. 398; D.E. Grandón Valenzuela, “The personal is political: a feminist analysis of the daily experience of informal female caregivers of adult people in dependence situation, in Santiago de Chile”, *Cadernos Brasileiros de Terapia Ocupacional*, 29, e2161, 2021, p. 5; R. Thomson, L. Baraitser, “Thinking through childhood and maternal studies. A feminist encounter”, in: *Feminism and the Politics of Childhood*, op. cit., p. 66.

⁷ L.T. Kessler, “Transgressive Caregiving”, p. 52-70.

⁸ M. Becker, “Towards a Progressive Politics and a Progressive Constitution”, *Fordham Law Review* vol. 69/2001, p. 2039.

the exclusion of other aspects of their identity such as wage work and sexuality. In contrast, maternalists by and large view reproduction and the gendered division of family labor as inevitable. They seek strategies to lessen the costs of care work for women, such as law reforms providing for a more robust social welfare state, rules that credit the contributions of unpaid domestic labor at divorce, and reforms that would restructure the workplace to account for family care work.⁹

These introductory remarks deliver grounds for deeper investigation regarding feminists' stance to care. Calling into question the prevailing liberal ideal of personal autonomy, feminists such as Martha Fineman, pay attention to the universal fact of dependency – each person in certain stages of his or her life is somehow dependent on others (as a child, as an elderly person, or while being sick). From a feminist perspective, it is an inevitable fact, whereas autonomy is a myth. This notion is treated both as a descriptive and normative thesis, which entails at least the necessity of care, the value of care stemming from its necessity, and the state's duty to support caregivers¹⁰. Feminists recognise the fact that the need for care is growing as a result of society's ageing and other factors¹¹.

Any general thesis concerning the duty of care cannot be put forward when it comes to feminist thought. Some feminist scholars derive such an obligation from the fact that no child has made a decision about their conceiving and coming into the world, so persons deciding to have a child should bear the consequences of their decision¹². They are conscious of the socially important role of caregiving as a condition for the reproduction of society and the existence of mankind¹³. Other feminists dismiss motherhood or other forms of caregiving as an ideal, they instead propose different ways of women's fulfilment¹⁴. It should be noted, however, that this stance does not necessarily mean that they are questioning the duty of care when the

⁹ L.T. Kessler, "Transgressive Caregiving", p. 79.

¹⁰ M. Eichner, "Dependency and the Liberal Polity: on Martha Fineman's *The Autonomy Myth*", *California Law Review* vol. 93/2005, p. 1286, 1288-1293; G. Crivello, P. Espinoza-Revollo, "Care labour and temporal vulnerability in woman-child relations", p. 139; D.E. Grandón Valenzuela, "The personal is political: a feminist analysis of the daily experience", p. 4.

¹¹ N. Folbre, *Who Cares? A Feminist Critique of the Care Economy*, Rosa Luxemburg Stiftung—New York Office, August 2014, p. 14-15.

¹² D. Satz, "Feminist Perspectives on Reproduction and the Family"; M. Eichner, "Dependency and the Liberal Polity: on Martha Fineman's *The Autonomy Myth*", p. 1303. This argument does not explain basis of duty of care in case of unwanted pregnancy.

¹³ N. Folbre, "Who Cares? A Feminist Critique of the Care Economy", p. 3.

¹⁴ M. Eichner, "Dependency and the Liberal Polity: on Martha Fineman's *The Autonomy Myth*", p. 1294, 1298.

need for care arises. Surrogate motherhood constitutes an interesting case in this regard. On one hand, it enables fulfilment of both the gestational mother and the woman acquiring a child, on the other hand, it provokes commodification caveat (concerning equally the child and the gestational mother) and breaks (gestational) mother-child relation.

Perhaps the most important feminists' finding in the field under consideration is that caring is a kind of labour, which has not been previously recognised (except for John Stuart Mill's writings). They are aware, however, that it is a specific kind of work, requiring particular qualifications and attitude. Following ethics of care patterns, some feminist scholars claim that caring has given birth to specific rationality, based on emotional involvement, which undermines the traditionally recognised opposition between rationality and emotion¹⁵. Caregiving encompasses not only the emotional engagement of a caregiver but also managing with emotions of a person under care. It is emphasised that caregiving is a relational activity, not a task-oriented one, which involves "empathy, compassion, sensitivity and contextual judgement"¹⁶. As Nancy Folbre notices:

The emotional meaning of care is often mediated by prepositions. To care for someone is different than to care about them; "to care" is distinct from "to take care," which in turn is less specific than "to take care of." Two different verbs are often used in conjunction with care: giving and taking. The synonymy between caretaking and caregiving implies a two-way relationship, though we think of the former more often in conjunction with houses or gardens and of the latter more often in conjunction with children or other dependents. Sometimes we exhort loved ones to "take care of yourself" or just to "take care," as though care were simply there for the taking.¹⁷

Further, she convinces that the nature of caring causes that expectations concerning it comprise both "caring for" and "caring about".

All the above-mentioned care features make it tempting and attractive from the free-market point of view. Companies instrumentally use the term "care", as bait for consumers, they change the names of their

¹⁵ G. Meagher, "Making Care Visible: Feminism, Social Services and the Challenge of Performance Management", *Unitingcare Burnside Discussion Paper* no. 2, January 2002, p. 5.

¹⁶ G. Crivello, P. Espinoza-Revollo, "Care labour and temporal vulnerability in woman-child relations", p. 142.

¹⁷ N. Folbre, "Who Cares? A Feminist Critique of the Care Economy", p. 4.

departments to include the term “care” or apply this term in commercials. From the feminist perspective, there is, however, a great deal of tension between the provision of care and the free market. As already mentioned – caregiving is a kind of job, but in many cases, particularly when it takes place inside a family, it is not paid work. “Care can never be reduced to purely economic terms. Nonetheless, it has important economic dimensions”, claims Nancy Folbre¹⁸. Obviously, caregiving can be formal or informal, can be paid or unpaid¹⁹, leaving aside these conditions though, it is mainly performed by women, which is the reason for feminists’ concern. Feminists dispute over the issue of whether women’s participation in caregiving is a matter of gender role socialisation or is conditioned by natural qualifications (see the essentialists –constructivists controversy mentioned above), an intermediate option could also be taken into account²⁰.

When it comes to informal and unpaid care work among family members it is usually not recognised at all by the state and the free market. This kind of work could be overwhelming and burdensome, and it could affect other aspects of caregivers’ lives, but non-feminist thought tends to evaluate this state of affairs in terms of love or moral duties. Non-feminist thinkers avoid applying principles of justice or even market solutions to caregiving²¹, which makes the situation of caregivers worse. As Elizabeth R. Paré and Heather E. Dillaway claim:

Child rearing is invisible reproductive labor that does not receive any tangible reward or acknowledgment, despite the cultural assumptions about mothers’ responsibility to these activities. The lack of public acknowledgment and the difficulty of child-rearing tasks in general devalue the decisions some women make to be “at home” and makes the role of mother seem lesser than that of paid worker.²²

Burdens stemming from unpaid caregiving affect not only but above all, caregivers and are multidimensional. Firstly: economic. Informal caregivers seldom receive any revenue. Due to the extent of their duties, they are not able to take up additional paid work or it is more difficult for

¹⁸ N. Folbre, “Who Cares? A Feminist Critique of the Care Economy”, p. 3.

¹⁹ V.L. Olesen, “Who cares? Women as Informal and Formal Caregivers”, in: *Women's Health: Complexities and Differences*.

²⁰ G. Crivello, P. Espinoza–Revollo, “Care labour and temporal vulnerability in woman–child relations”, p. 144 and following.

²¹ D. Satz, “Feminist Perspectives on Reproduction and the Family”.

²² E.R. Paré, H.E. Dillaway, “Staying at Home” versus “Working”: A Call for Broader Conceptualizations of Parenthood and Paid Work”, *Michigan Family Review* vol. 10/2005, p. 73.

them in comparison to other persons. These factors imply a lack of health protection and pension rights or at least affect them negatively. Professional development is much more difficult for informal caregivers. Secondly: personal. Caregivers are very often emotionally involved in their work, so it could be difficult to separate the sphere of their own life from the life of the person under care. Caregiving can affect opportunities for meeting new people and starting a family. As financially dependent, women undertaking care face a disadvantage in case of divorce. Thirdly: social. Caregivers as – in a considerable number of cases – deprived of revenue and pension rights themselves become dependent at certain stages of their own life²³.

Reckoning the fact that care is performed mainly by women, they constitute the oppressed group. In the United States, the gender division in this matter overlaps with racial issues, because care activities, even if paid, are perceived as low-status jobs and are performed mainly by blacks and Hispanics²⁴. Shirley Lin even suggests that “The U.S. caregiving economy’s roots in a racist legacy of slavery provided the legal and social underpinnings for the caste-like system we have today, one actively shaped through state-based acts and omissions that fortify class and immigration status distinctions among women”²⁵.

Some feminists convince that dichotomy between “staying at home” and “working” women is false, too simplistic, and can be harmful. It is false because many women successfully attempt to perform both roles simultaneously, it is harmful since portraying these attitudes as two poles brings a stigmatizing effect²⁶. This view opposes the liberal feminist stance according to which working instead of caregiving may have a liberating effect for women. In turn, Laura T. Kessler shows that in the case of particularly oppressed groups that were traditionally deprived of any opportunity to bear care, undertaking it constitutes a kind of political resistance or an expression, targeted at established principles. This context makes caregiving additionally valuable and meaningful²⁷.

Feminists see a deep tie-up between burdens derived from caretaking described so far in the article and the adoption of the free-market ideology, which – in their view – relies on values such as autonomy, efficiency,

²³ V.L. Olesen, “Who cares? Women as Informal and Formal Caregivers”, p. 406; D.E. Grandón Valenzuela, “The personal is political: a feminist analysis of the daily experience”, p. 3.

²⁴ N. Folbre, “Who Cares? A Feminist Critique of the Care Economy”, p. 9.

²⁵ S. Lin, „And Ain`t I a Woman?`: Feminism, Immigrant Caregivers, and New Frontiers for Equality”, *Harvard Journal of Law & Gender* vol. 39/2016, p. 76.

²⁶ E.R. Paré, H.E. Dillaway, “Staying at Home” versus “Working”, p. 67.

²⁷ L.T. Kessler, “Transgressive Caregiving”, p. 2.

utility, rationality²⁸. They recognize that “Capitalism itself relies on essentially non-capitalist institutions, including the patriarchal family and state, to provide for dependents.”²⁹ It means that the free market system benefits from the fact that caregiving is performed mainly beyond its rules, for free. Indeed, the free market system could be perceived as a sort of free-rider, because it does not cover any (or little) expenses connected with care, but thanks to informal caretaking it gains tangible outcomes in the form of new consumers and other participants. As for the state, the problem is more complex. In the case in which the state is inspired by the neoliberal ideology identified by feminists with free-market values, and enforces its principles, the above considerations may well apply. Informal caretakers replace the government in its functions³⁰. Some feminists even claim that it is not the men who are beneficiaries of the informal caretaking, but the free market and the state. From this perspective, the tension between women and men, at least in the discussed context, is false, the relationship of actual exploitation emerges between the state or the market and families³¹.

Feminists advocate for a strong welfare state, which, on the one hand, should take the role of caretaker (organising schooling, preschools, comprehensive nursery system), and on the other hand, it should mitigate the negative effects of caretaking when it is undertaken by individuals (paid maternity leaves, facilities for caretakers, access to health care regardless of formal employment). Feminist scholars acknowledge a difference between the American approach in this regard (which according to them is highly affected by the neoliberal ideology) and the European approach, which is closer to their views³². Care duties should be shared by different subjects: individuals themselves, professionals provided by the market, and state institutions.

To sum up it should be acknowledged that a strong point of feminists' reasoning is that it is deeply anchored in real-world circumstances. The notion of the universal nature of dependency is one of the examples of this feature of feminist thought, which connects it with a communitarian inquiry. Both feminist and communitarian contributions are equally opposed to liberal thinking, which in turn, is based mainly on abstract ideas. What is significant, even when feminists begin their reasoning with

²⁸ Ibidem, p. 55.

²⁹ N. Folbre, “Who Cares? A Feminist Critique of the Care Economy”, p. 13

³⁰ S. Lin, „And Ain`t I a Woman?": Feminism, Immigrant Caregivers, and New Frontiers for Equality”, p. 79.

³¹ M. Eichner, “Dependency and the Liberal Polity: on Martha Fineman's The Autonomy Myth”, p. 1288 and following.

³² V.L. Olesen, “Who cares? Women as Informal and Formal Caregivers”, p. 402.

abstract ideas such as equality, they are able to extend their notions far beyond the women's situation and embrace other groups. Caretaking could be perceived as an example of such a situation because while recognising its great value and specificity, feminists are capable to appreciate all caretakers, not only women.

The next part of the article is devoted to the libertarian insight into the issue of care, which will show possible weaknesses of the feminist stance.

Libertarians and care – the child as property

Libertarians do not pay as much attention to the issue of care as feminists do. For them, the childcare question is a field for testing how their predetermined principles work rather than starting point or inspiration for a discussion. As late as 1991 Morris Lipson and Peter Vallentyne claimed that in libertarian thought moral status of a child was uncertain³³, which was half-true, given that Murray Rothbard's book *Ethics of Liberty*, firstly published in 1982, already provided an entire chapter regarding the issue under discussion. Rothbardian views expressed there are still representative of libertarians when it comes to the childcare question, however, due to their severity, many authors attempt to reinterpret them in a manner that is more compliant with common moral intuitions.

Explaining the libertarian perspective on childcare requires taking into account at least the following issues: the status of positive duties in libertarian thought, the problem of self-ownership, and the meaning of homesteading. Every libertarian contribution to the problem under study refers to them.

Libertarians reject positive legal duties in general unless they are anchored in the contract or stem from the creation of peril³⁴. Libertarians believe that bearing positive duties which have been imposed on an individual against her or his will is coercive and limits the individual's freedom. Proponents of libertarian thought acknowledge, however, the binding force of negative duties, treating the duty not to interfere with the liberty of others (the duty of non-aggression as Rothbard named it) as the most important of them³⁵. In the result, Rothbard claims that:

³³ M. Lipson, P. Vallentyne, "Libertarianism, Autonomy, and Children", *Public Affairs Quarterly* vol. 5, no. 4, October 1991, p. 335.

³⁴ Ł. Dominiak, "Libertarianism and Obligatory Child Support", *Athenaeum Polish Political Science Studies* vol. 48/2015, p. 91; M.N. Rothbard, *The Ethics of Liberty*, New York University Press, New York and London 1998, p. 100.

³⁵ M. Lipson, P. Vallentyne, "Libertarianism, Autonomy, and Children", p. 333; W. Block, "Libertarianism, positive obligations and property abandonment: children's rights", *International Journal of Social Economics* vol. 31 no. 3, 2004, p. 275.

Applying our theory to parents and children, this means that a parent does not have the right to aggress against his children, but also that the parent should not have a legal obligation to feed, clothe, or educate his children, since such obligations would entail positive acts coerced upon the parent and depriving the parent of his rights. The parent therefore may not murder or mutilate his child, and the law properly outlaws a parent from doing so. But the parent should have the legal right not to feed the child, i.e., to allow it to die.³⁶

Nevertheless, libertarians examine the two above-mentioned possible justifications for the duty of childcare. These considerations refer to the issues of self-ownership and homesteading as far as the contractual basis of the duty of care is concerned.

According to Rothbard, only a transfer of property can constitute the subject of a legally binding contract. Obligations that do not involve the transfer of property can be merely moral, but not legal. Rothbard delivers the theory of a contract which assumes that if a breach of contract could not be recognised as an implicit theft, the contract was not of legal nature³⁷. Here the first problem – the issue of child`s ownership – occurs. Libertarians treat so-called self-ownership as a crucial axiom of their theory, one of the most important self-evident truths. In brief, self-ownership means that each individual is in power to decide over issues concerning him or herself, his or her body belongs only to him or her, and no one else is entitled to influence an individual`s decisions. The concept is derived from John Locke`s writings; libertarians, however, deprived it of its religious background. As Karen I. Vaughn explains: “Self-ownership, in Locke's view, refers to one's status vis-a-vis other human beings. We own ourselves because no one else owns us. Self-ownership does not refer, however, to man's relationship to God. Man is God's handiwork, and is in some sense owned by Him just as all the earth is owned by Him”³⁸. Rothbard and others are conscious that children, depending on their age, are not fully capable to satisfy self-ownership conditions, nevertheless, they possess at least potential self-ownership³⁹. Due to this, parents could stand at most as a trustee or guardians – not as exclusive child owners. This constitutes the first obstacle to the conclusion of a potential contract

³⁶ M.N. Rothbard, *The Ethics of Liberty*, p. 100.

³⁷ *Ibidem*, 98.

³⁸ K.I. Vaughn, “Who Owns the Children? Libertarianism, Feminism, and Property”, *Reason Papers* 18, Fall 1993, p. 193.

³⁹ M. Lipson, P. Vallentyne, “Libertarianism, Autonomy, and Children”, p. 338.

regarding childcare namely: what could be the object of the potential contract.

Another more technical problem is: with whom the potential contract should be concluded. There are two possible options: the first assumes that parents agree with their child, the second that parents agree with each other to take care of the child. The first option should be rejected. Leaving aside the issue of how an infant or young child could express its free and informed consent, children are not able to stand as a party to a potential contract concerning the care, because they do not enjoy full self-ownership. The second option is equally problematic. Firstly, if one assumes that both parents are owners of the child (apart from the problems concerning child ownership mentioned above), there is no subject of a potential transfer, because both parents share the joint ownership⁴⁰. Secondly, in case one assumes that the ownership of a child belongs to only one parent – which would open the door for potential property transfer – the issue of its homesteading (acquiring it as property) occurs. As Łukasz Dominiak convinces us, homesteading which leads to the sole ownership of a child by one of the parents is doubtful, because the engagement of two persons is required to conceive a child (in the way of natural conception). What is more, there are no “resources that are homesteaded (...) the resources that are transformed into the child are already owned”⁴¹.

Taking into consideration the above, libertarians are suspicious when it comes to the contractual basis for the positive duty of caretaking. The second potential basis for such a duty – the creation of peril, should be also analysed. The prominent libertarian Stephan Kinsella stands as a proponent of this justification of the duty of care. He claims that bringing a child into life could be compared to putting them into danger, which creates a certain responsibility. Łukasz Dominiak rejects this reasoning, showing that the analogy underpinning it is false. It cannot be plausibly claimed that conceiving a child is akin to pushing someone into a fire or to a lake because in the first case there is no person yet, that could be jeopardized⁴².

It should be emphasised that the above remarks regard justifications of the legal duty of care. When it comes to duties of a moral nature, libertarians may present a different approach to the problem. Before showing examples of such a stance, some ideas aiming at softening Rothbardian views should be presented.

⁴⁰ Ł. Dominiak, “Libertarianism and Obligatory Child Support”, p. 96.

⁴¹ Ibidem, p. 97.

⁴² Ibidem, p. 93-93.

Morris Lipson and Peter Vallentyne rightly regard autonomy as a crucial value for libertarians. Taking this idea as a starting point, they recognise in a manner similar to the “creation of peril” argument, that failure to support a child leads to a state in which the child is unable to develop their autonomy, which remains at odds with libertarian values⁴³. From this perspective, the lack of a positive duty of care is less convincing.

Another method has been adopted by Walter Block. He does not undermine Rothbardian reasoning but rather attempts to blunt its harsh effects. He supports the view that “a genetic relationship is a more direct version of <homesteading> than is bringing up the baby. The mother and father have a greater connection to their offspring than someone who, due to this accident, brought up their child”⁴⁴. It means that the language of “property” in regard to children is convincing him. However, according to Block, for the abandonment of the child to be valid, it requires a clear and visible expression of this fact and, moreover, permission granted to other persons (than parents) to take care of the child. Tacit abandonment of a dependent child would be equal to murder. In his own words:

Would it ever be possible, under libertarian law, for a baby to be abandoned by its parents, for there to be no other adult willing to care and feed it, and the baby be relegated to death? Yes. However, this could occur only under the condition where the entire world in effect was notified of this homesteading opportunity, no roadblocks were placed against new adoptive parents taking over, but not a single solitary adult stepped forward to take on this responsibility. Since there are no positive obligations in the libertarian lexicon it is logically possible for such a sad state of events to take place.⁴⁵

Lukasz Dominiak attempts to apply the finders-creators ethic to the problem, which allows him to circumvent certain problems connected with the homesteading of a child. To put it briefly: the finders-creators ethic enables to treat the mother as an exclusive owner of a child, which in the result opens the door for agreeing upon childcare, as the transfer of property (which is the child) is possible in such a situation. It does not create the basis for a general duty of care but legitimises the contracts concerning childcare⁴⁶.

⁴³ M. Lipson, P. Vallentyne, “Libertarianism, Autonomy, and Children”.

⁴⁴ W.E. Block, E. Smith, J. Reel, “The natural rights of children”, *International Journal of Health Policy and Management* 2(2)/2014, p. 87.

⁴⁵ W. Block, “Libertarianism, positive obligations and property abandonment: children’s rights”, p. 281.

⁴⁶ Ł. Dominiak, “Libertarianism and Obligatory Child Support”, p. 104.

Libertarians oppose the state's involvement in the field of childcare. They condemn legal acts prohibiting child labour and perceive public education as oppressive indoctrination or compare it to enslavement. This approach is portrayed as the protection of the child's rights⁴⁷, but these rights are understood in a manner contrasting with their mainstream meaning. Block explains that the libertarian perspective mirrors the traditional position of the child, however, may not be compliant with prevailing modern views⁴⁸.

So far, considerations regarding the libertarian perspective on the issue under discussion have focused on the problem of the basis for legal obligations covering childcare. It might be troublesome to find any such a basis sufficiently convincing for proponents of Rothbard's thought, however, it does not mean that libertarians do not see any parental duties towards the child. As right-wingers, a great number of libertarians share conservative, rigid views on family issues⁴⁹. Rothbard's intellectual heir – Hans-Hermann Hoppe regrets that: “as regards civil society, the institutions of marriage and family have been increasingly weakened, the number of children has declined, and the rates of divorce, illegitimacy, single parenthood, singledom, and abortion have increased.” and blames the state for this state of affairs: “Indeed, as should be clear, as soon as the government's law and legislation supersede family law and legislation (including inter-family arrangements in conjunction with marriages, joint-family offspring, inheritance, etc.), the value and importance of the institution of a family can only be systematically eroded.”⁵⁰ The conservative stance presented by Hoppe and his concern for the traditional family model, convince that libertarians have no problem recognising the moral duties concerning childcare.

Libertarian thought might be perceived as inconsistent. On the one hand, libertarians express their permission for surrogate motherhood or even directly speak about the market of child trafficking. On the other hand, they very often advocate rigid moral values. The impression of inconsistency may not be true. Libertarians firmly maintain the distinction between the legal and moral dimensions, which allows them to reconcile allegedly opposing stances. For example, they may condemn something

⁴⁷ M.N. Rothbard, *The Ethics of Liberty*, p. 107; H.-H. Hoppe, *Democracy The God That Failed. The Economics and Politics of Monarchy, Democracy, and Natural Order*, Transaction Publishers, New Brunswick and New Jersey 2007, p. 92, 98-99.

⁴⁸ W.E. Block, E. Smith, J. Reel, “The natural rights of children”, p. 89.

⁴⁹ T. Hieda, “Politics of childcare policy beyond the left-right scale: Post-industrialisation, transformation of party systems and welfare state restructuring”, *European Journal of Political Research* 52(4)/2013.

⁵⁰ H.-H. Hoppe, *Democracy The God That Failed*, p. 42, 183.

from a moral perspective, but it is not sufficient ground for them to prohibit it in legal terms.

Unlike feminists, whose judgements frequently rely on the consequences of certain phenomena, libertarians share a deontological approach, which often brings hardly acceptable results. In general, feminists anchor their thoughts in real-world circumstances, whereas libertarians are rather stiffly attached to their axioms.

Comparison and legal implications

The initial assumption of the article was that – relying on the so-called horseshoe theory – analysis of the two politically contradictory approaches to the same issue will show their convergence. It is rather uncontroversial that feminist thought could be identified with the left, whereas libertarians are portrayed as right-wingers⁵¹. Indeed, there are some substantial similarities between feminist and libertarian views on childcare – these will be presented first. Then the differences between them and the possible legal consequences of the two approaches will be explored. This part of the article delivers clues in regard to the validity of the horseshoe theory when applied to the problem under study.

The first, meta-level, remark that should be issued is that for both feminists and libertarians the problem of care has clear political implications. It does not only mean that care is a matter of interest for political scholars (which is true), but care as an activity has political consequences. This notion is easier to prove on the ground of feminist thought, which was established around this issue, but is also relevant when it comes to the libertarian approach. The issue of child labour, the legal nature of the duty of care (or its lack), the problem of child trafficking – are matters of obvious political meaning and lay within the scope of interest of libertarians.

As far as the content of the feminist and libertarian thought is under consideration, further similarities emerge.

It seems that for both feminists and libertarians a child appears as a burden rather than a blessing. In the case of feminist thought, this severe conclusion is softened somehow, especially in the essentialist and maternalist veins of this thought, but this does not change the impression that feminists, in general, take the perspective of women as oppressed and

⁵¹ Obviously the judgement depends on the point from which it is issued – for instance Polish far right scholar Jacek Bartyzel advocates the view that Rothbard, also because of his approving stance towards the USSR, should be identified as leftist (J. Bartyzel, “Geneza i próba systematyki głównych nurtów libertarianizmu”, w: *Libertarianizm. Teoria, praktyka, interpretacje*, red. W. Bulira, W. Gogłoza, Wydawnictwo Uniwersytetu Marii Curie-Skłodowskiej, Lublin 2010).

encumbered by childrearing. The perspective of a child as a dependent and care-seeking young human is diminished. Libertarians go a step further, claiming that a child could be considered as property, and, as such, transferred by virtue of a private contract. Libertarians refer to “the natural rights of children”, but in their perspective, these rights have inclusively free market application. Such rights work – for example – against compulsory schooling to enable young kids to be employed. In particular, the stance of non-essentialist feminists could be recognised as close to Rothbardian, when it comes to the issue of childcare. Acceptance towards surrogate motherhood, expressed by some feminists and libertarians constitute an example of such accidental convergence.

What is significant, neither feminists nor libertarians refer directly to the responsibility as a basis of the duties concerning children. The responsibility can have at least two meanings in the field under discussion. On the one hand, it is responsibility for someone’s deeds. Proponents of both political stances analyse this aspect of the problem, however, they pay equally little attention to it, and do not even mention the sense of responsibility. On the other hand, responsibility finds its obvious application in the case of a dependent, vulnerable, regardless of whether we contributed to their conceiving or the situation in which they find themselves. Feminists and libertarians lack this so important reference to the sense of responsibility.

From both feminist and libertarian perspectives, the issue of childcare links deeply with the problem of free-market influence. In this field, however, the feminist approach is not as unambiguous as presented by libertarians. Feminists regret that the free-market impacts the area of care, which – according to some of them – is and should be resistant to vices such as competition and self-interest. It means that feminists reject free-market ideology or at least express their expectations in favour of limiting its influence in the field of care. Simultaneously, feminists recognise that caring is a sort of work and, as a consequence, demands appropriate remuneration. If the former is taken as true, the latter risks that the commodification or marketization caveat will be erected against it. Libertarians present a more consistent stance on the problem – they indiscriminately open the sphere of childcare to the market. It is the first and the most essential difference between feminists and libertarians in the field under study.

Another difference – of a formal, not substantive nature – has been already mentioned above: feminist thought is deeply linked with real-world circumstances, whereas libertarians are inclined to depend on stiff, predetermined principles. Feminists, at least in some lines of their argumentations, share a consequentialist approach (e.g. they indicate the

negative effects of certain phenomena as an argument against them or in favour of proposed solutions), while libertarian views usually have a deontological basis. One can put forward the thesis that these features of the stances under consideration explain why feminism, as a more close-to-life stance, in many cases is closer to common moral intuitions, whereas libertarian views seem to be difficult to accept⁵².

Despite the significant similarities in the views concerning the issue of care, feminism and libertarianism propose contradictory solutions to the problem.

In general, feminism calls for a stronger state's involvement in the field of care. Feminist propositions constitute a long continuum of possible solutions. The most moderate solutions, commonly accepted in the Western European countries, but still unheard of in the United States, encompass free access to healthcare for both mothers and children, paid maternal or family leaves, creating legal opportunities for more flexible working hours for mothers. In addition, feminists put stress on establishing easily accessible public institutions of formal care such as public schools or nursery schools. Susan M. Okin, a prominent feminist, „assumes that institutionalized child care is as good or better than home-provided child care and the attentions of a present mother”⁵³. Public care institutions allow defeating the traditional gender-based division of labour: a man as a breadwinner and a woman as a caregiver. It is worth mentioning that among feminist researchers, solutions have been proposed that make certain state-ensured benefits dependent on the very fact of providing care, and not on a specific family or gender status⁵⁴. Feminist suggestions aim at improving the situation of women by spreading burdens stemming from caretaking on all members of society. Achieving these goals requires the strong engagement of the state, which is somehow paradoxical, because it may result in replacing personal relations of caregiver and person under care with impersonal relations between a service provider and service recipient. This result undermines feminist awareness about the specific, relational nature of care.

Conservative libertarians such as Hoppe accuse welfare state institutions of family erosion, high rates of divorces, and low birth rates⁵⁵. Not all libertarians are concerned about such social phenomena, but all of

⁵² Susan M. Okin claims that in contrast to feminism, libertarianism is incapable to be conciliated with mainstream Rawlsian theory of justice as fairness (K.I. Vaughn, “Who Owns the Children? Libertarianism, Feminism, and Property”, p. 189).

⁵³ K.I. Vaughn, “Who Owns the Children? Libertarianism, Feminism, and Property”, p. 196.

⁵⁴ L.A. Rosenbury, “Friends with Benefits?”, *Michigan Law Review* vol. 106/2007.

⁵⁵ H.-H. Hoppe, *Democracy The God That Failed*, p. 98.

them reject feminist suggestions regarding the state's involvement in the field of caretaking. As mentioned above, libertarians are conscious that caregiving can constitute a great burden for parents, but the answer that they give to this problem is – as with the vast majority of other problems – the free market. An open market of easy adoptions, surrogacy, even child trafficking may be acceptable for libertarians, and in their eyes can serve as a response to burdens linked with childrearing. For those who still want to bear the child, daycare for children should be provided by private, not state-driven, nurseries or schools. In the libertarian perspective, the state not only should not support caretakers but also ought not to interfere with internal family problems. Critics may reasonably claim that the actual application of libertarian thought would bring to life the model of an ancient Roman family, with *pater familias* and his *patria potestas* over the members of the family.

Conclusions

Reference to the Shakespearean phrase “to be, or not to be” comprised in the title of the article serves not only as an eye-catching ornament. The question “to care for, or not to care for” has an almost equally existential nature, as its inspiring original. This existential nature encompasses many dimensions. Because of technological progress child conception can be separated from sex, however, it is still difficult to imagine that successful bringing up the child can be separated from caretaking. The results of upbringing, its success or failure, afflict us as individuals, but also as members of society. One can claim that many other species of animals provide their offspring with care. Human caretaking, however, seems to be a much more ambitious project than care undertaken by other mammals, birds, or fishes. The considerations contained in the article prove that this project is too ambitious to be left entirely in the hands of the state or the free market.

References:

Baca Zinn, M., Dillaway, H.E., (2005), “Introduction: Special Issue on Feminism and Family Life”. *Michigan Family Review* 10.

Bartyzel, J., (2010), „Geneza i próba systematyki głównych nurtów libertarianizmu”. in: ed. W. Bulira, W. Gogłoz, *Libertarianizm. Teoria, praktyka, interpretacje*. Wydawnictwo Uniwersytetu Marii Curie-Skłodowskiej.

Becker, M., (2001), “Towards a Progressive Politics and a Progressive Constitution”. *Fordham Law Review* 69.

Block, W., (2004), "Libertarianism, positive obligations and property abandonment: children's rights". *International Journal of Social Economics* 31(3).

Block, W.E., Smith, E., Reel, J., (2014), "The natural rights of children". *International Journal of Health Policy and Management* 2(2).

Crivello, G., Espinoza–Revollo, P., (2018), "Care labour and temporal vulnerability in woman–child relations". In: ed. R. Rosen, K. Twamley, *Feminism and the Politics of Childhood. Friends or Foes?* UCL Press

Eichner, M., (2005), "Dependency and the Liberal Polity: on Martha Fineman's The Autonomy Myth". *California Law Review* 93.

Folbre, N., (2014), *Who Cares? A Feminist Critique of the Care Economy*. Rosa Luxemburg Stiftung—New York Office.

Grandón Valenzuela, D.E., (2021), "The personal is political: a feminist analysis of the daily experience of informal female caregivers of adult people in dependence situation in Santiago de Chile". *Cadernos Brasileiros de Terapia Ocupacional* 29(e2161).

Hieda, T., (2013), "Politics of childcare policy beyond the left–right scale: Post-industrialisation, transformation of party systems and welfare state restructuring". *European Journal of Political Research* 52(4).

Hoppe, H.-H., (2007), *Democracy The God That Failed. The Economics and Politics of Monarchy, Democracy, and Natural Order*. Transaction Publishers.

Kessler, L.T., (2005), "Transgressive Caregiving". *Florida State University Law Review* 33(1).

Kymlicka, W., (2009), *Współczesna filozofia polityczna*. transl. A. Pawelec, Fundacja Aletheia.

Lin, S., (2016), „And Ain`t I a Woman?": Feminism, Immigrant Caregivers, and New Frontiers for Equality". *Harvard Journal of Law & Gender* 39.

Lipson, M., Vallentyne, P., (1991), "Libertarianism, Autonomy, and Children". *Public Affairs Quarterly* 5(4).

Łukasz Dominiak, Ł., (2015), "Libertarianism and Obligatory Child Support". *Athenaeum Polish Political Science Studies* 48.

Meagher, G., (2002), "Making Care Visible: Feminism, Social Services and the Challenge of Performance Management". *Unitingcare Burnside Discussion Paper* 2.

Olesen, V.L., (1997), "Who cares? Women as Informal and Formal Caregivers". In: ed. S. Ruzek, V. Olesen, A. Clark, *Women's Health: Complexities and Differences*. Ohio State University Press.

Paré, E.R., Dillaway, H.E., (2005), "Staying at Home" versus "Working": A Call for Broader Conceptualizations of Parenthood and Paid Work". *Michigan Family Review* 10.

Rosenbury, L.A., (2007), “Friends with Benefits?” *Michigan Law Review* 106.

Rothbard, M.N., (1998), *The Ethics of Liberty*. New York University Press.

Satz, D., (2017), “Feminist Perspectives on Reproduction and the Family”. *The Stanford Encyclopedia of Philosophy* (Summer 2017 Edition), E.N. Zalta (ed.), accessible:

<https://plato.stanford.edu/archives/sum2017/entries/feminism-family/> (last accessed 23.1.2022).

Thomson, R., Baraitser, L., (2018), “Thinking through childhood and maternal studies. A feminist encounter”. In: ed. R. Rosen, K. Twamley, *Feminism and the Politics of Childhood. Friends or Foes?* UCL Press.

Vaughn, K.I., (1993), “Who Owns the Children? Libertarianism, Feminism, and Property”. *Reason Papers* 18.