

The *Fikih Difabel* of Muhammadiyah: context, content, and aspiration to an inclusive Islam

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Abstract

Since ratifying the CRPD (Convention on the Rights of Persons with disabilities), Indonesia has witnessed developments in promoting the rights of people with disabilities. Public policies and civil organizations make their respective contributions. Muhammadiyah responded favorably by issuing a comprehensive fatwa on Islam and disability in 2020, compiled in *Fikih Difabel*. This paper uses an interdisciplinary approach to understand the *Fikih Difabel*. It explores the historical context of disability in Muhammadiyah and analyzes religious interpretations that become the paradigm and content of *Fikih Difabel*. Data were collected from various primary sources, such as interviews, observations, and analyses of various Muhammadiyah documents. The research concludes that *Fikih Difabel* is an organizational and academic effort to find a theological basis to promote disability rights. *Fikih Difabel* has succeeded in listening to the disabled's

aspirations, integrating the national legal norms and current academic findings, and highlighting Islamic ideals of just and inclusive religion. Fikih Difabel is Muhammadiyah's contribution to promoting Islam as an inclusive and friendly religion for persons with disabilities.

Sejak meratifikasi CRPD, Indonesia mengalami kemajuan dalam hal pemenuhan hak penyandang disabilitas. Undang-undang dan peraturan pelaksanaannya secara bertahap diluncurkan, demikian pula berbagai peraturan daerah. Ruang publik menjadi lebih aksesibel sementara partisipasi publik dalam promosi hak penyandang disabilitas juga meningkat. Muhammadiyah merespons perkembangan ini dengan merumuskan *Fikih Difabel* pada tahun 2020. Artikel ini berusaha untuk memahami *Fikih Difabel* secara interdisipliner. Di satu sisi, kajian ini menjelaskan konteks relasi Muhammadiyah dan isu-isu disabilitas; sementara di sisi yang lain artikel juga mengkaji muatan paradigmatis dalam *Fikih Difabel*. Data dikumpulkan dari berbagai sumber primer seperti wawancara, pengamatan lapangan, dan analisis dokumen keorganisasian. Penelitian menyimpulkan bahwa *Fikih Difabel* lahir dari upaya organisasional dan akademik yang serius untuk memberikan basis teologis dalam memperjuangkan hak penyandang disabilitas. *Fikih Difabel* berhasil mendengarkan aspirasi dari komunitas difabel, mengintegrasikan peraturan nasional dan temuan-temuan akademik terbaru, serta menunjukkan model Islam yang adil dan inklusif. *Fikih Difabel* adalah kontribusi nyata Muhammadiyah untuk mempromosikan Islam sebagai agama yang ramah terhadap penyandang disabilitas.

Keywords: *Islam and disability; Disabilities in Islamic law; Fiqh of Muhammadiyah; Disability rights promotion*

Introduction

Since the ratification of the CRPD (Convention on the Rights of Persons with Disabilities) in 2011 and the enactment of Disability Law No. 8 in 2016, the rights of persons with disabilities in Indonesia began to get more serious attention from the government and non-governmental organizations. Campaigns for the rights of persons with disabilities have also increased and encompassed a more comprehensive range of parties.

Networking activities among organizations of persons with disabilities have also widened. More importantly, to this paper, Islamic organizations and institutions in Indonesia have also started to deal with disability issues. Mosques in several cities, such as Yogyakarta, Klaten, and Jakarta, have been accessible and friendly to persons with disabilities. In 2017, the opening ceremony for the National Conference of Alim Ulama Nahdlatul Ulama provided a sign language interpreter for the first time in its history.¹

Indonesian Muslims' attention to persons with disabilities is beyond promoting their rights. The engagement includes 'reforming' religious interpretations and Islamic laws. Islamic organizations seek to take responsibility for providing disabled-friendly interpretations of Islamic teachings and theology. Nahdlatul Ulama, Indonesia's most prominent Islamic organization, discussed the rights of persons with disabilities at the *Munas Alim Ulama* (Ulama National Conference) in 2017. The product of this is the publication of a guiding book, *Fiqih Penguatan Penyandang Disabilitas*.

Meanwhile, Muhammadiyah, the second-largest Islamic organization, paid attention to disability issues at the 2020 National Conference of the *Majelis Tarjih*. Muhammadiyah issued *Fikih Difabel*. This paper will specifically study this *Fikih Difabel* of Muhammadiyah. It will elaborate on the context of disability issues in Muhammadiyah, their history of helping and supporting persons with disabilities through their social services, and how *Fikih Difabel* represents the beginning of a paradigm shift in Muhammadiyah to see disability beyond charity and empathy.

The study of Islam and disability has been about Islamic texts and their interpretations of disability issues. The earliest work on the subject is Vardit's analysis of Islamic Law on marriage and divorce involving

¹Arif Maftuhin, "Kiai Afif Dan Pandangan NU Tentang Difabel," in *K.H. Afifuddin Muhajir: Fakh Ushuli Dari Timur*, Malang: Intelegensia Media, 2021.

persons with disabilities.² She later published a more comprehensive take with her book on disability in Islamic Law, where she surveyed a vast *fiqh* literature on disabilities.³ Other early studies include Morad's paper on persons with an intellectual disability⁴ or Doll's, which focuses on the concept of insanity in Islamic Law.⁵ Bhatti⁶ and Ghaly⁷ look at disability in Islamic Law along with Islamic theology, history, and practice. Latest studies seem to have shifted the focus broader than Islamic Law. Some look at disability in Muslim countries,⁸ others at disability and gender,⁹ and more recent research have covered disability and Islamic terrorism. Daymon used online data to elaborate on how the Islamic State of Iraq

²Vardit Rispler-Chaim, "Islamic Law of Marriage and Divorce and the Disabled Person: The Case of The Epileptic Wife," *WDI Die Welt des Islams* 36, no. 1 (1996): 90-106.

³Vardit Rispler-Chaim, *Disability in Islamic Law*, Dordrecht, the Netherlands: Springer, 2007, <http://public.ebib.com/choice/publicfullrecord.aspx?p=323385>.

⁴Mohammed Morad, Yusuf Nasri, and Joav Merrick, "Islam and the Person with Intellectual Disability," *Journal of Religion, Disability & Health* 5, no. 2-3 (October 2001): 65-71, https://doi.org/10.1300/J095v05n02_05. as a religion, makes a distinction between the person with intellectual disability and mental disorder, but both are found legally incompetent in the Koran and the Hadith. The society according to Islam is obliged to assess, assist and respect the person with intellectual disability and give the person an equal life chance. Mohammad, the Prophet, implied the importance of child welfare, education, well-being, and supporting children other than your own, all which can be seen as the expression of Islamic compassion. Islam recognizes the right of the needing person for help and assistance, as God tells us in the Qurvan (Koran

⁵Michael W. Dols, "Insanity in Islamic Law," *Journal of Muslim Mental Health*, Vol. 2, No. 1 (2007), 81-99, <https://doi.org/10.1080/15564900701238799>; Michael Walters Dols, *Majnūn: The Madman in Medieval Islamic Society*, Clarendon: Clarendon Press, 1992.

⁶Isra Bhatti et al., "Disability in Islam: Insights into Theology, Law, History, and Practice," in *Disabilities: Insights from across Fields and around the World*, Vol. 1, Westport, Conn.: Praeger, 2009.

⁷Mohammed Ghaly, *Islam and Disability: Perspectives in Theology and Jurisprudence*, Routledge Islamic Studies Series, London; New York: Routledge, 2010; M. Ghaly, "Physical and Spiritual Treatment of Disability in Islam: Perspectives of Early and Modern Jurists," *Journal of Religion Disability and Health Disability and Health*, Vol. 12, No. 2 (2008), 105-143.

⁸Maher S Al-Jadid, "Disability in Saudi Arabia," *Saudi Medical Journal*, Vol. 34, No. 5 (2013): 453-60.

⁹Majid Turmusani, "Disabled Women in Islam," *Journal of Religion, Disability & Health*, Vol. 5, No. 2-3 (2001), 73-85, https://doi.org/10.1300/J095v05n02_06.

and al-Sham (ISIS) utilize disability for their propaganda and recruit new members.¹⁰

This study on *Fikih Difabel* is essential in Indonesia's current Islam and disability studies development. The field has found its momentum recently, marked by the many publications of books, journal papers, and university theses/dissertations. From those plenteous publications, quality research falls into two types: first, studies of Indonesian Islamic literature on disabilities; and second, a study on Islamic practices related to disabilities. Examples of recent literature studies on Islamic texts and disabilities in Indonesia are Huda's work on the *tafsir* of Nusantara Ulama¹¹ and Nisful Jadidah's theses on the obligations of the breadwinners with disabilities according to the *Fiqih Penguatan Penyandang Disabilitas*.¹² Meanwhile, research on Islamic practices related to disabilities also received some new additions, such as Mukhammad Nur Hadi's research on the guardianship and testimony of persons with disabilities at the Islamic Marriage Registration Office (KUA)¹³ and analysis on the practice of Deaf marriage according to Islamic law in Ponorogo¹⁴ and Kediri.¹⁵ These publications have continued

¹⁰Chelsea Daymon, "The Utility of Disabled Fighters in the Islamic State," *Perspectives on Terrorism*, Vol. 13, No. 3 (2019), 76–86.

¹¹Anwari Nuril Huda, "Ayat-Ayat Disabilitas dalam Tafsir Ulama Nusantara," in *Islam dan Disabilitas: Dari Teks ke Konteks*, Arif Maftuhin (ed.), Yogyakarta: Penerbit Gading, 2020, 67–88.

¹²Nisful Jadidah, "Analisis Maqasid al-Shari'ah terhadap Pemenuhan Kewajiban oleh Kepala Keluarga Penyandang Disabilitas dalam Buku Fiqih Penguatan Penyandang Disabilitas", Undergraduate Thesis, UIN Sunan Ampel Surabaya, 2020., <http://digilib.uinsby.ac.id/44432/>.

¹³Mukhammad Nur Hadi, "Nalar Hukum Penghulu Tentang Ketentuan Hukum Islam Perwalian dan Kesaksian Penyandang Disabilitas dalam Pernikahan: Studi di KUA Kota Malang", Tesis, Yogyakarta, UIN Sunan Kalijaga Yogyakarta, 2020., <http://digilib.uin-suka.ac.id/39844/>.

¹⁴Moh. Imam Safi'i, "Tinjauan Hukum Islam terhadap Praktik Akad Nikah bagi Mempelai Tunawicara", Skripsi, IAIN Ponorogo, 2020., <http://etheses.iainponorogo.ac.id/10940/>.

¹⁵Ahmad Hafid Safrudin and Sholikhan, "Tinjauan Hukum Islam terhadap Praktik Akad Nikah Bagi Mempelai Tunarungu Di KUA Kecamatan Badas Kabupaten Kediri," *El-Faqih: Jurnal Pemikiran dan Hukum Islam*, Vol. 6, No. 2 (2020), 113–33.

previous research on the accessibility of mosques¹⁶ and services of worship for persons with disabilities.¹⁷

In light of those two types of Islam and disability studies in Indonesia, this paper offers a combined study of the text of *Fikih Difabel* and its socio-historical context. This study is interdisciplinary work. It analyzes Islamic legal thought (*Fiqh*), explores the historical context of *Fikih Difabel*, and looks at its *Fiqh* material from the point of view of Islamic studies and disabilities. The primary data for this study is a combination of documents, publications, interviews, and observations, both in the drafting process and when discussed virtually at the Tarjih XXXI National Conference, November to December 2020.¹⁸

Muhammadiyah and persons with disabilities

Disability is no new field of service for Muhammadiyah. In 2007, the Islamic organization had established more than eighty *panti*¹⁹ and more than seventy *Sekolah Luar Biasa* (SLB) or special schools across Indonesia.²⁰

¹⁶Arif Maftuhin, "Aksesibilitas Ibadah bagi Difabel: Studi atas Empat Masjid di Yogyakarta," *INKLUSI Journal of Disability Studies*, Vol. 1, No. 2 (2014), 249–68, <https://doi.org/10.14421/ijds.010207>; Arif Maftuhin, *Masjid Ramah Difabel: Dari Fikih Ke Praktik Aksesibilitas*, Yogyakarta: LKiS, 2019; Cut Rezha Nanda Keumala, "Pengaruh Konsep Desain Universal Terhadap Tingkat Kemandirian Difabel: Studi Kasus Masjid UIN Sunan Kalijaga dan Masjid Universitas Gadjah Mada," *INKLUSI Journal of Disability Studies*, Vol. 3, No. 1 (2016), 19–40, <https://doi.org/10.14421/ijds.030102>.

¹⁷Mustarjudin Mustarjudin, "Efektivitas Juru Bahasa Isyarat Khutbah di Masjid UIN Sunan Kalijaga," *INKLUSI Journal of Disability Studies*, Vol. 4, No. 2 (2017), 271–96, <https://doi.org/10.14421/ijds.040206>.

¹⁸For the case of Nahdlatul Ulama, another influential Islamic organization in Indonesia, see my previous research on Arif Maftuhin, "Mosques for All: Nahdlatul Ulama and the Promotion of the Right of People with Disabilities," *Journal of Indonesian Islam* 15, no. 2 (December 1, 2021): 247, <https://doi.org/10.15642/JIIS.2021.15.2.247-270>.

¹⁹*Panti* will be used in this paper to preserve its special meaning in the Indonesian context. Commonly, *panti* can mean an *orphanage*, an institution where children whose parents have died can live and be cared for. But in this paper, *panti* means a place where children with disabilities are cared for and/or educated.

²⁰Pimpinan Pusat Muhammadiyah, *Profil 1 Abad Muhammadiyah*, Yogyakarta: Pimpinan Pusat Muhammadiyah, 2010, xii.

The first SLB is in Western Java, where SLB Aisyiah Singaparna was founded in 1986.²¹ The term *difabel* and its social advocacy model became a key issue in Muhammadiyah around 2010. The first document to use *difabel* is the *Program Muhammadiyah Periode 2010-2015*. The document was presented in the *Muktamar Satu Abad Muhammadiyah* (The 46th National Congress of Muhammadiyah) held between 3-8 July 2010 in Yogyakarta. This document states that the community empowerment program in Muhammadiyah aims to “increase attention, care, and advocacy for groups of *difabel* to obtain basic rights and welfare in their lives.”²²

Attention to persons with disabilities increased at the 47th *Muktamar* in Makassar in 2015. The *Muktamar* considered services for persons with disabilities as a priority in the community empowerment program.²³ The 2015 *Muktamar* has also begun to consider disability issues as one of the national strategic issues. It is this 47th *Muktamar* that emphasized the need to issue *Fiqih Difablitas*.²⁴ The decision of the *Muktamar* on disability issues became a guideline for at least three councils in Muhammadiyah: *Majelis Pemberdayaan Masyarakat* (Community Development Council) or MPM, *Majelis Tarjih dan Tajdid* (Council for Religious Decisions and Reforms), and *Majelis Pelayanan Sosial* (Social Services Council) or MPS. MPS is a council in charge of social services for persons with disabilities in Muhammadiyah through their *panti* and SLB. Before the *Muktamar*,

²¹A document of SLB Aisyiah Singaparna mentions that this school is licensed under *Izin Operasional* No. 009/SLB/JB/I/1986, dated 30-01-1986. Aisyiah is a women’s wing of Muhammadiyah.

²²Pimpinan Pusat Muhammadiyah 2005-2010, “Program Muhammadiyah Periode 2010-2015, Disampaikan Pada Muktamar Satu Abad Muhammadiyah (Muktamar Muhammadiyah Ke-46) Yogyakarta 20-25 Rajab 1431 H/3-8 Juli 2010 M,” Yogyakarta: Pimpinan Pusat Muhammadiyah, 2010.

²³Pimpinan Pusat Muhammadiyah, “Tanfidz Keputusan Muktamar Muhammadiyah Ke-47 Makassar 18-22 Syawal 1436H/3-7 Agustus 2015,” Yogyakarta: Berita Resmi Muhammadiyah, Nomor 01/2015-2020/Zulhijah 1436 H/September 2015, 2015), 38.

²⁴Pimpinan Pusat Muhammadiyah, “Tanfidz Keputusan Muktamar Muhammadiyah”..., 119.

the official MPS documents had never used the term *penyandang disabilitas* or *difabel* because services for persons with disabilities are part of services for the *du'afa* (the marginalized people).²⁵ Muhammadiyah's decision to take disability issues seriously also influences the policies of Aisiyah, an autonomous women's organization of Muhammadiyah. The 47th *Muktamar* of Aisiyah decision on the Education Program, point (d), states that there should be a "program to develop an educational institution for children with special needs." While the social welfare program point (c) reads "a program to empower, serve, sponsor, and protect the rights of persons with disabilities."²⁶

Let us look at the programs of Majelis Pemberdayaan Masyarakat (MPM), Majelis Pelayanan Sosial (MPS), and Majelis Tarjih dan Tajdid. There are three models of organizing and serving persons with disabilities in Muhammadiyah: (i) social services, (ii) community development, and (iii) social advocacy.

Social services

It is common for religious organizations in Indonesia to have social services for marginalized groups of society, such as persons with disabilities. Muhammadiyah also has such social services. In the context of services for children with disabilities, there have been two types of services: boarding school and *panti*. The boarding school system is a service that combines boarding (*panti*) and special schools (SLB). It is a comprehensive and integrated service of the "SLB/Panti" system. Meanwhile, *panti* provides residential services only without school. For education, children of *panti* are sent to special schools (SLB) or inclusive schools located around the *panti*.

The educational system of SLB Muhammadiyah is like other special

²⁵Interview with Dedi Warman, February 2nd, 2021

²⁶Pimpinan Pusat Aisiyah, "Tanfidz Keputusan Mukhtamar Aisiyah Ke-47 Satu Abad Aisiyah," Yogyakarta: Pimpinan Pusat Aisiyah, 2015, 108, 116.

schools in the country. SLB Muhammadiyahs are open to any students with disabilities. Those who live in the *panti* are waived from any tuition. Private, religious, or public fund cover their expenses. For those who do not live in *panti*, the Muhammadiyah special schools are affordable, and students with disabilities will not pay as high as those in the mainstream schools. One of the leading programs by the SLB/Panti of Muhammadiyah is vocational training for children with disabilities. SLB Aisyiyah Ponorogo, for example, provides culinary and product packaging skills.²⁷

Compared to public SLBs, which are primarily exclusive for students with disabilities, SLB/Panti Muhammadiyah and Aisyah are relatively open to various students. Panti Aisyiyah Ponorogo has started accepting non-disabled students in the last five years. The numbers are not large, but their presence has helped improve the activities of children with disabilities. The opposite also happened. Muhammadiyah and Aisyah's *panti-s* also take care of several children with disabilities. For example, Panti Aisyiyah in Karanganyar takes care of a deaf child, Panti Aisyiah in Semarang accepts a child with down syndrome, and Panti Aisyiyah Kendal takes care of a physically disabled child.²⁸

Implementing inclusive education in Muhammadiyah schools is more driven by government policies than by Muhammadiyah internal policies. When inclusive education programs started to roll out in several provinces, the local administrations included some Muhammadiyah schools. Data from the Department of Education, Youth and Sports (DIKPORA) of the Special Region of Yogyakarta in 2014-2015 showed that out of 86 inclusive schools, there were three Muhammadiyah schools in the city of

²⁷Tim Assessment Majelis Kesos Pimpinan Pusat Aisyiyah, *Laporan Kegiatan Kunjungan*, 28 Oktober 2017, unpublished document.

²⁸Interview with Fatimah, a staff of Panti Aisyiyah Kendal, December 8th, 2019

Yogyakarta. SMA Muhammadiyah 4 Yogyakarta and SMA Muhammadiyah 7 Yogyakarta are among the schools with many students with disabilities. Many Muhammadiyah inclusive schools lack the preparedness to educate non-disabled students. There were discriminatory issues, and Muhammadiyah schools witnessed cases of bullying against children with disabilities. The inclusion of children with disabilities into Muhammadiyah institutions is generally not from awareness to promote social inclusion. Empathy, compassion, and charity for low-income families are the main motivations. According to a board member of *Majelis Pelayanan Sosial*, there has never been any case that a *panti* accepts children with disabilities from well-off families. Most *panti* managers have minimal understanding, if any, about disability and inclusive education.²⁹ For this reason, the national board of Aisyiah Social Welfare Council (2015-2020 period) found it essential to launch “the *Panti Inklusi* campaign” to promote the inclusion of children with disabilities in Aisyiah *panti*.³⁰

Empowerment programs

There have been two approaches to the empowerment program for persons with disabilities in Muhammadiyah. The first is ‘*panti*-based’ empowerment, in which the program is run by or through Muhammadiyah’s *panti*. The second is community-based empowerment, where Muhammadiyah works with people living in a particular village or district. This different approach is possible because two councils or *majelis* in Muhammadiyah have different institutional structures and functions.

The *Majelis Pelayanan Sosial* (Social Service Council) or MPS, responsible for running Muhammadiyah’s *panti*, adopts a ‘*panti*-based’ approach. In their economic empowerment programs, MPS collaborates with the

²⁹Interview with Dedi Warman, February 2nd, 2021

³⁰Pimpinan Pusat Aisyiah, “Program Kerja Majelis Kesejahteraan Sosial Pimpinan Pusat Aisyiah Periode 2015 - 2020,” Yogyakarta: Pimpinan Pusat Aisyiah, 2015.

Lembaga Amil Zakat Infak dan Sedekah Muhammadiyah (Lazismu), the philanthropic body of Muhammadiyah. In 2020, MPS provided business capital assistance and entrepreneurship training to persons with disabilities living in the *Panti* Muhammadiyah or Aisiyah. Entrepreneurship training is focused on online marketing, improving what some persons with disabilities have the experience. For MPS, the economic empowerment program is new, as they have focused more on services through the *panti*.³¹

The community-based approach is mainly used by *Majelis Pemberdayaan Masyarakat* (MPM). It works with the people with disabilities community in Ngaglik, Sleman, which brings together more than 60 persons with disabilities, while Gunung Kidul has more than 50. The Ngaglik disabled community is one of the groups that stands out. They successfully established the Mandiri Access Savings and Loans Cooperative or KSP Bank Difabel, whose members come from other districts in Yogyakarta, including Bantul and Kulonprogo. The KSP helps its members nurture their entrepreneurship capability.³² During the pandemic, they made medical self-protection suits (APD) to be donated and sold to keep their economy running.³³ In 2018 the Aisiyah Social Welfare Council carried out similar economic development for the communities of persons with disabilities in Ponorogo. Aisiyah adopted both *panti*-based and community-based models of empowerment. In collaboration with Lazismu, they trained various communities of persons with disabilities, such as the Deaf, physically handicapped, and mentally retarded, to produce *batik* and sell it in Ponorogo.

Social advocacy

³¹Interview with Dedi Warman, February 2nd, 2021

³²Interview with Ahmad Ma'ruf, a board member of MPP, February 3rd, 2021

³³Rini Kustiani, "Komunitas Wirausaha Difabel Yogyakarta Sumbang APD Buatan Sendiri," Tempo, May 7, 2020, <https://difabel.tempo.co/read/1339866/komunitas-wirausaha-difabel-yogyakarta-sumbang-apd-buatan-sendiri>.

In addition to empowering communities, MPM also uses social advocacy strategies to promote the rights of persons with disabilities. MPM is part of an advocacy group that pushes for several local regulations for persons with disabilities.³⁴ In Yogyakarta, MPM joined an advocacy disability group of disabled people's organizations, such as CIQAL and ILAI. This joint advocacy effort has succeeded in encouraging the legislation of *Peraturan Daerah* (Perda) for persons with disabilities in four districts in Yogyakarta Province: Bantul, Kulon Progo, Gunung Kidul, and Sleman.³⁵ The MPM adopts a similar advocacy model in other provinces or districts, such as East Java, South Kalimantan, and Purworejo. In this advocacy effort, MPS or MPM collaborates with the centers for disability studies at the University of Muhammadiyah Yogyakarta (UMY) and the University of Muhammadiyah Jakarta (UMJ).

Another advocacy model carried out by MPM and MPS is to include Muhammadiyah members with disabilities in the national board of Muhammadiyah. MPM started this effort in 2015,³⁶ while MPS followed suit at the end of 2018.³⁷ Including persons with disabilities aims to shift their position from being targeted and empowered by Muhammadiyah to part of the empowering party. By becoming board members, they now have direct access to decision-making in Muhammadiyah.

Following up the 47th *Muktamar* decision and recognizing the interconnectedness of disability issues with various elements of Muhammadiyah, the national board of *Majelis Tarjih dan Tajid* decided to form a drafting team for *Fikih Difabel*. Members of the team represent

³⁴Interview with Ahmad Ma'ruf, a board member of MPP, February 3rd, 2021

³⁵Arni Surwanti and Ahmad Ma'ruf, "Advokasi Mewujudkan Peraturan Daerah tentang Penyandang Disabilitas di Tingkat Kabupaten," *Berdikari: Jurnal Inovasi Dan Penerapan Ipteks*, Vol. 6, No. 1 (2018), 109-18, <https://doi.org/10.18196/bdr.6138>.

³⁶Interview with Ahmad Ma'ruf, a board member of MPP, February 3rd, 2021

³⁷Interview with Dedi Warman, February 2nd, 2021

various elements in Muhammadiyah, including *Majelis Tarjih dan Tajdid*, *Majelis pemberdayaan Masyarakat*, and *Majelis Kesejahteraan Sosial* of the Aisyiyah National Board.³⁸ The drafting team members were also composed to represent women, persons with disabilities, academics, social activists, and religious experts. The drafting team worked from September 2018 to April 2020. Their drafting activities included: (a) small discussion within the team to prepare the initial draft for the larger workshop, (b) workshops/*halaqah* with various stakeholders to enrich data and perspectives, (c) internal team discussions to integrate the results of the workshop and prepare drafts to be submitted to the Tarjih National Deliberation (Munas), and finally (e) the draft presentation in the 31st National Conference (Munas XXXI) of Muhammadiyah.³⁹

***Fikih Difabel* of the Munas XXXI**

Fikih Difabel is included in Materi Munas Tarjih Muhammadiyah XXXI, Book I.⁴⁰ By the time we finished our research, this Munas's version had been refined and edited, the final version of which is yet to be published. Therefore, we also hope that the results of our study can contribute to the refinement of the *Fikih Difabel*. The 371 pages document consisted of three parts (bagian): Bagian I: Fikih Tata kelola dan pembaharuan Agraria (Agrarian Reform); Bagian II: Fikih Difabel, Bagian III: Kriteria Waktu Subuh (criterion of fajr time). The *Fikih Difabel* (pages 111-224) consists of six chapters that reflect the structure of the idea of *difabel* in Muhammadiyah. *Fikih Difabel* cannot be well understood by reading the

³⁸Majelis Tarjih dan Tajdid, "Surat Keputusan Majelis Tarjih Dan Tajdid Pimpinan Pusat Muhammadiyah No. 04/KEP/I.1/B/2018" Yogyakarta: Majelis Tarjih dan Tajdid, 2018.

³⁹Interview with Alimatul Qibtiyah, January 8th, 2021

⁴⁰Tim Penyusun Materi Munas Tarjih Muhammadiyah XXXI, "Materi Musyawarah Nasional Tarjih Muhammadiyah XXXI: Mewujudkan Nilai-Nilai Keislaman yang Maju dan Mencerahkan", Yogyakarta: Panitia Musyawarah Nasional Tarjih Muhammadiyah XXXI, November 2020.

XXXI National Conference document. *Fikih Difabel* is not the first *fikih* in Muhammadiyah. Previously, Muhammadiyah had published several *fikih* on various social and political themes, starting from *Fikih Tata Kelola* (2010), *Fikih Air* (2014), *Fikih Kebencanaan* (2015), *Fikih Perlindungan Anak* and *Fikih Informasi* (both in 2018), and finally *Fikih Agraria* and *Fikih Difabel* (2020). The document assumes that Muhammadiyah readers already understand what *Fikih* means to them. As the last one to come, the underlying ideas of *Fikih Difabel* have been known from earlier *fikih*.

For those unfamiliar with Muhammadiyah, it is worth noting that *Fikih*, according to Muhammadiyah, is not necessarily synonymous with “formulating an Islamic legal judgment of halal and haram” (*istinbath ahkam*).⁴¹ *Halal* and *haram* are merely parts of the third layer of *Fikih* in Muhammadiyah. According to Anwar, a prominent Islamic legal scholar of *Majelis Tarjih dan Tajid*, there are three normative layers of Islamic Law: fundamental values (*al-qiyam al-asasiyah*), general principles (*al-usul al-kulliyah*), and applicable legal regulations (*al-ahkam al-far’iyyah*).⁴² The first two layers are conceptual and fundamental, while the third is more practical and detailed. Examples of the first layer (*al-qiyam al-asasiyyah*) are universal values, such as justice, equality, and public interest. Examples of the second layer (*al-usul al-kulliyah*) are legal maxims derived from the first layer, such as “everyone is responsible for his act” or “every *muamalah* (transaction) is *mubah* (allowed).” The third layer, the practical aspects of Islamic Law, is the one that is similar to the typical use of *fiqh*. One can find a specific ruling of a particular act in the third layer of *Fikih*: consuming alcohol is *haram* (forbidden). This shift from the established limited term of *Fiqh* to

⁴¹Suara Muhammadiyah, ed., *Himpunan Putusan Tarjih 3*, Yogyakarta: Pimpinan Pusat Muhammadiyah, Majelis Tarjih, 2018, 601.

⁴²Syamsul Anwar, “Teori Pertingkatan Norma Dalam Usul Fikih,” *Asy-Syir’ah: Jurnal Ilmu Syari’ah Dan Hukum*, Vol. 50, No. 1 (2016), 141–67, <https://doi.org/10.14421/asy-syir'ah.2016.501-06>.

a broader Islamic paradigm can be seen as “an evolution of a modernist approach to Islamic jurisprudence in Indonesia.”⁴³ In those terms and definitions, we then can understand that *Fikih Difabel* is not the first “*fikih*” produced by Muhammadiyah. Previous *fikih* by Muhammadiyah include *Fikih Informasi*,⁴⁴ *Fikih Kebencanaan* (disaster preparedness), or *Fikih Agraria* (land distribution).

As an Islamic and social organization, Muhammadiyah’s views on disability may be analyzed in two different contexts: First, in its position as an Islamic organization, to see how Muhammadiyah interprets Islamic teachings on disabilities; second, in its position as a civil organization, to see Muhammadiyah’s position in seeing disability as a public policy issue in Indonesia. However, looking at the structure of *Fikih Difabel*, with those inherent three normative layers, this paper offers an analysis in the following three sections.

The ideological root: al-Ma’un

Muhammadiyah’s views on persons with disabilities, as seen in the Tarjih Muhammadiyah XXXI National Conference Material, mostly come from Islamic and disability studies currently developing in Indonesia. The ‘traces’ of contemporary research on Islam and disability appear in Muhammadiyah’s views on persons with disabilities. Muhammadiyah is of the view that the Quran looks at disability neutrally and that the Quran more often uses terms related to disability metaphorically. Rispler Chaim has previously argued for this interpretation, while Muttaqien’s paper also re-emphasizes it through his study of Quranic words on disabilities.

⁴³Ahwan Fanani et. al., “Muhammadiyah’s Manhaj Tarjih: An Evolution of a Modernist Approach to Islamic Jurisprudence in Indonesia,” *HTS Teologiese Studies/Theological Studies*, Vol. 77, No. 4 (2021), 7, <https://doi.org/10.4102/hts.v77i4.6942>.

⁴⁴Niki Alma Febriana Fauzi and Ayub Ayub, “Fikih Informasi: Muhammadiyah’s Perspective on Guidance in Using Social Media,” *Indonesian Journal of Islam and Muslim Societies*, Vol. 9, No. 2 (2019): 267–93, <https://doi.org/10.18326/ijims.v9i2.267-293>.

The uniqueness of *Fikih Difabel* can be seen more in its efforts to find a 'standard' theological foundation in Muhammadiyah. As explained by previous Muhammadiyah studies, the Muhammadiyah social movement is based on what some writers call *Teologi al-Ma'un*. The *Teologi al-Ma'un* comes from a circulated story stating that the founder of Muhammadiyah, K.H. Ahmad Dahlan, taught the Quranic short chapter *al-Ma'un* for three months. When getting bored with this chapter, his students asked, "We have memorized the chapter; why don't we move on to another?" Dahlan rhetorically answered, "You have memorized it. But have you been practicing it? Have you found the orphans and raised them?"⁴⁵

That question hit his students hard. They just learned that Quranic verses are to be practiced more than memorized. Members of Muhammadiyah, in carrying out various social charities, always remember Kiai Dahlan's question. It is simply 'logical' that the *Fikih Difabel* tries to find a foothold in the interpretation of *al-Ma'un*:

*Dalam konteks difabel, mereka termasuk golongan yang kerap mendapatkan sanksi sosial "kesendirian". Selain itu, penyandang difabel juga masuk dalam kategori miskin dan fakir, karena mereka tidak mendapatkan hak yang sama dalam mengembangkan minat dan bakat mereka. ... bagi siapa pun yang melakukan kezaliman maupun diskriminasi terhadap kelompok difabel, maka dapat dikategorikan sebagai orang yang mendustakan agama.*⁴⁶

In the context of people with disabilities, they belong to a group that often gets social sanctions, "excluded". In addition, people with disabilities can also be considered poor and needy, because they do not get the same rights in developing their potential. ... anyone who commits injustice and discrimination against people with disabilities is a false believer violating their faith

⁴⁵Zakiyuddin Baidhaw, "Muhammadiyah Dan Spirit Islam Berkemajuan Dalam Sinaran Etos Alqur'an," *Afkaruna: Indonesian Interdisciplinary Journal of Islamic Studies*, Vol. 13, No. 1 (2017), 24.

⁴⁶Tim Penyusun Materi Munas Tarjih Muhammadiyah XXXI, "Materi Musyawarah Nasional Tarjih Muhammadiyah XXXI," 130.

This *Teologi al-Ma'un* has become a religious foundation so that Muhammadiyah and its members care about persons with disabilities. In this context, it's just that Muhammadiyah no longer sees persons with disabilities as 'differently-abled.' Persons with disabilities are again seen as part of marginalized groups, like orphans and the needy. *Teologi al-Ma'un* has inspired charitable activities for persons with disabilities at various Muhammadiyah levels, including establishing SLBs or *panti* for persons with disabilities.

The fundamental values of an inclusive Fikih Difabel

As described earlier, Fiqh in Muhammadiyah has three normative levels. Of these three levels, the first two are basic values, which include *al-qiyam al-asisiyah* and *al-usul al-kulliyah*. In contrast, the third level is the level of practical, casuistic, and specific laws such as *halal* and *haram*. In the context of *Fikih Difabel*, *al-qiyam al-asisiyah* includes three things: *tauhid* (monotheism), *keadilan* (justice), and *maslahah* (public interest).

Tauhid is meant to set apart God's absolute and perfect position as a creator on the one hand, and humans as weak and imperfect creatures, on the other. In the context of disability, this principle shows that perfection only exists in God, while humans, without exception, are imperfect creatures. Therefore, there can be no 'perfect human' (the normal) category versus the handicapped (the disabled). Based on '*tawhid*' then: an egalitarian relationship among human beings and whatever the physical or mental state of a human being is the best condition of Allah's will (134-135). This interpretation of *tauhid*, which has implications for social relations, was well developed by the chairman of Muhammadiyah (1995-2000), H.M. Amen Rais. He called this concept *tauhid sosial*.⁴⁷

The genealogy of *keadilan* (justice) principle can be traced in the

⁴⁷M. Amien Rais, *Tauhid Sosial: Formula Menggempur Kesenjangan*, Bandung: Mizan, 1998.

aftermath of the Iranian Islamic Revolution, whose influence has spread globally to Indonesia. One of the ‘popular’ Iranian thinkers, very popular and influential in Indonesia, is Murtadha Mutahhari. His book, *al’Adlu fi al-Islam* was translated into Bahasa Indonesia *Islam Agama Keadilan*.⁴⁸ This phrase was taken and more popularized by Masudi when publishing his book on reinterpreting *zakat*.⁴⁹ Within *Fikih Difabel*, this principle of justice is vital with two implications:

*Pertama, semua manusia dipandang setara, namun yang membedakan di mata Allah bukan dari aspek fisik, mental, sensorik dan intelektual, melainkan keshalehan spiritual; kedua, kondisi difabel tidak membuat mereka terhapus jadi subyek hukum (mukallaf), melainkan menjalankan sesuai dengan hukum asal masing-masing individu (‘azimah)*⁵⁰

[First, all humans are equal. What distinguishes them before Allah is not their physical, mental, sensory, and intellectual aspects but their spiritual piety; second, a disability does not invalidate their status as a legal subject (*mukallaf*), for people must observe their ‘original obligations’ [azimah] according to their respective abilities]

The principle of *maslahah* is one of the most widely used principles in modern *fiqh*. Nowadays, it seems ‘less valid’ to talk about Fiqih without referring to *maslahah*. The concept, which al-Imam al-Juwayni initially developed,⁵¹ finds its novelty again when modern jurists must deal with various challenges beyond the canonical texts of the Quran and Hadith. Discussion of *maslahah* frequently overlaps and exchanges with the *maqasid*

⁴⁸Murtadha Muthahhari, *Islam Agama Keadilan*, trans. Agus Effendi, Jakarta: Pustaka Hidayah, 1988.

⁴⁹Masdar Farid Masudi, *Agama Keadilan: Risalah Zakat (Pajak) dalam Islam*, Jakarta: Pustaka Firdaus, 1991.

⁵⁰Tim Penyusun Materi Munas Tarjih Muhammadiyah XXXI, “Materi Musyawarah Nasional Tarjih Muhammadiyah XXXI” ..., 139.

⁵¹Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*, Virginia: International Institute of Islamic Thought (IIIT), 2008, 13.

sharia.⁵² It is also the case in the book *Fikih Difabel*. In the later development of the concept, the ‘measure’ to judge whether a topic is *masalah* or not is “its conformity with *maqasid sharia*.” That means when the principle in question is *masalah*, and the discussion would be more about *maqasid sharia*. In *Fikih Difabel*, *masalah* is explained as follows:

*Nilai dasar kemaslahatan menunjukkan bahwa semua manusia memiliki status yang sama sebagai khalifah di bumi, sehingga siapa pun itu berhak memberikan kontribusi nyata dalam kemajuan di segala bidang. Dengan demikian, penyandang difabel dapat berpartisipasi secara nyata dalam mewujudkan kemaslahatan sesuai dengan kemampuannya.*⁵³

[According to the *masalah*, all humans have equal status as ‘caliphs’ (stewards) on earth. Anyone has the right to make a real contribution to the progress of human beings. Thus, persons with disabilities can participate significantly in realizing the *masalah* according to their abilities.]

In the next normative level, *al-usul al-kulliyah*, *Fikih Difabel* preferred three values relevant to promoting the rights of persons with disabilities: Human dignity, inclusiveness (inclusion), and encouraging progress and knowledge. These three values are considered capable of translating the three fundamental values of *Fikih Difabel* (*tauhid*, *keadilan*, and *masalah*) and becoming a bridge with case-specific laws at the third level of the normative structure of *Fikih Difabel*.

Al-aḥkam al-far’iyyah: a friendly and supportive Islamic law

The essential part of having a *Fikih Difabel* is how it will affect the daily life of persons with disabilities. Can it benefit persons with disabilities? Unfortunately, *Fikih Difabel* provides a partial answer to that hope. It took

⁵²Jasser Auda, *Maqasid AlShariah: A Beginner’s Guide*, Virginia: International Institute of Islamic Thought (IIIT), 2008, 3.

⁵³Tim Penyusun Materi Munas Tarjih Muhammadiyah XXXI, “Materi Musyawarah Nasional Tarjih Muhammadiyah XXXI,” 149.

a middle ground between a ‘general guide’ for policymakers and a general response to the day-to-day needs of persons with disabilities. Some practical cases are discussed in the book, but other circumstances that may need to be addressed are left unanswered. The five main chapters of worship (*ubudiyah*) typical to Fiqh (*Taharah, Salat, Zakat, Fasting, and Hajj*), are all discussed. However, they are all discussed briefly, and the *Fikih Difabel* takes only the most critical cases. On the *taharah*, this only deals with “purification methods for the disabled” and “the sanctity of wheelchairs.” Concerning *salat*, it only discussed guide dogs and prayers for those unable to stand. Addressing laws related to *ubudiyah*, Muhammadiyah seems to use principles commonly discussed in the literature on *Usul Fiqh* and *Qawaid Fiqhiyyah*. Muhammadiyah adopted these three general principles: *Menghilangkan kemandaratan dan kesulitan; Tidak ada pembebanan dalam agama [sic.]; and Ajaran yang menggembirakan, bukan menakutkan.*

The texts are not translated as we need to highlight these points because *Fikih Difabel*’s principles are slightly different from those typically described in the Islamic law literature. The second principle, “*Tidak ada pembebanan dalam agama*”,⁵⁴ means “no obligation in religion” must be a mistake. There will be no law if there is no obligation (*taklif*). What it means is probably *taqlil al-takalif* or “minimizing the obligation.” We might compare these principles with those of Khudari Bik. In his discussion of the principles of *altasyri’ al-Islami*, Bik mentions the following principles: ‘*Adam al-haraj* (no difficulties), *Taqlil al-takalif* (minimal burden), and *Al-tadrij fi a-tashri’* (gradual obligation).⁵⁵

The derivatives of these three principles appear in the discussion of specific articles related to various topics, such as the permissibility of ablution while being washed by someone else, the validity of prayer

⁵⁴Tim Penyusun Materi Munas Tarjih Muhammadiyah XXXI, 163.

⁵⁵Khudari Bik, *Tārīkh Al-Tasyri’ al-Islāmī*, Egypt: al-Maktabah al-Tijariyah al-Kubra, 1960.

performed on an unclean wheelchair, and other issues.

Chapter V elaborates explicitly on the three principles of *Fikih Difabel* on the aspects of daily life (*muamalah*) and public policy. The *muamalah* chapter receives a more significant portion, discussed in more detail than the *ibadah* chapter. One of the interesting points to be observed in *Fikih Difabel* is its decision to consider persons with mental and psychosocial disabilities as a *mumayyiz*:

*Kondisi tersebut dapat berpengaruh terhadap syarat kecakapan, yaitu adanya rasyd atau kematangan, baik fisiologis maupun psikologis. Dengan adanya hambatan tersebut, maka difabel intelektual dan psikososial ketika melakukan transaksi akibat hukumnya sama dengan periode mumayyiz.*⁵⁶

In addition to its interpretation of Islamic teaching, *Fikih Difabel* fully supports and strengthens the provisions stipulated in Law No. 8 of 2016 on Persons with Disabilities (*Undang-undang Penyandang Disabilitas*). Among the rights covered by the law and re-emphasized by *Fikih Difabel* are education, employment, political and public participation, culture, and recreation. *Fikih Difabel* does not take a stand at all against the provisions of *Undang-undang Penyandang Disabilitas*.

Conclusion

Muhammadiyah has been paying attention to disability issues for a long time. Muhammadiyah approaches disability issues contextually, following the national approach to persons with disabilities. Muhammadiyah started its attention to disability issues with a charity model. Muhammadiyah reaches out to persons with disabilities through its social care services. Muhammadiyah's approach to disability issues shifts along with developing policies for disability issues nationally. When the government started implementing inclusive education programs in public schools, several

⁵⁶Tim Penyusun Materi Munas Tarjih Muhammadiyah XXXI, "Materi Musyawarah Nasional Tarjih Muhammadiyah XXXI" ..., 184.

Muhammadiyah schools became inclusive. The *Fikih Difabel* was born contextually relevant to the development of Islamic studies in Indonesia. It marks the adoption of a rights approach to issues of persons with disabilities in Muhammadiyah. *Fikih Difabel* is an effort to employ Islamic resources that Muhammadiyah has to promote a more inclusive Islam toward persons with disabilities. It brings together all the basic, fundamental, and practical values of Islamic teaching to address disability issues.

The actual and tangible outcomes of *Fikih Difabel* in day-to-day life remain to be seen. First, there should be steps to refine the current version of *Fikih Difabel*. A mistake like we found in the discussion *taklif* should be avoided. Second, if the editing process is to be done, it is also important to widen the variety of persons with disabilities involved. It was fitting that Muhammadiyah had involved a few persons with disabilities in the process, but it also needs to listen to broader communities of disabilities. Third, distributing the *Fikih Difabel* widely among the persons with disabilities. During the field research, we were surprised that many of the activists in the disability movement have not read the *Fikih Difabel*. They knew that Muhammadiyah had the *fikih* but had no access to reading.

While trying to cover as deep as possible the historical and theological aspects of *Fikih Difabel*, this research left some parts open to further study. First, the anticipated problems of implementing the fatwa within the Muhammadiyah. There are still cases in the field where Muhammadiyah's institution failed to bring the fatwa into practice. A Muhammadiyah university has rejected accepting a student with a disability. Second, how does Muhammadiyah contribute to public policy with its national educational institution and social services network? Muhammadiyah can be tremendous pressure on public institutions and a leader worth following.

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