

# The progressiveness of Quranic interpretation in the fatwa of Muhammadiyah on female circumcision

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## Abstract

The Indonesian Muslim community has been accustomed to requesting and carrying out religious Fatwas related to *ibadah* (worship) or *mu'āmalah* (worldly dealings) in religious organizations that gave rise to various Fatwas, such as Muhammadiyah, Nahdlatul Ulama (NU), and the Indonesian Ulama Council (MUI). This paper focuses on female circumcision, by comparing how the same Quranic verses and *Ḥadīth* can have various interpretations and Fatwas. Although the source of producing the Fatwa is the same (al-Quran and *Ḥadīth*), the Fatwa that emerges from three Islamic organization are completely different. Qualitative research methods include interviews and literature review, with Fatwas from religious organizations and interviews being the primary sources. This research

concludes that Fatwa from Muhammadiyah is considered the most progressive and has a strong perspective on gender equality and justice by prohibiting female circumcision. On the other hand, the Fatwa from NU and MUI supports and allows female circumcision, even though it has negative impacts on women and baby girls, including the death of baby girls.

Masyarakat Muslim Indonesia terbiasa meminta dan menjalankan Fatwa keagamaan terkait ibadah atau muamalah kepada organisasi-organisasi keagamaan yang biasa mengeluarkan Fatwa. Misalnya Muhammadiyah, Nahdlatul Ulama (NU), dan Majelis Ulama Indonesia (MUI). Tulisan ini fokus membahas sunat perempuan dengan cara membandingkan bagaimana ayat-ayat al-Quran dan *Ḥadīth* yang sama, digunakan untuk merumuskan Fatwa oleh tiga organisasi keagamaan tersebut. Sekalipun sumber Fatwa sama (al-Quran dan *Ḥadīth*), tetapi menghasilkan Fatwa yang berbeda. Melalui metode penelitian kualitatif, wawancara mendalam dan studi pustaka, dengan sumber utama adalah Fatwa atau putusan organisasi keagamaan dan wawancara dengan ulama. Hasil utama dari riset ini Fatwa Muhammadiyah dipandang paling progresif dan memiliki perspektif kesetaraan dan keadilan gender yang kuat dengan melarang sunat perempuan. Sedangkan Fatwa dari NU dan MUI dapat dimaknai mendukung, mengizinkan sunat perempuan meskipun berdampak negatif pada perempuan, termasuk kematian pada bayi perempuan.

**Keywords:** *Fatwa; Muhammadiyah; Female circumcision; Gender justice*

## Introduction

The phenomenon of female circumcision, also known as Female Genital Mutilation/Cutting/Circumcision (FGM/C)<sup>1</sup>, is still being implemented by the Indonesian society in several areas, especially in Madura-East Java,<sup>2</sup>

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<sup>1</sup>Nahia Toubia did not separate the meaning of female circumcision or female genital mutilation. Nahia Toubia, "Female Circumcision/Female Genital Mutilation", *African Journal of Reproductive Health/La Revue Africaine de la Santé Reproductive*, Vol.2, No.2 (1998), 6.

<sup>2</sup>Rachmah Ida, *Sunat, Belenggu Adat Perempuan Madura*, Yogyakarta: PSKK UGM, 2004, 3-10.

Yogyakarta,<sup>3</sup> Banten and Lampung,<sup>4</sup> Baddui Village in South Sulawesi,<sup>5</sup> Banjar City in South Kalimantan,<sup>6</sup> Situbondo,<sup>7</sup> Demak,<sup>8</sup> and Lampasi Ligo Nagari, West Sumatra.<sup>9</sup> Such a practice is influenced by cultural and religious perspectives within and outside Indonesia.<sup>10</sup>

Female circumcision is related to reproductive health and sexuality<sup>11</sup> with the most common problems of female circumcision being a decrease or loss of sexual desire,<sup>12</sup> difficulty in achieving sexual excitement, pain during sexual intercourse,<sup>13</sup> and the problems can even lead to the death of female infants.<sup>14</sup> Female circumcision brings out various interpretations

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<sup>3</sup>Sumarni, et.al, *Sunat Perempuan di Bawah Bayang-bayang Tradisi*, Yogyakarta: PSKK UGM, 2005, 41-54.

<sup>4</sup>Ristiani Musyarofah, et.al., *Khitan Perempuan antara Tradisi dan Ajaran Agama*, Yogyakarta: PSKK UGM, 2003, 25-47.

<sup>5</sup>Islamiyatur Rokhmah, et.al, "Sunat Perempuan dalam Perspektif Budaya, Agama dan Kesehatan (Studi Kasus di Masyarakat Desa Baddui Kecamatan Galesong Kabupaten Takalar Sulawesi Selatan)", *Jurnal Kebidanan dan Keperawatan*, Vol.11, No.2 (2015), 103-111.

<sup>6</sup>Tutung Nurdiyana, "Sunat Perempuan Pada Masyarakat Banjar di Kota Banjarmasin", *Jurnal Komunitas*, Vol.2, No.2 (2010), 116-124.

<sup>7</sup>Putri Septyaning Rahayu Ariesta, *Praktik Sunat Anak Perempuan*, Thesis Magister Sociology at Faculty of Social and Politic Science, Airlangga University, 2018, 45.

<sup>8</sup>Jauharotul Farida, et.al, "Sunat Pada Anak Perempuan (Khifadz) dan Perlindungan Anak Perempuan Di Indonesia: Studi Kasus di Kabupaten Demak", *Jurnal SAWWA*, Vol.12, No.3 (2017), 371.

<sup>9</sup>Salma, "Tradisi Sunat Perempuan di Lampasi Ligo Nagari", *Jurnal al-Manahij*, Vol.X, No.1 (2016), 155-167.

<sup>10</sup>Jurnalis Udin, et.al., *Female Circumcision: A Social, Cultural, Health and Religious Perspectives*, Jakarta: Yarsi University Press, 2009, 5.

<sup>11</sup>Adrina, et.al., *Hak-hak Reproduksi Perempuan yang Terpasung*, Jakarta: Pustaka Sinar Harapan, 1998, 2-3.

<sup>12</sup>Yulianti Muthmainnah, "Lagi, Soal Khitan Perempuan", *Al-Arham Rahima*, 48B (2012), 2.

<sup>13</sup>Manal Ibrahim HanafiMahmoud, "Effect of female genital mutilation on female sexual function, Alexandria, Egypt", *Alexandria Journal of Medicine*, Vol.52 (March 2016): 55-59. In <https://www.sciencedirect.com/science/article/pii/S2090506815000238>, accessed 30 January 2022.

<sup>14</sup>A baby girl died because of female circumcision in Rangkasbitung, Banten province. See Komnas Perempuan, *Persimpangan antara Tradisi dan Modernitas, Hasil Kajian Kualitatif Pemoangan, Pelukaan, Genitalia Perempuan (P2GP) di 10 Provinsi 17 Kabupaten/Kota*, Jakarta: Komnas Perempuan, 2018, 56-57, and 177-178. In [https://komnasperempuan.go.id/uploadedFiles/webOld/file/pdf\\_file/2019/Hasil%20Kajian%20Kualitatif%20Pemoangan](https://komnasperempuan.go.id/uploadedFiles/webOld/file/pdf_file/2019/Hasil%20Kajian%20Kualitatif%20Pemoangan)

and fatwas<sup>15</sup> on the same Quranic verses and *hadīth*.<sup>16</sup> However, Fatwas of the three organizations, namely Muhammadiyah, Nahdlatul Ulama (NU), and the Indonesian Ulama Council (MUI) can be different, even though they refer to the same verses and hadiths. For those reasons, this research is being conducted.

According to Auda, *maqāṣid shariʿah* had to analyze the humanity crisis and renew its methodology in order to fit contemporary conditions.<sup>17</sup> That is why I argue that the *maqāṣid shariʿah* should include women's perspectives, first, by interpreting *hifẓ ad-dīn* as the right to the freedom of religion; that is, women should be given agency to actualize their own way of being religious, which includes expressing their own identity during worship and in their daily life by wearing *mukena* (praying gown), hijab, or *selendang* (shawl). Second, *hifẓ an-nafs* or to keep the life, which includes the right to be healthy and free from diseases that can threaten the life of women. Third, *hifẓ al-'aql* or to keep the reason, as women have rights to think, express their political choice, and express their thoughts. Four, *hifẓ an-nasl* or to keep the generation, which includes the rights to express their sexuality in the healthy manner and to have reproductive health rights, including the rights to descent. And the last, *hifẓ al-māl* or to keep their ownership of property, which means women should have rights to obtain

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Pelukaan%20Genitalia%20Perempuan%20di%2010%20Propinsi-%2017%20Kabupaten-Kota.pdf, accessed 02 January 2019. See Kizito Makoye, *Baby Girl Dies in Tanzania After FGM by Great-Grandmother*, Reuters, 1 February 2017 in <https://www.reuters.com/article/us-tanzania-fgm-idUSKBN15F2DB> accessed 29 January 2022. Also see The Guardians. *10 Years Old Girl Bleeds to Death after Female Circumcision in Somalia*. 2019. In <https://www.theguardian.com/global-development/2018/jul/20/10-year-old-girl-death-fgm-female-genital-mutilation-somalia> accessed 29 January 2022.

<sup>15</sup>Jasser Auda, *Maqasid al-Shariah as Philosophy of Islamic Law*, London: The International Institute of Islamic Thought, 2007, xxiii.

<sup>16</sup>M. Alfatih Suryadilaga, "Khitan Perempuan dalam Perspektif Hadist", in Mochamad Sodik (ed). *Telaah Ulang Wacana Seksualitas*, Yogyakarta: PSW IAIN Sunan Kalijaga-Depag-McGill-HISEP-CIDA, 2004, 8-13.

<sup>17</sup>Jasser Auda, *Maqasid...*, 1-25.

property or work for the purpose of having a sustainable life.

Irianto said that the gendered perspective of the law aims to address women and contains three elements. First is to examine whether the law had failed to consider women's experience, disadvantaged women, and whether the law has double standards for women. Second is to apply critical methodologies when implementing the law. Third is to use women's cases as a tool of analysis in order to see the power dynamic between men and women.<sup>18</sup>

In this research, I employ Pink's typology of Quran<sup>19</sup> as my theoretical lens. Pink suggests the need for a typology of Quran to analyse the verses in the Quran. It should be noted that the same verses of the Quran can be interpreted differently by scholars because each interpretation is determined by several variables such as the purpose of interpretation, the attitude or background of the underlying ulama, and the area where the commentator lives. The typology of Quran is divided into three sections: first, the interpretation of polyvalence, which involves collecting and accepting various opinions of previous classical ulama; second, the interpretation is practical, easy to understand, and rejects any interpretations that are considered wrong; third, the type of interpretation is relative or refracts meaning as the goal is that the interpretation is accepted by all groups in different situations of religious practice.

This paper focuses on female circumcision by comparing how the same Quranic verses and *Ḥadīth* can have various interpretations and fatwas.

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<sup>18</sup>Sulistiyowati Irianto, "Kawin Kontrak dalam Perspektif Pluralisme Hukum dan Perempuan", *Jurnal Srintil Desantara: Ketika Aurat Dikuasai Surat*, Vol.4 (2003): 6-15. Also see Sulistiyowati Irianto, *Perempuan dan Hukum yang Berperspektif Kesetaraan dan Keadilan*, Jakarta: Yayasan Obor Indonesia, 2006, 4.

<sup>19</sup>Johanna Pink, "Tradition, Authority and Innovation in Contemporary Sunni tafsir: Toward a Typology of Qur'an Commentaries from the Arab World, Indonesia and Turkey", *Journal of Qur'anic Studies*, Edinburg University Press, SOAS, (2010): 60-63. In [https://www.jstor.org/stable/25831165?read-now=1&refreqid=excelsior%3Aef1dbb69c13ca5adaa5c64ec8229abdd&seq=1#page\\_scan\\_tab\\_contents](https://www.jstor.org/stable/25831165?read-now=1&refreqid=excelsior%3Aef1dbb69c13ca5adaa5c64ec8229abdd&seq=1#page_scan_tab_contents) Accessed 29 January 2022.

Although the Quran and *hadīth* use the same source in producing the fatwa, the fatwas that emerges from three Islamic organizations are completely different. For this research I used qualitative research, particularly a descriptive method, using interviews and analyzing research documents. The data gathered by interviewing the ulama at the workshop I attended, as well as Fatwa from Muhammadiyah, NU, and MUI will be used as a primary data. Secondary data on the other hand were obtained from books, journals, and news that had been verified, which will be analyzed to find conclusions. This study is important because common people do not realize that Islam has many perspectives related to female circumcision.

### **The issues of female circumcision in Indonesia**

Indonesia has been receiving comments and recommendations to eliminate the practices of female circumcision, which lies between the traditional and religious paradigms that still have gender biases. Such recommendations can be seen in the following reports by the CEDAW Committee 2007, UN's Special Rapporteur 2011,<sup>20</sup> the recommendation of the Universal Periodic Review 2017, and SDGs Goal 5 on the harmful traditional practices on women's bodies.

The efforts to eliminate female circumcision practices have initiated many regulations. Below is a flow chart containing national policies regarding female circumcision that had been issued by the state.

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<sup>20</sup>A statement made by Juan E. Mendez, a special rapporteur on the torture and other cruel, inhuman, and degrading treatments of women, including that of female genital mutilation: progress-realities-challenges. The side event is sponsored by Women's UN Report Network, Worldwide Organization for Women and NGO Committee on the Status of Women-Geneva, 1 June 2011.

Table 1. National Policies regarding Female Circumcision<sup>21</sup>

2006, 2008	2010	2014	26 Feb 2014	2018
<p>Circulation Letter Number: HK 00.07.1.3.1047a on the Prohibition of the Medicalization of Female Circumcision by the Ministry of Health Affairs on 20 April 2006.</p> <p>This policy was challenged by MUI, by issuing the decision of the Fatwa Year 9A Year 2008 on the Prohibition of Prohibiting Female Circumcision, Fatwa of MUI, on 7 May 2008.</p> <p>Note: The Fatwa of MUI denounces the decision of the government for banning female circumcision because they see such a practice as backwards.</p>	<p>Regulation of the Ministry of Health Affairs Number 1636 Year 2010</p> <p>This policy allows the practices of female circumcision to take place, and notes that in order to keep the process hygienic, female circumcisions should be done by medical health workers. However, this policy received rejections and backlash from activists.</p>	<p>The Regulation of Ministry Health Affairs Number 6 Year 2014 on the Withdrawal of the Regulation of Ministry Regulation Year 1636</p> <p>And article 2 mandates the <i>Majelis Pertimbangan Kesehatan dan Syara'</i> to issue guidance regarding the implementation of female circumcision women and avoids female genital</p>	<p>The Health and Syara' that ensures the safety and health of circumcised mutilation practices. Consideration Assembly of the Ministry of Health Affairs that was formed by and should be responsible to the Ministry of Health issued the Letter Number 05/MPKS/II/2014 on the Socialization of the Guidance of Female Circumcision that was addressed to the Ministry of Health, 26 February 2014.</p>	<p>The Ministry of Women's Empowerment and Child Protection of Indonesia published guidelines for the advocacy and dissemination regarding the prevention of female circumcision for religious leaders. This book encourages religious leaders to stop female circumcision, and mentions Fatwas on female circumcision from Muhammadiyah, NU, and MUI without making any comparisons.<sup>22</sup></p>

<sup>21</sup>Table 1 is summarized from Yulianti Muthmainnah, *Menjemput Fatwa yang Berkeadilan untuk Perempuan; Putusan Majelis Tarjih Muhammadiyah tentang Khitan Perempuan*, in 'Moderatisme Fatwa, Diskursus, Teori, dan Praktik', Ed: Syafiq Hasyim and Fahmi Syahirul Alim, Jakarta: ICIP 2018, 169-174

<sup>22</sup>Agustina Erni, et.al, *Panduan Advokasi dan Sosialisasi Pencegahan Sunat Perempuan bagi Tokoh Agama*, Jakarta: KPP-PA, 2018, 5.

## Muhammadiyah and the process of issuing fatwa

Muhammadiyah defines itself as an Islamic movement, *al-Amr bil ma'rūf wa an-nahy 'an al-munkar* and *tajdīd* organization, based on the Quran and *Ḥadīth*,<sup>23</sup> which has become the largest modern Muslim organization.<sup>24</sup> Although calls to return back to the teaching of the Quran and al-Sunnah were advised,<sup>25</sup> there have not been many polemics to the political issues, and much of the focus is directed towards implementing its organizational activity through building modern schools, hospitals, *pesantren* (religious schools), orphanages, microeconomics, and others that provide social services for citizen.

KH. Mas Mansyur, one of the leaders of Muhammadiyah, built a committee called Tarjih and Tajdīd Council in 1927 in Pekalongan to deploy the Fatwas and ensure the laws on specific issues. Tarjih and Tajdīd Council uses the *tarjih* method to analyze two competing hadiths and choose the hadith that is the closest to the teachings of the Quran. The main motivation for the founding of this council is because Muhammadiyah found that society have various perspectives in implementing *fiqh* to the same issue.

In its development, the Tarjih and Tajdīd Council also adopted the development of Islamic law.<sup>26</sup> According to Anwar, the spirit of *tarjih*

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<sup>23</sup>Article 4 verse (1) of Muhammadiyah's Basic Constitution of Association. Anggaran Dasar Muhammadiyah, in <https://muhammadiyah.or.id/anggaran-dasar/>, accessed 16 August 2019.

<sup>24</sup>Ahmad Najib Burhani. Muhammadiyah in Oxford Islamic Studies Online, Oxford Islamic Studies Online, in <http://www.oxfordislamicstudies.com/article/opr/t343/e0296>, accessed 23 August 2019.

<sup>25</sup>Al-Sunnah is an act that is done by the Prophet Muhammad saw. The three As-Sunnah includes: *sunnah qouliyah*, a discourse or *Hadith*, which is written by the Prophet, *sunnah taqrīriyah*, the Prophet's silence which marks an avowal of one's actions, and *sunnah fi'liyah*, are physical acts performed by the Prophet.

<sup>26</sup>Contained in Article 4 paragraph (1) Chapter II number (1) in the Decision of Tarjih in Jakarta in 2000, that Muhammadiyah is an Islamic movement, *da'wah amar ma'ruf nahi munkar* and *tajdid*, sourced from the Qur'an and as-Sunnah al-Maqbulah.



accommodates the perspectives of religious understanding that is not affiliated to a certain school of thought (*mazhab*), and considers the *tajdīd* (innovation) insight, tolerance insight, openness insight, and accepted progressive ideas in society.<sup>27</sup> Therefore, Muhammadiyah does not do the *taqlid* (imitation) to rigidly follow one of the prominent *madhhab* (school of thoughts) in Islam, but echoes the *ijtihad*, in order to interpret and understand the Quran and the Sunnah directly. In understanding the Sunnah, Muhammadiyah only considers al-Sunnah al-Ṣaḥīḥ (the correct and authorized Sunnah). The *dha'if* (weak) Hadith or as-Sunnah--meaning the weak words of Prophet Muhammad ~ cannot be used as legal reference, although in worship that is considered as virtue.

The Tarjih method uses *ijtihād bayāni*, *ijtihād qiyāsi*, and *ijtihād istiṣlāḥi*. First, *ijtihād bayāni* is a kind of *ijtihād* (religious effort) that relates to linguistics. Here, a verse can be interpreted as *majāz* (connotation), *mushtarak* (ambiguities), the general verses (*Ām*) or *mubayyan*, which is specifically applied and explains the *khāṣ* or *mubayyin* (the specific things), the *qaṭ'i* (definitive) and *ẓanni* (speculative) verses, and the verse that shows the order (including *wājib*, *sunnah*, *makrūh*, *mubāḥ*, *harām*), including other issues that had been mentioned in the Quran. Second, *ijtihād qiyāsi*, or often known as *ta'līli* (causation) is a kind of *ijtihād* or effort implemented to find the law as a solution to a problem that was not mentioned in the *nash* (Quranic texts) directly. So, it becomes necessary to utilize *'illat* (legal reason, causes) as its foundation. The way to find *'illat* is to use the *qiyas* (parable) method and *istiḥsān* (juristic preference) to change the law itself in order to substitute the old *'illat* with the new *'illat*. Third, *ijtihād istiṣlāḥi* (to deem proper) is a kind of *ijtihād* that is used to identify the

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<sup>27</sup>Syamsul Anwar, 'Manhaj Tarjih Muhammadiyah', Yogyakarta: Panitia Musyawarah Nasional Tarjih XXX, 1439 H/2018 M. Syamsul Anwar is the Head of Tarjih and Tajdid Council of Muhammadiyah.

problem that had not been mentioned in the *nas* (Quranic texts).<sup>28</sup>

In addition to the method above, the Tarjih and Tadjīd Council also used a women's rights perspective. The ulama of Muhammadiyah—who have a strong women's rights perspective in addition to the 'Aisyiyah leaders—always struggle for women and children's needs in the *fiqh* discourse and gave significant contributions in the Tarjih product that are women and children friendly.<sup>29</sup>

The Fatwa was issued by the Tarjih and Tadjīd Council, among which are the Decision of Majelis Tarjih, Fatwa of Majelis Tarjih, and Tarjih Discourses. The difference among the three products is that if the decision of Majelis Tarjih had passed the *tanfīz* process (validity statement of the decision), which involves the agreement and consent from all councils in 34 provinces, it can be organizationally legalized by the Muhammadiyah Central Leadership. The Fatwa of Majelis Tarjih is a legal Islamic jurisprudence product, and are presented as answers to the questions raised by the members of Muhammadiyah as well as people in general. The answers are usually discussed every Friday, then uploaded on the website of Tarjih and Tadjīd Council and published in Suara Muhammadiyah Magazine or printed in the book *The Fatwa of Tarjih and Questions and Answers of Religious Issues*.<sup>30</sup> Since the Tarjih Discourse derives from the individual perspective or opinion of the member of the Tarjih and Tadjīd Council, this opinion cannot be used as legal institutional reference, but it can be applied as religious knowledge.

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<sup>28</sup>Chapter IV and Chapter V, Manhaj of Islamic Thought, Munas Tarjih XXV Decision on Manhaj Tarjih and the Development of Islamic Thought in 2000, 11 and 16-23.

<sup>29</sup>Some Tarjih products include *Adabul Mar'ah fi Islam* (1970), *Keluarga Sakinah* (2015) and the implementation of a happy family that consists of monogamy, no domestic violence, and equal relation between a husband and wife. See Yulianti Muthmainnah. "Aisyiyah dan Ijtihad Berkemajuan untuk Hak-Hak Perempuan", *Jurnal Maarif*, Vol.14, No.2 (2019), 114-134.

<sup>30</sup>Tarjih Council and Tadjid Muhammadiyah, *Fatwa-fatwa Tarjih, Religious Book of Questions and Answers Volume 2, Cet-8*, Yogyakarta: Suara Muhammadiyah, 2004, 48-49.

## **NU and MUI: the process of issuing fatwa**

While home to the biggest Muslim population in the world, Indonesia is not a country that implements its laws based on the *Shari'ah* or Islamic Law, but national law. Here, Fatwas from the Islamic mass organization as well as the opinion of religious leaders, including the Tarjih and Tajdīd Council of Muhammadiyah, Bahtsul Masail of NU, and MUI are almost often used as religious reference for the Indonesian Muslim society.

In issuing the Fatwa, Muhammadiyah and MUI consistently refer to the Quranic verses and hadith that supported the verse as highest Islamic law, even though the *fiqh* principle and the opinions of the ulama are not always referred by both organizations.

This is contrary to the NU, which implements opposite thoughts. According to Mahfudh, in the beginning, Bahtsul Masail referred to the opinions of the ulama and considered *fiqh* principles, even though Quranic verses are rarely referred to directly by the NU. There are three methods of concluding the Fatwa of NU: first is the *qauly* method, which explores the laws based on the opinion of the *fiqh* ulama that had been written in the prominent (*mu'tabar*) books; second is the *ilHāqy* method, which assimilates the law on problems that had not been mentioned in the text (the Holy Quran and Hadith) with problems that had been explained in the texts and the law that refers to what had been mentioned in the prominent (*mu'tabar*) books; third is the *manhajy* method, which solves religious problems that had been elaborated through *bahtsul-masail* by following the thoughts and principles of the law-making conclusion that had been arranged by the Imam of *madzhab* or Islamic school of thoughts.<sup>31</sup>

The process of issuing the Fatwa in NU is done by conducting the *Musyawah Nasional (Munas) Alim Ulama*, which consists of ulama, kyai, and leaders and non-leaders of NU, to discuss religious problems related to the

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<sup>31</sup>MA. Sahal Mahfudh, *Nuansa Fikih Sosial*, Yogyakarta: LKiS, 2004, xxiii-li.

life of *ummah* (people) and nation. NU was divided into three commissions, namely *wāqi'iyyah* (the discussion of the actual religious problems), *maudū'iyyah*, (the discussion of thematical religious problems), and *qānūniyyah* (the discussion of religious problems related to the national laws and policies). NU also uses the *istinbath* (recognize and explore legal sources for law making conclusion) method in their decision making, in addition to the *ijtihād* method, namely *ijtihād jama'i* (collective efforts), which explores the foundation of the texts or *ijtihād ilHāqy* or *qiyāsi*.<sup>32</sup> By referring to previous ulama in discussing the law, NU tries to preserve past traditions.

According to Wahid, the consideration of the ulama of NU does not refer to Quranic verses' interpretation of a verse, so that a *mujtahid* or *mufassir*—the person who interprets the Quranic texts—should understand the Quran and its knowledge perfectly (the knowledge of *naHwu*, *Ṣarf*, *manṭiq*, *tafsīr*, *uṣūl al-Hadīth*, *qawā'id*, *maqāṣid sharī'ah*, *balāghah*, and related knowledge). As Ghazali requires, several bodies of knowledge must be managed to interpret the verses. Considering this, NU perceived that the previous ulama were qualified on their knowledge, and referred to the Quran to conclude the law so that NU felt safer and more comfortable if the interpretation of the verses of the Quran is done by reading the results of the *ijtihād* of previous scholars. Here, the issue of female circumcision is part of *masail ad-Diniyyah al-Maudhu'iyyah* and its foundation of law directly refers to the opinions of ulama and does not refer to the Quran.<sup>33</sup>

The MUI utilizes three approaches in issuing the Fatwa, namely the *nash qath'iy*, the *qauly*, and *manhajy*. The Fatwas of MUI are based on the Quran and Hadith; if an answer that one is seeking cannot be found in the Quran, such an answer can be found in the opinions of ulama.

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<sup>32</sup>MA. Sahal Mahfudh, *Nuansa...*

<sup>33</sup>Marzuki Wahid, interview, 4 March 2019. He was a Chairperson of Pesantren or Ma'had Aly Kebun Jambu, Cirebon and lecturer of IAIN Sheikh Nurjati Cirebon. Now, in 2022, he is a rector of ISIF Cirebon.

## **Women's body in the contestation of fatwa**

Muhammadiyah has several narrations related to female circumcision. First, the Fatwa of female circumcision is present in the Fatwas of Tarjih, and the book, *Questions and Answer on the Religious Issues* Number 2 Year 1991. The Fatwa starts with the definition of female circumcision in accordance with the World Health Organization, which states that the practice has been common among people in Africa, and mentions the long and short impacts of circumcised women. The Quranic verse that is often used, which is the QS an-Nisa'[4]:125, talks about following the teachings of Prophet Ibrahim and hadith that are usually used as a reference to the law. The hadith, narrated by Ibnu Majah from Aisyah and Ibn Amr, states that if two of the circumcised genital organs meet, they must take a shower. However, this hadith is not rendered a form of legal determination. Additionally, The Quran of surah an-Nisa':125 is compared to the hadith whereby Prophet Ibrahim a.s. does the circumcision when someone decides to convert to Islam, and states that circumcision is a *makrūmah* (glory) for woman and an obligation for man. However, the hadith was considered unclear as it states that circumcision is not an obligation or an indicator to determine whether one is a Muslim or non-Muslim; and given the negative impact of female circumcision on women, the Fatwa decided that a woman does not need to be circumcised.

Second, an analysis derived by the 'Fiqh on Women' during the National Assembly of Tarjih 27th year 2010 in Malang, East Java discussed the Fatwa in the year 1991, and mentioned verses QS. an-Nisa':125, QS. an-Nahl:123 and QS. an-Nisa'125. The hadith that was referred was the hadith narrated by Bukhari-Muslim, which states that Prophet Ibrahim was circumcised when he was 80 years old by the ax, as Islam is a religion that follows the teachings of Prophet Ibrahim that affirms circumcision. Prophet Muhammad was circumcised when he was six days old (Ibnu

Qayyim Al-Jauziyyah). The narration of Abu Hurairah mentioned that a person is ordered to be circumcised if he is converting to Islam. From Abu Hurairah ra., Prophet Muhammad said, that there are five natures for Muslim-Muslimah: circumcision, cutting the public hair, cutting the moustache, cutting the nails, and pulling out the armpit hair” (HR Bukhari and Muslim); “If two circumcised genital organs meet each other, so they must take a shower” (Ibnu Muslim); Hadith Abu Dawud from Ummu Athiyah states that a woman will be circumcised in Madinah. Then Prophet Muhammad said, “Do not overcut because it is more pleasurable (when having sexual intercourse) and loved by the husband” (HR Abu Dawud and Baihaqi).

In another narration Prophet Muhammad said, “Just cut the top of it and do not overcut because that part makes the face more glowing and part of the pleasure (of the husband)”. However, Abu Dawud who narrated this hadith said that this hadith is weak because one of the narrators has an unknown origin (*majhul*). Likewise, Ibn Munzhir, who is quoted by Ibn Hajar al-Asqalani, states the “none of [the] hadith can be used as the law for the issues of female circumcision, and none of the sanad (linkage) can be followed”. Moreover, the ulama have different opinions on the uncertainty of the order of female circumcision, including the followers of Syafii school, which argued that female circumcision is not obligatory, as it disadvantages women.

Third, Muzakkir, a members of Publication and Partnership in Tarjih Council of Muhammadiyah, considers the very brief history, definition, and classification of female circumcision or FGM/C according to the WHO, as well as the opinions of ulama (Islamic scholars), arguments, and analysis of the prohibition before taking the conclusion on the law regarding female circumcision. The opinion of ulama that was undertaken consists of opinions from the four Imams of Mazhab (leader of Islamic

school of thoughts): Imam Nawawi, Syeikh bin Baz said that this is a *sunna*, Syeikh Jadal Haq tsaid that this is *sunna*, Al-Qaradhawi who said that this is *mubah* (allowed), Salim al-Awwa said that female circumcision is an action that contained *mudharat* (danger), and Syalthout said that there was no connection between Islam, morality, and women's health, even though the discussion on the verse and hadith are same with the verse and hadith as referred by Muhammadiyah as mentioned above. Finally, Muzakkir concludes that the concept of ushul al-fiqh on *shaddu al-dzari'ah* (to close the door of possibility that can cause the prohibited action) can be used as a reference to prohibit female circumcision or FGM/C because there is no argument that avoids the prohibition of female circumcision nor medical benefits of implementing it; it acknowledges that female circumcision can be dangerous, and that female circumcision is not part of a commandment in Islam, but rather a tradition (*urf*) that has developed in society.<sup>34</sup>

Based on the three Fatwas and opinions above, there is a suitable conclusion, which ends with the commitment that female circumcision should be avoided because it is not part religious teachings, Prophet Muhammad did not practice it, and that its implementation will disadvantage women. In addition to the decision of the Tarjih, a prominent figure in Tarjih Council, Wahid, also said that female circumcision also violates the right for women to live (*hifdh al-nafs*), whereas women have the right to be free from the illness because of the female circumcision practices.<sup>35</sup> Since 1959, the Mufti of Egypt, Gom'ah, has pronounced female circumcision as haram, and the Mufti of Al-Azhar, Muhammad

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<sup>34</sup>Muhammad Rofiq Muzakkir, *Problematika Fikih Perempuan*, Yogyakarta: Suara Muhammadiyah, 2017, 103-131.

<sup>35</sup>Wawan Gunawan Abdul Wahid, interview 9 November 2019. He is member of the Tarjih and Tajdid Council of Muhammadiyah. The interview was done during the question-and-answer session at the DKI Jakarta Tarjih Cadre High Level Training, 9-10 November 2019, in Jakarta.

Sayyed Thanthowi, supports this Fatwa.<sup>36</sup>

NU<sup>37</sup> uses five hadiths for the issue of female circumcision. For instance, the *khitān* (circumcision) is a sunnah for men and honor for women (HR. Ahmad dari Usamah, Thabrani in al-Mu'jam al-Kabir dari Syaddad bin Aus dan Ibn Abbas); there are five kinds of nature (*fiṭrah*), which include *khitān*, cutting the nails, and cutting the moustache (Bukhari, Muslim, Abu Daud, al-Darimi, Malik, and Ahmad). From Ummu Athiyah al-Anshariyah, there was a girl in Madinah who will be circumcised, as the Prophet said "Do not overcut on it because that part will give advantage for woman and will pleasure the husband." The *Ḥadīth* narrated by Abu Daud was regarded as *dlaif* (weak) as said by Abu Dawud, but he got two *syahid* (witnesses) which were *Ḥadīth* Anas and *hadith* Ummi Ayman, and narrated by Abu As-Syaikh in the book of Aqiqah, as well as the *hadith* of Ad-Dlahhak Ibn Qays, narrated by al-Baihaqi as said by al-Adzim Abady the author of Aunul Ma'bud; and the last hadith that states 'Do circumcise and do not overcut because circumcision will brighten the face and will make the husband fell more pleasure during intercourse', HR. ath-Thabarani and Al-Hakim from Adl-Dlahhak Ibn Qais, were regarded as *ṢaḤīḤ* (correct) according to Imam Suyuthi, and the last hadith gives

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<sup>36</sup>Yulianti Muthmainnah. Larangan Khitan Perempuan. Koran Kompas. 29 July 2011, 8. In <https://travel.kompas.com/read/2011/07/29/02515846/larangan.khitan.perempuan?page=all>. See UNICEF, Female Circumcision between the Incorrect Use of Science and the Misunderstood Doctrine Executive Summary, Al-Azhar University, 2013, 10. In <https://www.unicef.org/egypt/media/3576/file/FGM%20Summary.pdf> accessed 8 July 2019.

<sup>37</sup>Executive Board of Nahdlatul Ulama. "Khitan Perempuan, Solusi Problematika Aktual Hukum Islam". Keputusan Mukhtar, Munas, dan Kombes Nahdlatul Ulama Tahun 1926-2015M', and Keputusan Komisi Bahtsul Masail ad-Diniyyah al-Maudhu'iyah Mukhtar ke-32 Nahdlatul Ulama di Asrama Haji Sudiang Makassar, 06-13 Rabiul Akhir 1431 H/22-29 Maret 2010, Surabaya: Khalista dan Lembaga Ta'lif Wan Nasyr, Cet-2, 2019, 1050-1064.



reference to the Prophet Ibrahim who was circumcised when he was 80 years old by a carpenter.

While the opinion of the ulama that was chosen is the opinion of Fath al-Bari Syarh Shahih al-Bukhari, there are still a variety of opinions among the ulamas regarding female circumcision. According to Imam Shafi'i's, circumcision is obligatory for men and women in *khitān al-ināth*, as circumcision is useful for men and women to reduce lust or libido, it prevents unpleasant odors from the pile of dirt behind the *qulfah*, and it prevents sperm inflammation. The lesson learned from this practice is to preserve the *sharī'ah* of Allah and his Apostle for the purpose of purity, cleanliness, maintaining character, stabilizing lust, replacing traditions that are harmful and not in accordance with *sharī'ah* to improve the *syi'ar* of worship not the cultural tradition, and to maintain the integrity of society so that circumcision is not applied in absolute ways. Additionally, Al-Majmu 'Syarh al-Muhadzdzab argues that female circumcision consists of cutting the part of the female genital where the penis enters. Here, the thin skin that covers the urethra is partially cut during female circumcision. Moreover, Bahr al-Ra'iq Syarh Kanz al-Daqa'iq states that female circumcision consists of cutting the skin on the top of the vagina that resembles a rooster's comb. The goal of cutting this part of the female genital is to reduce the female libido.

Furthermore, the NU fatwa mentions the meaning of '*sunnah*' and '*makrūmah*' in each hadith and the opinion of the selected ulama, which states that it is more advisable for men to be circumcised than women. Here, it can be interpreted that while men undergo circumcision for '*sunah*,' women are permissible. In other words, men are obligated, while women are *sunnah*. The opinion that says female circumcision is prohibited does not have a *syar'i* argument, except to see that female circumcision hurts the victim (women), while the hadith that explains female circumcision

(Abu Dawud's hadith) does not show taklif and its validity is also doubtful.

Though there is a *fiqh* principal argument which states that '*adam al-dalil laisa bidalilin*' (the absence of an argument is not an argument), circumcision for men is recommended, while circumcision for women is not. Syarh Zad al-Mustaqni said circumcision was prescribed to purify men as well as to reduce the lust of women, as a woman's lust flares up when left without circumcision. Therefore, if her lust will flare up, circumcision is obtained '*iffah* (able to guard against the prohibited action).

Actually, the effort to influence the Fatwa to side with women and eliminate female circumcision practices has been pursued by the Fatayat NU when discussing the Fatwa of female circumcision in Makassar, January 29-31, 2010. According to Ulfa Anshor, who was Chairperson of Fatayat NU, it was Fatayat who proposed a script. The proposal was discussed in the Ulama National Conference, but the results of the decision were not in accordance with Fatayat's formulation. This is influenced by the perspective of National Conference participants who are biased towards the text, although Fatayat discusses female circumcision not only in text, but also its context.<sup>38</sup> The prominent figures of NU cleric, Husein Muhammad, who has a good perspective on women's bodies and rejects female circumcision, has written a study related to female circumcision.<sup>39</sup> However, his opinion was also not made a reference by the participants in the NU National Conference. Maafi, a NU figure, said 'female circumcision in Indonesia is different from the cases in Africa'. He further states that 'only liberal activists do not agree with the symbol of Islam about this female circumcision'.<sup>40</sup> This situation shows that it is still difficult for

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<sup>38</sup>Interview with Maria Ulfa Anhor, 11 April 2020.

<sup>39</sup>Husein Muhammad, *Fikih Perempuan*, Yogyakarta: LKiS-Ford Foundation, 2001, 49-56.

<sup>40</sup>Mahbub Maafi responded that NU agrees with the practice of female circumcision. He was one of the speakers at Fatwa methodology at Muhammadiyah, NU, and Persis', the Muhammadiyah High Level Tarjih Ulama Cadre Training, 27-28 December 2017 at

NU to accept inputs, although it comes from the internal community of NU, which includes the studies on the impact of female circumcision.

Furthermore, the MUI Fatwa on female circumcision in 2008 refers to the Quran in its Fatwa, which includes QS. An-Nisa':125, QS. An-Nahl:123, QS. Ali Imran:95, QS. Ali Imran:31-32. There are several selected hadiths; first, 'circumcision is the sunnah (decrees of the Prophet) for men and *makrūmah* for women' (HR. Ahmad). Second, Abdullah ibn Umar, the Messenger of Allah, said, "O..women of Anshor color your nails (with boyfriends and the like) and do circumcision, but do not overdo it" (al-Syaukani). Third, 'if you meet two circumcisions, then you must take a bath, I and the Messenger of Allah have done it, then we take a shower' (HR at-Turmudzi, Ibn Majah and Imam Ahmad from 'Aisyah r.a.). Fourth, the Umm 'Athiyyah r.a, asserts that in Medina there was a female circumcision being performed, and Rasulullah SAW said to the woman: 'Do not overdo it because this is the happiest of women and the most favored of men (their husbands)'. Fifth, adh-Dhahhak bin Qais states that in Medina there is a female circumcision expert named Ummu 'Athiyyah, Rasulullah SAW who said to him: 'Do the *khifadh* (circumcision) and do not overdo it because it brightens the face and benefit the husband more' (HR. At-Tabrani from adh-Dhahhak). Sixth, the five cases that constitute human nature: circumcision, *al-Istihdad* (shaving hair around the pubic), shaving the armpits, cutting nails, and cutting the mustache (HR Jama'ah from Abu Hurairah r.a.). To summarize, the opinion of the ulama (*qoul ulama*) who referred to the MUI gave the conclusion that all ulama agreed that circumcision for women was a requirement.

MUI Fatwa comprises three issues. First, that circumcision should be practiced for men and women, as it is the nature and symbols of Islam, and is perceived as glory and a form of worship. Second, the law regarding

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Muhammadiyah Ki Bagus Hadikusumo Pesantren, Jombang-Bogor, which I attended.

the prohibition of female circumcision, which is contrary to *shari'a* law because here, circumcision applies for both men and women, and is considered a part of nature and the nature of Islam. Third, the limits or procedures for female circumcision, which states that female circumcision should only be done by cutting the foreskin; expanding circumcised areas such as cutting (incision or excision) or injuring the clitoris that leads to excessive mutilation is considered haram.

The Fatwas of Muhammadiyah, NU, and MUI regarding the issue of female circumcision have many similarities when quoting verses from the Quran, al-Hadith, and the opinion of the same ulama. Reference of the three organizations is shown below.

Table 2. Comparative Decision

Reference Organization	The Quran	The Hadith	Opinions of the Ulama	Conclusion
Muhammadiyah	Yes	Yes	Yes	Yes
NU	No	Yes	Yes	No
MUI	Yes	Yes	Yes	No

The same Quranic texts which are used by Muhammadiyah and MUI were QS. an-Nisa':125, QS. An-Nahl:123. The two verses above are interpreted as an order to follow the teachings of Ibrahim, which is not just about the oneness of Allah SWT, but also about the preaching that convey his teachings. While Muhammadiyah understood it as a circumcision order for men, the MUI interprets the circumcision order to be for both men and women, and as a *syiar* (spreading) of Islam.

Given that the hadiths were undertaken by the three organizations, some of the organizations agreed upon the same arguments, while others did not, as shown in this table.

Table 3. Comparative Hadith

Organization Hadith	Muhammadiyah	NU	MUI
Prophet Ibrahim a.s was circumcised at 80 years old	Yes	Yes	No
Five natures, including circumcision	Yes	Yes	Yes
Ummu 'Athiyah, women were circumcised in Madinah, Prophet's message to not overdo the process of circumcision	Yes	Yes	Yes
Ummu 'Athiyah, female circumcision provides a glow to the women's face and pleasure for the husband	Yes	Yes	Yes
Circumcision as an encouragement for men and honor for women	No	Yes	Yes
The obligation to bathe following the meeting of two genitals	Yes	No	Yes

The same hadith selected by these three organizations gave rise to different interpretations. Ummu 'Athiyah's hadith, for example, demonstrates that MUI and NU women still must be circumcised, but to not overdo it. NU added that by being circumcised, a women's libido will not be untamed or undomesticated, as it is only for her husband. While Muhammadiyah understood the Prophet's message about the circumcision in Medina, there is also a subtext which reads that female circumcision should not be overdone, as the clitoris actually gives pleasure to the husband when having sexual relations. Muhammadiyah understands that circumcision is an obligation for men, while MUI and NU also argues that it should also be done to women. As for the hadith, the meeting of the two sexes (who are circumcised), must be followed by taking a shower.

Muhammadiyah understands that it means two different sexes without discussing circumcision because this is an order to purify after sexual intercourse between husband and wife. It should be noted that the MUI understands that two different genital organs (penis, vagina) are both circumcised.

## **Conclusion**

Sexuality issues and reproductive health cannot be separated from female circumcision. The practice of female circumcision harms women's bodies because it impairs the clitoris and vagina, and destroys the aim of *maqāṣ id shari'ah*, which provides comfort and assurance from pain or torture of the body. The purpose of female circumcision to curb women's libido is a patriarchal view, as it assumes that women are prostitutes, thereby their libido must be curbed. Given this, the interpretations should be read using a gendered perspective. Even though the verses in the Quran and *Ḥadīth* are the same, if women's perspective and experience are not taken into consideration in the sources of Fatwa, then female circumcision will still be ordered, despite its reported negative effects, including the death of a girl.

I argue that Muhammadiyah Fatwas are in line with the laws that go in accordance with the times. Muhammadiyah argues that female circumcision is not an Islamic syllable command, has a very detrimental effect on women's bodies and sexual pleasure, as the clitoris plays a role in the enjoyment of sexual relations between husband and wife. On the contrary, NU argues that circumcision is a religious order; it is a way to curb libido, and control one's desires so that they are not untamed. MUI underlines the female circumcision part of the symbols of Islam, *syiar*, which should be carried out by men and women. However, the implementation of female circumcision has rules to not overdo it.

Recommendations for further research are needed after the negative

impact known, including exploring how Muhammadiyah hospitals have campaigned to stop female circumcision based upon their Fatwa.

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