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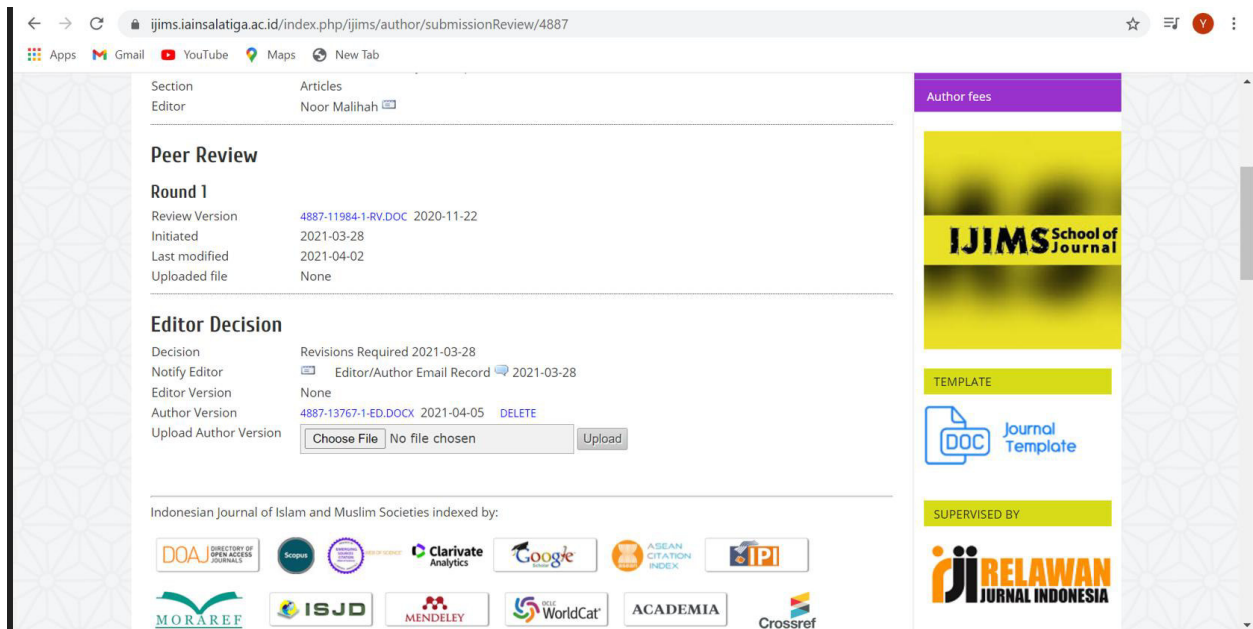
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## **The Progressiveness of Quranic Interpretation in the Fatwa of Muhammadiyah on Female Circumcision**

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### **Abstract**

The Indonesian Muslim community is accustomed to requesting and carrying out religious fatwa related to worship or *muamalah* to religious organizations that gave rise to various fatwas.

This paper compares how the same Quranic verses and hadith can be interpreted and meant differently fatwa by Muhammadiyah, Nahdlatul Ulama/NU, and the Indonesian Ulama Council/MUI on the issue of female circumcision as a women's sexuality. Qualitative research methods with interviews and literature study. Primary sources are fatwas of religious organizations and interviews. The result are female circumcision still implemented because of fatwa from NU and MUI, though has negative impact on women's sexuality and reproductive health to death. The Muhammadiyah fatwa is seen as the most progressive and has a strong perspective of gender equality and justice.

### **Keywords**

Fatwa of Muhammadiyah, female circumcision.

### **Abstrak**

Masyarakat Muslim Indonesia terbiasa meminta dan menjalankan fatwa keagamaan terkait ibadah atau muamalah kepada organisasi keagamaan yang biasa mengeluarkan fatwa. Tulisan ini membandingkan bagaimana ayat-ayat al-Qur'an dan hadits yang sama ditafsirkan dan dimaknai berbeda, sehingga menghasilkan fatwa yang berbeda dari Muhammadiyah, Nahdlatul Ulama/NU, dan Majelis Ulama Indonesia/MUI tentang sunat perempuan sebagai seksualitas perempuan. Metode penelitian kualitatif dengan wawancara mendalam dan studi pustaka. Sumber utama adalah fatwa organisasi keagamaan dan wawancara dengan ulama. Hasilnya, sunat perempuan tetap dilaksanakan karena adanya fatwa dari NU dan MUI, meski berdampak negatif pada seksualitas dan kesehatan reproduksi perempuan hingga meninggal dunia. Fatwa Muhammadiyah dipandang paling progresif dan memiliki perspektif kesetaraan dan keadilan gender yang kuat.

### **Introduction**

The phenomena on female circumcision or known as Female Genital Mutilation/Cutting (FGM/C) are still being implemented by the society in several areas,<sup>1</sup> especially in Madura-East Java, Banten, and Lampung.<sup>2</sup> Female circumcision is related with reproductive health and sexuality issue. Female circumcision brought out various interpretation and fatwa (decision) on the same al-Qur'an verses and *hadith* that had been used as the law reference.

The various schools of thought and ulama's teachings teach us about the basis or methods of excavating *ijtihad* of law by the ulama of the past. It is realized that different scholars in understanding the verses of al-Qur'an and *hadiths* produce different thoughts and results of *ijtihad* despite taking the same source of law. This difference can be considered as a mercy and variety of treasures of Islamic legal thought.<sup>3</sup>

The article doesn't intend to blame one interpretation and to justify another. Furthermore, in the *ijtihad*<sup>4</sup> process in the *fikih*<sup>5</sup> principle which was referred to the famous *hadith* of Prophet Muhammad, giving two rewards if the result was correct and a reward if the result was incorrect while they do the *ijtihad*. The interpretations should be read by using the *maqasid syari'ah*<sup>6</sup> dan gender perspective. An interpretation of a verse finally will conclude to a law that don't happen in an empty space.<sup>7</sup> But it was also influenced by various perspectives and factors such as social, political, cultural, language, and actors such as state, men who have the vested interest concluding the law,<sup>8</sup> it will bring the potentiality in producing gender inequality against women.<sup>9</sup>

*Maqasid syari'ah*, according to Jasser Auda, had to analyze the humanity crisis and renew its methodology in order to be suitable with the contemporary civilization which is needed now.<sup>10</sup> That's why, I argue the *maqasid syariah* should have women's perspective. Those are, first, by interpreting *hifdh ad-dīn* as the right to the freedom religion. That women should be given to actualize their way of being religious, including to express their own identity during the worship or in their daily life by wearing *mukena* (praying gown), *hijab*, or *selendang* (shawl). Second, *hifdh an-nafs* or to keep the life, including the right to be healthy and to be free from disease that threaten the life of women. Third, *hifdh al-'aql* or to keep the reason. Women has rights to think, to express their political choice, and to express their thoughts. Four, *hifdh an-nasl* or to keep the generation, including

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<sup>1</sup> Adrina, et al. Hak-hak Reproduksi Perempuan yang Terpasung. Jakarta: Pustaka Sinar Harapan, 1998. Alfatih Suryadilaga. And see Khitan Perempuan dalam Perspektif Hadist, in Mochamad Sodik (ed). *Telaah Ulang Wacana Seksualitas*. Yogyakarta: PSW IAIN Sunan Kalijaga-Depag-McGill-IISEP-CIDA, 2004.

<sup>2</sup> Ristiani Musyarofah. Khitan Perempuan antara Tradisi dan Ajaran Agama. Yogyakarta: PSKK UGM-Ford Foundation, 2003. And see Sumarni, et al. Sunat Perempuan di Bawah Bayang-bayang Tradisi. Yogyakarta: PSKK UGM-Ford Foundation, 2005.

<sup>3</sup> Moh. Asyiq Amrulloh. et al. Fiqh dan Ushul Fiqh. Jakarta: Prenada Media Group. 2019.

<sup>4</sup> *Ijtihad* is to exert the ability and earnest effort to produce legal conclusions from propositions or sources of law related to human behavior.

<sup>5</sup> *Fikih* is the understanding of the law of Allah that comes from the Qur'an and the *hadith* of the Prophet Muhammad through the method of *ijtihad*.

<sup>6</sup> *Maqasid syari'ah* are the goals of universal Islamic law.

<sup>7</sup> Amina Wadud. Qur'an Menurut Perempuan Jakarta: Serambi Ilmu Semesta, 2001. And see Asghar Ali Engineer. Pembebasan Perempuan. Yogyakarta: LKiS, 2003.

<sup>8</sup> Nawal El-Saadawi. Perempuan dalam Budaya Patriarki. Yogyakarta: Pustaka Pelajar, 2001. And see Fatimah Mernissi. Teras Terlarang, Kisah Masa Kecil Seorang Feminis Muslim. Surabaya: Alfabeta, 1997.

<sup>9</sup> Mansour Fakih. Analisis Gender dan Transformasi Sosial. Yogyakarta: Pustaka Pelajar. 1996.

<sup>10</sup> Jasser Auda. *Maqasid al-Shariah as Philosophy of Islamic Law*. London: The International Institute of Islamic Thought, 2007.

the rights to express their sexuality in the health manner and to have guarantee on their reproductive health rights, including rights to descent. And the last, *hifdh al-māl* or to keep their ownership of property, that means women have rights to obtain property or decent work to the sustainability of their life.

While the gender perspective of the law means to address women in the law context that contained three elements, said Sulistyowati Irianto. *First*, to examine whether law had failed to take into account women's experience, disadvantaged women, or the law has double standards for women. *Second*, to apply the critical method on the law implementation. *Third*, to use the women's cases as a tool of analysis to see the power relationship between men and women.<sup>11</sup> *Maqasid syari'ah* and laws with the women's perspective, will be used to analyses the such verses and hadith texts.

## Method and Previous Research

There have been many researches about female circumcision in the past. Female circumcision still occurs in almost all major islands in Indonesia, such as in Sumatra, Java, Kalimantan and Sulawesi. Rokhmah and Hani found that the Bodia Takalar tribe, in Baddui Village, Makassar, South Sulawesi, female circumcision is performed by a shaman, by scratching the tip of the clitoris with a knife that has been used to cut chicken's comb.<sup>12</sup> In Banjar City, Banjarmasin, South Kalimantan, Tutung Nurdiyana found that female circumcision was performed on children aged 40 days to 12 years, which was performed by a midwife or shaman, by cutting or scratching the clitoris. Some cut a little, some cut too much so that it results in women experiencing sexual disturbances such as not feeling sexual stimulation.<sup>13</sup> Sampang District and Situbondo District, East Java, Putri Septyaning found, that female circumcision practice when a baby girl was born as a package for childbirth with ear piercing, this is done by midwives or shaman.<sup>14</sup> Research by Salma that meanwhile, the female circumcision procession in Lampasi Ligo Nagari, West Sumatra began with *basmalah*, the intention of circumcising a girl to Islamize the child, then scratching the tip of the clitoris to cause the wound to bleed. If the child complains of pain and cries then the circumcision is complete. It ends with telling historical stories in Islam.<sup>15</sup>

The Ministry of Women's Empowerment and Child Protection Republic of Indonesia published guidelines for advocacy and dissemination of prevention of female circumcision for religious leaders in 2018. This book encourages religious leaders to stop female circumcision, and mentions fatwas on female circumcision from Muhammadiyah, NU, and MUI without any comparing.<sup>16</sup> However, from all of those studies, no one has discussed how the fatwas of the three

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<sup>11</sup> Sulistyowati Irianto. Kawin Kontrak dalam Perspektif Pluralisme Hukum dan Perempuan. In *Ketika Aurat dikuasai Surat*, Jurnal Srintil Desantara, Volume 4 (2003):6-15. And see Sulistyowati Irianto. *Perempuan dan Hukum yang Berperspektif Keadilan dan Keadilan*. Jakarta: Yayasan Obor Indonesia. 2006.

<sup>12</sup> Islamiyatur Rokhmah and Ummu Hani. Sunat Perempuan dalam Perspektif Budaya, Agama dan Kesehatan (Studi Kasus Di Masyarakat Desa Baddui Kecamatan Galesong Kabupaten Takalar Sulawesi Selatan). *Jurnal Kebidanan dan Keperawatan*, Volume 11 Number 2 (Desember 2015):103-111.

<sup>13</sup> Tutung Nurdiyana. Sunat Perempuan Pada Masyarakat Banjar Di Kota Banjarmasin. *Jurnal Komunitas* Volume 2 Number 2 (2010):116-124.

<sup>14</sup> Putri Septyaning Rahayu Ariesta. 2018. *Praktik Sunat Anak Perempuan*. Thesis Magister Sociology at Faculty of Social and Politic Science, Airlangga University.

<sup>15</sup> Salma. Tradisi Sunat Perempuan di Lampasi Ligo Nagari. *Jurnal al-Manahij*. Volume X Number 1 (2016):155-167.

<sup>16</sup> [Agustina Erni, et al.](#) Panduan Advokasi dan Sosialisasi Pencegahan Sunat Perempuan bagi Tokoh Agama. Jakarta: KPP-PA. 2018.

organizations can be different, even though they refer to the same verses and hadiths. For those reasons, I wrote this research.

Qualitative research, will use the descriptive method by using deep interview and research document. By interviewing ulama, taking the opinions of ulama from the workshop I attended, while the data analysis will use the content analysis of the fatwa or formal decision of the organization as a primary data from Muhammadiyah, NU, and MUI. While the secondary data are obtained from book, journal, and news that had been verified. Then the data will be analysed to find conclusions.

In this paper, Muhammadiyah will get larger portion of analysis. Muhammadiyah as the first organization that was founded in Indonesia, Najib Burhani and Fuad Fanani agreed that Muhammadiyah become the biggest organization in term of assets, with the modernist type and bring the advance ideas.<sup>17</sup> In 2018, I analyzed that the practice of female circumcision was against the *maqashid sharia* and the MUI fatwas contributed to preserving that terrible culture.<sup>18</sup>

In addition to Muhammadiyah, both NU and MUI often issue fatwa related to the fatwa on female circumcision. For the purpose of the study, I took the fatwa documents that had been issued by those institutions. Primary data from Muhammadiyah, such as Fatwa of the Tarjih: Questions and Answer Part 2,<sup>19</sup> Draft of Majelis Tarjih and Tajdid on the Issues of Fiqh for Women Year 2010,<sup>20</sup> and The Problems of Women in Fiqh.<sup>21</sup>

While NU, for the primary sources I took The Decision of Bahtsul Masail for the Thematic Religious Issues 32nd on Female Circumcision.<sup>22</sup> The fatwa's MUI is the Fatwa Number 9A Year 2008 on the Prohibition of Prohibiting Female Circumcision.<sup>23</sup>

Research questions is the progressiveness of Quranic interpretation in the Fatwa or Decision of Muhammadiyah on the issue female circumcision. To explain the issues, the paper will narrate two main studies. First, how the same Quranic verses and hadith on the issue of female circumcision can be interpreted and meant differently by three religious based organization in Indonesia namely Muhammadiyah, NU and MUI. Second, how the Islamic jurisprudence with the women's rights perspective address the fatwa (religious decision) that had been undertaken by three organizations.

### **The Issue of Sexuality; Story of Female Circumcision Decision in Indonesia**

The government of Indonesia always received comments and recommendations to eliminate the female circumcision practices which confound between tradition and religious paradigm that still have gender biases. For example, in 1 June 2001, as reported from the United States Department of State about Indonesia: Report on Female Genital Mutilation (FGM) or Female Genital Cutting (FGC), the Concluding Observations of the CEDAW Committee Year 2007, report from the UN

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<sup>17</sup> Ahmad Najib Burhani. Muhammadiyah in Oxford Islamic Studies Online, Oxford Islamic Studies Online, link <http://www.oxfordislamicstudies.com/article/opr/t343/e0296>. Ahmad Fuad Fanani. Reimagining Muhammadiyah; Islam Berkemajuan dalam Pemikiran dan Gerakan. Yogyakarta: Suara Muhammadiyah. 2018.

<sup>18</sup> Yulianti Muthmainnah. Menjemput Fatwa yang Berkeadilan untuk Perempuan; Putusan Majelis Tarjih Muhammadiyah tentang Khitan Perempuan, in Fahmi Syahirul and Syafiq Hasyim (editor), *Moderasi Fatwa; Diskursus, Teori, dan Praktik*. Jakarta: ICIP. 2018.

<sup>19</sup> *Fatwa-fatwa Tarjih Tanya Jawab Agama Jilid 2*

<sup>20</sup> *Draft Majelis Tarjih dan Tajdid tentang Materi Fikih Perempuan Tahun 2010*

<sup>21</sup> Muhammad Rofiq Muzakki. *Problematisasi Fikih Perempuan*. Yogyakarta: Suara Muhammadiyah. 2017.

<sup>22</sup> *Keputusan Komisi Bahtsul Masail ad-Diniyyah al-Maudhu'iyah ke-32 tentang Khitan Perempuan*.

<sup>23</sup> *Keputusan Fatwa MUI Nomor 9A Tahun 2008 tentang Larangan Melarang Sunat Perempuan*.

Special Rapporteur Juan E. Mendez Year 2011,<sup>24</sup> recommendation of the session of the Universal Periodic Review 2017, and SDGs Goal 5 on the harmful traditional practices to women's body. But, up to now the female circumcision is still often practiced by some people in several areas.

The efforts to eliminate female circumcision practices had been initiated through issuing Circulation Letter Number: HK 00.07.1.3.1047a on the Prohibition of the Medicalization of Female Circumcision<sup>25</sup> that was issued by the General Director of the Public Health of the Ministry of Health Affairs of the Republic of Indonesia on 20 April 2006. It gave instructions to prohibit the medical health workers to do the circumcision. But this policy was challenged from MUI, by issuing the decision of the Fatwa Year 9A Year 2008 on the Prohibition of Prohibiting Female Circumcision.<sup>26</sup> It contained that female circumcision is a *makrumah* (honour) and prohibiting the female circumcision practices means against the *syiar* Islam (spreading Islam). The Fatwa of MUI had made the government of Indonesia that had clearly rejected the female circumcision practices moving backwards.

The Ministry of Health Affairs in responding the fatwa MUI issued the Regulation of the Ministry of Health Affairs Number 1636 Year 2010 that allow the female circumcision.<sup>27</sup> In order to keep hygiene, the female circumcision should be done by the medical health workers. The Ministry Regulation Number 1636 had received rejections and strong reactions from the activist and the civil society who concerns to the issue of female circumcision. The newer regulation entitled The Regulation of Ministry Health Affairs Number 6 Year 2014 on the Withdrawal of the Regulation of Ministry Regulation Year 1636 was issued.<sup>28</sup> The article number 1 of the Ministry Regulation Number 6 Year 2014 firmly stated that The Ministry Regulation Number 1636/Menkes/Per/2010 had been cancelled and not applicable anymore.<sup>29</sup> While the article number 2 gave the mandate to *Majelis Pertimbangan Kesehatan dan Syara'* (The Health and Syara' Consideration Assembly) to issue the guidance of the implementation of female circumcision that ensure the safety and health of circumcised women and avoiding the female genital mutilation (FGM) practices.

Then, the The Health and Syara' Consideration Assembly of the Ministry of Health Affairs that had been 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 on 26 February 2014. It contained that the implementation of female circumcision is a kind of nature and *syiar* (spreading) the values of Islam, and its law was concluded as *makrumah* or promoted worship action. The practice of the female circumcision is enough to by removing the membrane (*jaldah/columprea-pupotium*) that covered the clitoris, and should not be done exaggerated for example by cutting or injuring the clitoris (incision and excision) that caused *dharar'* (danger). Because of the national policy allow the female circumcision practices, in the grassroot the practices caused fatalities. The report from National Commission on Violence

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<sup>24</sup> Statement by Juan E. Mendez, Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment female genital mutilation: progress-realities-challenges. Side event sponsored by Women's UN Report Network, Worldwide Organization for Women and NGO Committee on the Status of Women-Geneva, 1 June 2011.

<sup>25</sup> Surat Edaran Nomor: HK 00.07.1.3.1047a tentang Larangan Medikalisasi Sunat Perempuan bagi Petugas Kesehatan.

<sup>26</sup> Keputusan Fatwa MUI Nomor 9A Tahun 2008 tentang Larangan Melarang Sunat Perempuan.

<sup>27</sup> Peraturan Menteri Kesehatan Nomor 1636/Menkes/Per/XII/2010 Tentang Sunat Perempuan.

<sup>28</sup> Peraturan Menkes Nomor 6 Tahun 2014 tentang Pencabutan Permenkes Nomor 1636.

<sup>29</sup> Peraturan Menteri Kesehatan Republik Indonesia Nomor 6 Tahun 2014 tentang Pencabutan Peraturan Menteri Kesehatan Nomor 1636/Menkes/Per/Xii/2010 tentang Sunat Perempuan.



Against Women addressed the death caused experienced by a baby girl because of the female circumcision.<sup>30</sup>

Here is the flow chart of the national policies regarding with the female circumcision that had been issued by the state.

2006	2008	2010	2014	26 Feb 2014
Circulation Letter Number: HK 00.07.1.3.1047a on the Prohibition of the Medicalization of Female Circumcision, by Ministry of Health Affairs	Fatwa Year 9A Year 2008 on the Prohibition of Prohibiting Female Circumcision, Fatwa of MUI, in 7 May 2008.	Regulation of the Ministry of Health Affairs Number 1636 Year 2010	The Regulation of Ministry Health Affairs Number 6 Year 2014 on the Withdrawal of the Regulation of Ministry Regulation Year 1636	The Health and Syara' Consideration Assembly of the Ministry of Health Affairs that had been 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 on 26 February 2014

Table 1: national decision

### Muhammadiyah and the Process of Issuing Tarjih Production

This part consists of a brief description of Muhammadiyah profile and how through the founding of Majelis Tarjih dan Tajdid (MTT) or Tarjih and Tajdid Council of Muhammadiyah implement its mechanism in forming the Tarjih products (the fatwa products). So that achieving the fatwa products that so called progressive.

Muhammadiyah defined itself as an Islamic movement, and *amar makruf nahi munkar* and tajdid organization, based on the Quran and Hadiths rooted to Islam<sup>31</sup> which nowadays become the biggest modern Muslim organization which was founded by KH. Ahmad Dahlan on 18 November

<sup>30</sup> 10 years ago, a baby girl died because of female circumcision in Rangkasbitung, Banten province. Komnas Perempuan. Persimpangan antara Tradisi dan Modernitas, Hasil Kajian Kualitatif Pemotongan, Pelukaan, Genitalia Perempuan (P2GP) di 10 Provinsi 17 Kabupaten/Kota. Jakarta: Komnas Perempuan. 2018: 56-57, 177-178. [https://komnasperempuan.go.id/uploadedFiles/webOld/file/pdf\\_file/2019/Hasil%20Kajian%20Kualitatif%20Pemotongan-Pelukaan%20Genitalia%20Perempuan%20di%2010%20Provinsi-%2017%20Kabupaten-Kota.pdf](https://komnasperempuan.go.id/uploadedFiles/webOld/file/pdf_file/2019/Hasil%20Kajian%20Kualitatif%20Pemotongan-Pelukaan%20Genitalia%20Perempuan%20di%2010%20Provinsi-%2017%20Kabupaten-Kota.pdf)

<sup>31</sup> Article 4 verse (1) of Muhammadiyah's Basic Constitution of Association, 2005.

1912. Although calls for returning back to the teaching of al-Quran and al-Sunnah,<sup>32</sup> since the beginning up to now not much polemics to the political issues and more focuses to implement its organizational activity through building the modern school, hospital, or Islamic boarding school, orphanage, micro economics, and other business entities which provide the social services for its members.

KH. Mas Mansyur, one of the leaders of Muhammadiyah build a committee which is called Tarjih and Tajdid Council in 1927 in Pekalongan.<sup>33</sup> The function of this council is resulting the fatwas or ensuring the laws on specific issues. Tarjih and Tajdid Council use the *tarjih* method, it means by choosing one and its consequences leaving another opinion if there is a meaning of a two hadith or more that seems contradictory. In the making of law conclusion, it was based on the Quran and Hadith especially in the new problem which had not legal provisions before or a problem that always become a debate in the society.

The main idea of the founding of this Council is because Muhammadiyah found that the society still have various perspective in implementing a law of a *fiqh* (Islamic jurisprudence) problem which have the same issue. This situation created restlessness among the society, especially on the value of character building of its members, so it was needed to create an institution that was able to compile the various Islamic school of thoughts including to find the solution for the issues that had not been committed by the previous ulama by remaining putting forward the values on the protection of individual rights.<sup>34</sup>

In its development, Tarjih and Tajdid Council in addition sourced from the Quran and the Sunnah, also adopted the development of Islamic law.<sup>35</sup> According to Syamsul Anwar, spirit of *tarjih* also accommodated the perspectives of religious understanding, not affiliated to the certain school of thought/mazhab, having the *tajdid* (innovation) insight, tolerance insight, openness insight, and accepted the progress ideas in the society to become its considerations.<sup>36</sup> Therefore, Muhammadiyah didn't do the *taqlid* (imitation) to follow rigidly one of the prominent mazhab (school of thoughts) in Islam. However, echoing the *ijtihad* (strong efforts) to interpret and to understand directly the Quran and the Sunnah. In understanding the Sunnah, Muhammadiyah and 'Aisyiyah—as the autonomous women organization—only take as-Sunnah ash-Shahih (the correct and authorized Sunnah). The weak Hadith or as-Sunnah which is considered as weak (*dha'if*)<sup>37</sup> is not practiced, although for the worships that is considered as virtue.

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<sup>32</sup> As-Sunnah is every act done by the Prophet Muhammad saw. as-sunnah there are three namely sunnah *qouliyah* that is every word of the Prophet or also known as al-Hadith, sunnah *takririyah* that is the silence of the Prophet on something done by the companions and the Prophet did not blame it so it can be used as a source of law/determination, and sunnah *fiqliyah* or every physical act performed by the Prophet.

<sup>33</sup> The Assembly was established based on the decision of the 16th Muhammadiyah Congress. Before it was named the Tarjih and Tajdid Councils, at the beginning it was named the Tasyri Council. See <http://tarjih.muhammadiyah.or.id/content-3-sdet-sejarah.html>, accessed 27 August 2019.

<sup>34</sup> Chapter IV Manhaj of Islamic Thought, Decision of Munas Tarjih XXV about Manhaj Tarjih and Development of Islamic Thought in 2000, p. 11.

<sup>35</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.

<sup>36</sup> Syamsul Anwar is the Head of Tarjih and Tajdid Assembly of the Center Leaders of Muhammadiyah.

<sup>37</sup> *Dhaif* it means weak. Weak hadith means the weak words of the Prophet Muhammad SAW, cannot be used as a legal reference.

The Tarjih method, then use the method *ijtihad bayani*, *ijtihad qiyashi*, dan *ijtihad istishlahi*. First, *ijtihad bayani* is a kind of *ijtihad* (religious effort) that is connected with linguistic. For example, a verse can be interpreted as *majaz* (connotation), *musytarak* (ambiguity), the general verses ('*am*) or *mubayyan*, that is specifically applied and explaining the *hash* or *mubayyin* (the specific things), the *qath'i* and *dhanni* verses, the verse that show the order (including *wajib*, *sunnah*, *makruh*, or *haram*), including the law which problems had been mentioned in the Quran. Second, *ijtihad qiyasi* or which often known as *ta'lili*. In general, this kind of *ijtihad* (effort) is an effort is implemented to find the law conclusion for a problem which had not been mentioned in the *nash* (Quranic texts) directly. So that it is needed to use the reason to utilize '*illat* as its foundation. The way to find the '*illat* is by using the *qiyas* (association) method and *istihsan* also to change the law itself, when the new '*illat* or reason for the substitution of the old '*illat*. Third, *ijtihad istishlahi* is a kind of *ijtihad* which is used to identify the problem that had not been mentioned in the *nash* (Quranic texts) as reference.<sup>38</sup>

In addition to the method above, the Tarjih and Tajdid Council also used the women's rights perspective. The contribution of the ulama of Muhammadiyah who have the strong women's rights perspective in addition to the 'Aisyiyah leaders who always also struggle for the women and children needs in the *fiqh* discourse, gave the significant contributions in the Tarjih product that women and children friendly.<sup>39</sup> One of example of the Decision of Tarjih and Tajdid Council which discussion had been strongly followed and and monitored by the Central Leaders of 'Aisyiyah was on *Keluarga Sakinah* (Sakinah Family). The decision had taken side to the women's rights because of the monogamy, qual relation between husband-and-wife and non-domestic violence elements, as the principle of Sakinah Family as the guidance for leader and member of the Muhammadiyah. According to this, Muhammadiyah is a progressive organization in issuing the fatwa that take side to women's rights perspective.<sup>40</sup>

While the products that had been resulted by Tarjih and Tajdid Council among them are the Decision of Majelis Tarjih, Fatwa of Majelis Tarjih, and Tarjih Discourses. The differences among the three products: The Decision of Majelis Tarjih had passed the *tanfidz* process which involved all of the council in 34 provinces and agreed and consent, so that it can be organizationally legalized by the Central Leaders of Muhammadiyah. The Fatwa of Majelis Tarjih is a kind of a legal Islamic jurisprudence products as the answers from the questions raised by the members of Muhammadiyah as well as people in general. The answers usually are discussed every Friday, then it is uploaded in the website of Tarjih and Tajdid Council, and published in Suara Muhammadiyah Magazine or printed in the book The Fatwa of Tarjih and Questions and Answers of Religious Issues.<sup>41</sup> While the Tarjih Discourses, usually is the individual perspective or opinion of the member of the Tarjih and Tajdid Council, so that this opinion cannot be used as legal institutional reference. But of course, it can be applied as a religious knowledge.

## NU and the Process of Issuing Tarjih Production

<sup>38</sup> Chapter IV and Chapter V, Munas Tarjih XXV Decision on Manhaj Tarjih and the Development of Islamic Thought in 2000: 16-23.

<sup>39</sup> The 1976 Tarjih Council Decision in the Adabul Mar'ah fi Islam has allowed women to become leaders in the public sphere in any position, including judges of the Religious Courts.

<sup>40</sup> Yulianti Muthmainnah. Aisyiyah dan Ijtihad Berkemajuan untuk Hak-Hak Perempuan. In Jurnal Maarif Volume 14 Number 2 (2019):114-134.

<sup>41</sup> Fatwa-fatwa Tarjih Tanya Jawab Agama.

Indonesia is not a country that implement based on the Syariah or Islamic Law, but the national law. In facts, as the predominantly Muslim country with the biggest Muslim population in the world, the fatwas from the organization as well as opinion of the religious leaders, generally implemented by Muslim society. Fatwa from the Tarjih and Tajdid Council of Muhammadiyah, Bahtsul Masail (Problem Discussion Forum) of NU, and fatwa MUI that almost often be used as reference for the Indonesian Muslim society.

In issuing the Fatwa, Muhammadiyah and MUI consistently refer to the Quranic verses and hadith text that supported the verse as highest Islamic law. While the *fiqh* principle and the opinions of the ulama are not always referred by both organizations. This is on the contrary with the NU with implement the opposite things. According to KH Sahal Mahfudh, in the beginning, Bahtsul Masail NU referred to the opinions of the ulamas and considered the *fiqh* principles. While the Quranic verses are rarely bring referred directly by the NU. There are three methods of concluding the Fatwa of NU. First, *qauly* method, is the exploration of the laws based on the opinion of the *fiqh* ulama/Islamic jurisprudence which had been written in the prominent (*mu'tabar*) books. Second, the *ilhaqy* method, is a method that assimilate the law on the problem that had not been mentioned in the text (the Holy Quran and Hadith) with the problems that had been explained in the texts, and the law refers to what had been mentioned in the prominent (*mu'tabar*) books. Third, the *manhajy* method, is solving the religious problems that had been elaborated through *bahtsul-masail* by following the thought and principles of the law-making conclusion that had been arranged by the Imam of *madzhab* or Islamic school of thoughts.<sup>42</sup>

The process of issuing the Fatwa in NU is done through conducting the *Musyawarah Nasional (Munas) Alim Ulama* or National Assembly of the Ulamas which invited ulama, kyai, leaders of NU or not, to discuss religious problems that are related to life of *ummah* (people) and nation. It was divided into three commission namely *waqi'iyah* (the discussion of the actual religious problems), *maudhu'iyah* (the discussion of thematical religious problems), and *qanuniyyah* (the discussion of religious problems related to the national laws and policies). In the next development, the *fiqh* (Islamic jurisprudence) that had been formulated hundred years ago, it is not enough to answer the social problems that happen nowadays. That's why the ulama of NU also use the *istimbath* (law making conclusion) method. In addition to that, the *ijtihad* method was also applied by the Ulama of NU namely *ijtihad jama'i* (collective efforts) by exploring the foundation of the texts or *ijtihad ilhaq/qiyas*.<sup>43</sup>

By referring to the previous ulama in taking the law conclusion, the ulama of NU struggle to the previous tradition. As the opinion of Marzuki Wahid, the consideration of ulama of NU did not referred to the Quranic verses interpret of a verse, so that a *mujtahid* or *mufassir* -the person who interpret the Quranic texts- should understand the Quran and its whole knowledge on it perfectly (the knowledge of *nahwu*, *sharaf*, *manthiq*, *tafsir*, *ushul al-hadith*, *qawaid*, *maqashid al-syari'ah*, *balaghah*, and related knowledge). As Imam Ghazali required several knowledges that must be managed to interpret the text verses. Considering that situation, then the ulama of NU perceived that the previous ulama had been qualified on their knowledge, referred to the Quran to conclude the law, so that the ulama of NU felt more safety and comfortable if interpret the Quranic texts by doing the reading of the results of *ijtihad* by the previous ulama-the imams of the *mazhab* or Islamic school of

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<sup>42</sup> Sahal Mahfudh. Nuansa Fikih Sosial. Yogyakarta: LKiS, 2004.

<sup>43</sup> Ibid.

thoughts- that had become the source of law references. The Fatwa of NU were divided into *waqi'iyah*, *maudlu'iyah*, and *qanuniyyah*. The fatwa of NU on the female circumcision is part of *masail ad-Diniyyah al-Maudhu'iyah* or the discourse on the thematical religious issues, and its foundation of law directly referred to the opinions of ulama, did not referred to the Quran.<sup>44</sup>

While the MUI utilize three approaches in issuing the fatwa namely the *nash qath'iy* through the *qauliy* and *manhajiy* approaches. The fatwa of MUI based on the Quran and Hadith, if the answer of can be found, so the answer will be looked for through the opinions of the previous ulama. If the law arguments had been clear (*ma'lum min al din bi al-dharurah*), so the law conclusion will be taken.

### **Female Circumcision; Women's Body in the Contestation of Fatwa**

Muhammadiyah has several narrations related to female circumcision. First, the fatwa of female circumcision that had been booked in the Fatwas of Tarjih, Questions and Answer on the Religious Issues Number 1 Year 1991. The Fatwa was started with the definition of female circumcision according to the World Health Organization (WHO), the practiced that had been done by the people in Africa and the long and short impact of the circumcised women. The Quranic verse that often used as reference is the QS an-Nisa'[4]:125 on following the teaching of Prophet Ibrahim and hadith which is usually used as the law reference. It was the hadith that narrated by Ibnu Majah from Aisyah and Ibnu Amr, if the two of circumcised genital organs meet, so they must take a shower. This hadith was analyzed as not a law conclusion. The Quran of surah an-Nisa'[4]:125 if it is juxtaposed with the hadith as the Prophet Ibrahim as. did the circumcised when converting to Islam, and the hadith that stated that circumcision is a *makrumah* for woman and obligation for man. The hadith was considered as an unclear order, that circumcision is not an obligation and also not an indicator as a Muslim or non-Muslim, although negative impact on female circumcision, so the fatwa decided that woman is not circumcised.

Second, analysis that came from the subject of 'Fiqh on Women' in the National Assembly of Tarjih 27th year 2010 in Malang, East Java. The source of law that was referred is not far from the fatwa year 1991. The verse was mentioned in QS. an-Nisa'[4]:125, QS. an-Nahl[1]:123 and QS. an-Nisa'[4]:125. The hadith that was referred was the hadith narrated by Bukhari-Muslim that said that Prophet Ibrahim was circumcised when he was 80 years old by the ax. Islam is the religion that followed the religion of Prophet Ibrahim that imply the circumcision. Prophet Muhammad was circumcised when he was six days [Ibnu Qayyim Al-Jauziyyah]. The narration of Abu Hurairah mentioned that a person is ordered to be circumcised if he is converted to Islam. From Abu Hurairah ra., Prophet Muhammad said, that they are five natures: circumcision, cutting the public hair, cutting the moustache, cutting the nails, and pull-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 that a woman will be circumcised in Madinah. Then Prophet Muhammad said, "Do not overcut, because it is more pleasure (when having sexual intercourse) and more 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)". Honestly, Abu Dawud who narrated this hadith said that this hadith is weak, because one of the narrators was unknown his origin (*majhul*). Likewise, the opinion of Ibnu Munzhir, as quote by Ibn Hajar al-Asqalani," none of hadith

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<sup>44</sup> Marzuki Wahid, Mudir Ma'had Aly Kebun Jambu and lecturer of IAIN Sheikh Nurjati Cirebon, interview, 4 March 2020.

that can be used as the law reason for the female circumcision problems, and none of the sanad (linkage) that can be followed". Then 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. Furthermore, disadvantaged women.

Third, the opinion of Muhamad Rofiq Muzakkir, a secretary of Muhammadiyah, America Bunch said before taking the conclusion on the law of female circumcision, Muzakkir started with the very brief history, definition, and classification of female circumcision or FGM/C according to the WHO, the opinions of ulama (Islamic scholars), arguments, and analysis of the prohibition. The opinion of ulama which was undertaken is the opinions of the four Imams of Mazhab (leader of Islamic school of thoughts), Imam Nawawi, Syeikh bin Baz a mufti from the United Kingdom of Saudi Arabia who said that this is a *sunna*, Syeikh Jadual Haq the leader of a fatwa institution in Egypt which also said that this is *sunna*, Yusuf Al-Qaradhawi who said that this is *mubah* (allowed), Salim al-Awwa, a scholar from al-Azhar University who said that female circumcision is an action that contained *mudharat* (danger), and also Syeikh Mahmoud Syalthout as an Al-Azhar Syeikh who said that there is no connection between Islam, morality, and women's health. While the discussion on the verse and hadith were same with the verse and hadith as referred by Muhammadiyah as mentioned above. Finally, Muzakkir concluded 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 reference for the prohibition of female circumcision or FGM/C. Because there is no argument that avoid the prohibition of female circumcision, there is no medical benefit on implementing it, that female circumcision can open the door of danger, and actually female circumcision is not the commandment of Islam, but more just as a tradition (*urf*) that had been developed in the society.<sup>45</sup>

Based on the three Fatwas and opinions above, there is a suitable conclusion. It ends with the commitment that female circumcision should be avoided because of not part religious teaching and furthermore if it is implemented, it will disadvantage women. In addition to the decision of the Tarjih, a prominent figure in Tarjih Council, Wawan Gunawan Abdul Wahid, also said that female circumcision is also violate the right to live of women (*hifdh al-nafs*). Even though woman has the right to be free from the illness because of the female circumcision practices.<sup>46</sup> Since 1959, the Mufti of Egypt, Syeikh Ali Gom'ah has pronounce to prohibit female circumcision as haram. Also, the Mufti of Al-Azhar, Muhammad Sayyed Thanthowi, support of this fatwa.<sup>47</sup>

NU used the five hadith for the issue of female circumcision, that the *khitan* (circumcision) is a *sunna* (promoted) for men and honour for women (HR. Ahmad dari Usamah, Thabrani in al-Mu'jam al-Kabir dari Syaddad bin Aus dan Ibn Abbas). That the nature (*fithrah*) are five, or there are five things that included in the nature things *khitan* (circumcision), cutting the nails, and cutting the moustache (Bukhari, Muslim, Abu Daud, al-Darimi, Malik, and Ahmad). From Ummu Athiyah al-Anshariyah, verily in Madinah there was a girl which will be circumcised, the Prophet said "Do not overcut on it, because that part will give advantage for woman and will pleasure the husband". The *hadith* narrated by Abu Daud was regarded as *dlaif* (weak) as said by Abu Dawud, but he got two

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<sup>45</sup> Muhammad Rofiq Muzakkir. Problematika Fikih Perempuan. Yogyakarta: Suara Muhammadiyah. 2017.

<sup>46</sup> Wawan Gunawan Abdul Wahid, Member of the Tarjih and Tajdid Assembly of Muhammadiyah Central Leadership. Interview during the question-and-answer session, DKI Jakarta Tarjih Cadre High Level Training, 9-10 November 2019.

<sup>47</sup> Yulianti Muthmainnah. Larangan Khitan Perempuan. Koran Kompas. 29 July 2011. <https://travel.kompas.com/read/2011/07/29/02515846/larangan.khitan.perempuan?page=all>.

*syahid* (witnesses) those were hadist Anas and *hadith* Ummi Ayman which is narrated by Abu As-Syaikh in the book of Aqiqah, and the *hadith* of Ad-Dlahhak Ibn Qays which was narrated by al-Baihaqi as said by al-Adzim Abady the author of Aunul Ma'bud; and the last hadith on 'Do circumcise and do not overcut. Because circumcision will brighten the face and will make husband feel more pleasure-during the intercourse HR. ath-Thabarani and Al-Hakim from Adl-Dlahhak Ibn Qais. Those hadiths were regarded as *shahih* (correct) according to Imam Suyuthi. And the last, hadith that explained about Prophet Ibrahim who was circumcised when he was 80 years old by a carpenter.

While the opinion of ulama that was chosen is the opinion of Fath al-Bari Syarh Shahih al-Bukhari, which said that there was various difference of opinions among the ulamas regarding female circumcision. Imam Shafi'i's opinion, circumcision is obligatory for men and women in *khitan al-inats* which said that circumcision is useful for men and women to reduce lust or libido, prevent unpleasant odors from the pile of dirt behind the *qulfah*, inhibit attacks sperm inflammation. The lesson learned from this practice is to preserve the shari'a of Allah and his Apostle, for the purpose of purity, cleanliness, maintain character, stabilize lust, replace dangerous traditions of traditions that are harmful and not in accordance with *Shari'a*, to improve the *syi'ar* of worship not the cultural tradition, and to maintain the integrity of society so that circumcision does not be applied absolutely. Then, the opinion of Al-Majmu 'Syarh al-Muhadzdzab which argued that female circumcision is to cut part of the entering place of the penis. So, the thin skin that covers the urethra is partially cut during female circumcision. As well as the opinion of Bahr al-Ra'iq Syarh Kanz al-Daqa'iq that female circumcision is the place where the skin is cut like a rooster's comb on the top of the vagina. This part is circumcised. The goal is to reduce the female libido.

Furthermore, the NU fatwa mentioned the meaning of '*sunna*' and '*makrumah*' in each hadith and opinion of the chosen ulama meaning men are more encouraged to circumcise than women. So, it can be interpreted that the circumcision is *sunnah* or encouraged for male and *mubah* or allowed for female, or mandatory for male, and *sunnah* (encouraged) for female. Opinions that says female circumcision is forbidden actually do not have the *syar'i* arguments, except just see that female circumcision is hurting or painful for victims (women), while the hadith that describes female circumcision (hadith Abui Dawud) does not show *taklif* (burden) in addition to its validity is doubtful. Though there is a fiqh principle argument which states that '*adam al-dalil laisa bidalilin*' (the absence of an argument is not an argument). Circumcision (for men) is recommended to be announced, while not in women. Syarh Zad al-Mustaqni said circumcision was prescribed to purify men as well as to reduce the lust of women. Because, if a woman is left without circumcision, 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 the female circumcision practices had been pursued by the Fatayat NU when discussing the fatwa of female circumcision in Makassar, January 29-31, 2010. According to Maria Ulfa Anshor, who was then Chairperson of Fatayat NU, said that Fatayat who propose 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/perspective of National Conference participants who are biased towards the text. While Fatayat discusses female circumcision not only text. But also, the context.<sup>48</sup> The prominent figures of NU cleric, Husein Muhammad, who has a good perspective

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<sup>48</sup> Interview Maria Ulfa Anshor, 11 April 2020.

on women's bodies and rejects female circumcision, has written a study related to female circumcision. His opinion was also not made a reference by NU National Conference participants in the National Conference discussion.<sup>49</sup> Mahbub Maafi, a NU figure, said 'female circumcision in Indonesia is different from in Africa. Only Westernized activists who do not agree with the symbol of Islam about this female circumcision.'<sup>50</sup> This situation shows that it is still difficult for NU to accept the inputs, although it comes from the internal community of NU, including the studies on the impact of female circumcision.

Furthermore, the MUI fatwa on female circumcision. MUI refers to al-Qur'an in its fatwa which is QS. An-Nisa'[4]:125, QS. An-Nahl[16]:123, QS. Ali Imran[3]:95, QS. Ali Imran[3]:31, QS. Ali Imran[3]:32. There are several selected hadiths, first, 'Circumcision is the sunnah (decrees of the Prophet) for men and *makrumah* (glory) for women' (HR. Ahmad). Secondly, Abdullah ibn Umar that 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, from Umm 'Athiyyah r.a, it was told that in Medina there was a female circumcision, then 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, from adh-Dhahhak bin Qais that in Medina there is a female circumcision expert named Ummu 'Athiyyah, Rasulullah SAW 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, 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.). 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 are, first, the status of female circumcision is circumcision for men and women are the nature and symbols of Islam. Female circumcision is glory and its implementation is a form of worship. Second, the law regarding the prohibition of female circumcision. Prohibiting female circumcision is contrary to Shari'a law because circumcision for both men and women is the nature and nature of Islam. Third, the limits or procedures for female circumcision. In carrying out female circumcision, the following things need to be considered is female circumcision should only be done by cutting the foreskin, and expanding circumcised areas such as cutting (incision or excision) or injuring the clitoris that leads to excessive mutilation is haram.

The fatwas of Muhammadiyah, NU, and MUI on the issue of female circumcision indeed have many similarities when quoting verses of the Qur'an, al-Hadith, and the opinion of the same ulama. Reference the three organizations as below.

Reference Organization	The Qur'an	The Hadith	Opinions of the Ulamas	Conclusion
Muhammadiyah	Yes	Yes	Yes	Yes
NU	No	Yes	Yes	No

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

<sup>50</sup> Mahbub Maafi, responded that NU agreed female circumcision. He one of the speakers discussed the fatwa methodology at Muhammadiyah, NU, and Persis in the Muhammadiyah High Level Tarjih Ulama Cadre Training, 27-28 December 2017 at Islamic Boarding School Ki Bagus Hadikusumo, Jombang-Bogor.



MUI	Yes	Yes	Yes	No
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Table 2: comparative decision

The same Quranic texts which are used by Muhammadiyah and MUI were QS. an-Nisa'[4]:125, QS. An-Nahl[16]:123, and QS. An-Nisa'[4]:125.

وَمَنْ أَحْسَنُ دِينًا مِّمَّنْ أَسْلَمَ وَجْهَهُ لِلَّهِ وَهُوَ مُحْسِنٌ وَاتَّبَعَ مِلَّةَ إِبْرَاهِيمَ حَنِيفًا ۚ وَاتَّخَذَ اللَّهُ إِبْرَاهِيمَ خَلِيلًا

“And who is better in religion than one who submits himself to Allah while being a doer of good and follows the religion of Abraham, inclining toward truth? And Allah took Abraham as an intimate friend” (QS. An-Nisa'[4]:125).

ثُمَّ أَوْحَيْنَا إِلَيْكَ أَنْ اتَّبِعِ مِلَّةَ إِبْرَاهِيمَ حَنِيفًا ۚ وَمَا كَانَ مِنَ الْمُشْرِكِينَ

Then We revealed to you, [Muhammad], to follow the religion of Abraham, inclining toward truth; and he was not of those who associate with Allah. (QS. An-Nahl[16]:123)

The two verses above, are both interpreted as an order to follow the teachings of Ibrahim, which is not just about the oneness of Allah SWT and preaching to convey his teachings. Muhammadiyah understood it as a circumcision order for men. The MUI interprets the circumcision order for men and women, as a *syiar* of Islam.

While the hadiths that were undertaken by the three organizations, some of them were same while some others were different, as shown in this table.

Hadith \ Organization	Muhammadiyah	NU	MUI
Prophet Ibrahim a.s was circumcised at 80 years old	Yes	Yes	No
Five natures, including circumcision	Yes	Yes	Yes
Ummu 'Athiyyah, women were circumcised in Madinah, Prophet's message for not overdoing in circumcision	Yes	Yes	Yes
Ummu 'Athiyyah, female circumcision glows the face and pleasure the husband	Yes	Yes	Yes
Circumcision as an encouragement for men and honor for women	No	Yes	Yes
The meeting of two genitals, obligate the bathing	Yes	No	Yes

Table 3: comparative hadith

The same hadith selected by these three organizations gave rise to different interpretations. Ummu 'Athiyyah's hadith, for example, means that MUI and NU women still have to be circumcised, although don't overdo it. NU added, by being circumcised, a woman's libido will not be wild and only for her husband. While Muhammadiyah understood the Prophet's message to the circumcision in Medina a metaphor, subtle language to forbid, do not perform female circumcision. The sentence 'don't overdo it, because that part (the clitoris) actually pleases the husband when having sexual relations with the husband and wife' is understood precisely the practice of

circumcision should not be performed on women because the pleasure of sexual relations is on the female clitoris. Hadith five fitrah, Muhammadiyah understands this is an obligation for men, while MUI and NU are also ordering for women not only for men. As for the hadith meeting of the two sexes (who are circumcised), then you must take 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. While the MUI understands that two different genital organs (penis, vagina) are both circumcised.

## Concluding

Sexuality issues and reproductive health cannot disparate with female circumcision. If you practice female circumcision, so you will hurt women's body. Because female circumcision often hurting clitoris and vagina. And it destroys the aim of the *maqashid syariah* to provide comfort and assurance from pain or torture of the body.

The purpose of female circumcision to curb women's libido is a patriarchal view, which assumes that women are prostitutes so that their libido must be curbed. Even though the Sakinah family can realize that husband and wife have the same right to enjoy sexual intercourse or orgasm (QS. Aal-Baqarah[2]:187).

Even though the Quran and Hadith is same, but if from the beginning don't using women perspective and experience of women are not taken into consideration and sources of fatwa, then female circumcision will still be ordered. Even though they already know the bad effects, including the potential death girl.

The final decision of the three fatwas of the organization, Muhammadiyah, argued that female circumcision was not an Islamic syllable command, a very detrimental effect on a woman's body, it was not necessary, the clitoris was a way to enjoy sexual relations between husband and wife, and a wife also had the right to enjoy it. NU is the opposite, arguing that circumcision is a religious order and a form of one's Islam. Female circumcision is also a way to curb libido, controlling one's desires so that they are not too wild. MUI underlines the female circumcision part of the symbols of Islam which is carried out by men and women. The implementation of female circumcision has rules so as not to overdo it. In the laws which moving, accordance with the times, then, Muhammadiyah fatwas are very appropriate. Recommendations for further research, after the negative impact known, NU and MUI have to change the fatwa to prohibit female circumcision, and what is the role of Muhammadiyah hospitals to stop female circumcision.

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We have reached a decision regarding your submission to Indonesian Journal of Islam and Muslim Societies, "The Progressiveness of Quranic Interpretation in the Fatwa or Decision of Muhammadiyah on the Issue of Women's Sexuality and Reproductive Health".

Our decision is for you to do second revision based on the notes written in the document.

When you revise your document, please use the file we attached in this system, then you can save as with a new name. please do not use a new sheet for your revision.

The revised document should be return to us by 8 February 2022.

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## 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 Fatwa 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 *Hadīth* can have various interpretations and Fatwas. Although the source of producing the Fatwa is the same (al-Qur'an and *Hadīth*), 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 Muhammadiyah is considered to be 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 allow female circumcision, even though it has negative impacts on women or baby girl, including the deaths of baby girls.

### Keywords:

[Fatwa](#)[Fatwa](#), Muhammadiyah, female circumcision

### Abstrak

Masyarakat Muslim Indonesia terbiasa meminta dan menjalankan [fatwa](#)[Fatwa](#) keagamaan terkait ibadah atau muamalah kepada organisasi-organisasi keagamaan yang biasa mengeluarkan [fatwa](#)[Fatwa](#). Misalnya Muhammadiyah, Nahdlatul Ulama (NU), dan Majelis Ulama Indonesia (MUI). Tulisan ini fokus membahas sunat perempuan dengan cara membandingkan bagaimana ayat-ayat al-Qur'an dan *Hadīth* yang sama, digunakan untuk merumuskan Fatwa oleh tiga organisasi keagamaan tersebut. Sekalipun sumber Fatwa sama (al-Qur'an dan *Hadīth*), tetapi menghasilkan [fatwa](#)[Fatwa](#) yang berbeda. Melalui metode penelitian kualitatif, wawancara mendalam dan studi pustaka, dengan sumber utama adalah [fatwa](#)[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~~ [Fatwa](#), Muhammadiyah, sunat perempuan

**Introduction**

The phenomena on female circumcision, ~~also~~ ~~or~~ known as Female Genital Mutilation/Cutting/Circumcision (FGM/C)<sup>51</sup> ~~are~~ ~~is~~ still being implemented by the [Indonesian](#) society in several areas, especially in Madura-East Java,<sup>52</sup> Yogyakarta,<sup>53</sup> Banten and Lampung,<sup>54</sup> Baddui Village in South Sulawesi,<sup>55</sup> Banjar City in South Kalimantan,<sup>56</sup> Situbondo District,<sup>57</sup> Demak,<sup>58</sup> and Lampasi Ligo Nagari, West Sumatra.<sup>59</sup> It is influenced by cultural and religious perspectives not only in Indonesia.<sup>60</sup>

Female circumcision is related to reproductive health and sexuality issue,<sup>61</sup> for instance decrease or loss of desire was the most common sexual problem,<sup>62</sup> no orgasm and pain<sup>63</sup> or baby girl death.<sup>64</sup>

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<sup>51</sup> Nahia Toubia did not separate the meaning of female circumcision or female genital mutilation, once practiced in different parts of world. Nahia Toubia, "Female Circumcision/Female Genital Mutilation", *African Journal of Reproductive Health/La Revue Africaine de la Santé Reproductive*, Vol.2, No.2 (October 1998): 6.

<sup>52</sup> Rachmah Ida, *Sunat, Belenggu Adat Perempuan Madura*, Yogyakarta: PSKK UGM, 2004, 3-10.

<sup>53</sup> Sumarni, et.al, *Sunat Perempuan di Bawah Bayang-bayang Tradisi*, Yogyakarta: PSKK UGM, 2005, 41-54.

<sup>54</sup> Ristiani Musyarofah, et.al, *Khitan Perempuan antara Tradisi dan Ajaran Agama*, Yogyakarta: PSKK UGM, 2003, 25-47.

<sup>55</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 (Desember 2015): 103-111.

<sup>56</sup> Tutung Nurdiana, "Sunat Perempuan Pada Masyarakat Banjar di Kota Banjarmasin", *Jurnal Komunitas*, Vol.2, No.2 (2010): 116-124.

<sup>57</sup> Putri Septyaning Rahayu Ariesta, *Praktik Sunat Anak Perempuan*, Thesis Magister Sociology at Faculty of Social and Politic Science, Airlangga University, 2018: 45.

<sup>58</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 (Oktober 2017): 371.

<sup>59</sup> Salma, "Tradisi Sunat Perempuan di Lampasi Ligo Nagari", *Jurnal al-Manahij*, Vol.X, No.1 (2016): 155-167.

<sup>60</sup> Jurnal Udin, et.al, *Female Circumcision: A Social, Cultural, Health and Religious Perspectives*, Jakarta: Yarsi University Press, 2009, 5.

<sup>61</sup> Adrina, et.al., *Hak-hak Reproduksi Perempuan yang Terpasung*, Jakarta: Pustaka Sinar Harapan, 1998, 2-3.

<sup>62</sup> Yulianti Muthmainnah, "Lagi, Soal Khitan Perempuan", *Al-Arham Rahima*, Edisi 48B (2012): 2.

<sup>63</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>64</sup> A baby girl died because of female circumcision in Rangkasbitung, Banten province. See Komnas Perempuan, *Persimpangan antara Tradisi dan Modernitas, Hasil Kajian Kualitatif Pemotongan, 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%20Pemotongan-Pelukaan%20Genitalia%20Perempuan%20di%2010%20Propinsi%202017%20Kabupaten-Kota.pdf](https://komnasperempuan.go.id/uploadedFiles/webOld/file/pdf_file/2019/Hasil%20Kajian%20Kualitatif%20Pemotongan-Pelukaan%20Genitalia%20Perempuan%20di%2010%20Propinsi%202017%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*



Female circumcision ~~brought~~bring out various interpretations and Fatwas (the application of *sharī'ah* or *fiqh* to Muslims' real life today)<sup>65</sup> on the same al-Qur'an verses and *Hadīth*.<sup>66</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, I wrote this research.

According to Jasser Auda, *maqāṣid sharī'ah* (the purposes of universal Islamic law) had to analyze the humanity crisis and renew its methodology in order to fit the conditions in the contemporary.<sup>67</sup> That is why I argue that the *maqāṣid sharī'ah* should include women's perspective. First, by interpreting *hifẓ ad-dīn* as the right to the freedom religion; that is, women should be given agency to actualize their own way of being religious, including to express their own identity during worship or in their daily life by wearing *mukena* (praying gown), *hijab*, or *selendang* (shawl). Second, *hifẓ an-naḥs* or to keep the life, including the right to be healthy and to be free from disease that threaten the life of women. Third, *hifẓ al-'aql* or to keep the reason, as women has 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 rights to descent. And the last, *hifẓ al-māl* or to keep their ownership of property, which means women should have rights to obtain property or work for the purpose of having a sustainable life.

Sulistiyowati Irianto said that the gendered perspective of the law that aims to address women contains three elements. *First*, to examine whether law had failed to consider women's experience, disadvantaged women, or if the law has double standards for women. *Second*, to apply critical methodologies pertaining to the implementation of the law. *Third*, to use the women's cases as a tool of analysis, in order to see the power dynamic between men and women.<sup>68</sup> According to Auda and Irianto, *maqāṣid sharī'ah* and law with women's perspectives will be used to analyses such female circumcision.

The theory applicated in this paper is revisited typology of Qur'an, found by Johanna Pink.<sup>69</sup> Pink suggests the need for a typology of Qur'an review to analyses the such verses al-Qur'an. The same verses of the Qur'an can be interpreted differently by scholars because they use several variables such as the purpose of interpretation, the attitude or background of the life of the underlying ulama, and

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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> acceded 29 January 2022.

<sup>65</sup> Jasser Auda, *Maqasid al-Shariah as Philosophy of Islamic Law*, London: The International Institute of Islamic Thought, 2007, xxiii.

<sup>66</sup> M. Alfatih Suryadilaga, "Khitan Perempuan dalam Perspektif Hadist", in Mochamad Sodik (ed). *Telaah Ulang Wacana Seksualitas*. Yogyakarta: PSW IAIN Sunan Kalijaga-Depag-McGill-IISEP-CIDA, 2004: 8-13.

<sup>67</sup> Jasser Auda, *Maqasid*..., 1-25.

<sup>68</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 Keadilan dan Keadilan*, Jakarta: Yayasan Obor Indonesia, 2006, 4.

<sup>69</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*, Edinburgh 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) Acceded 29 January 2022.



the tendency of the area where the commentator lives. Typology of Qur'an revisited is divided into three. First, the interpretation of polyvalence. Namely collecting and accepting various opinions of previous (classical) scholars in providing explanations. Second, the interpretation is practical and easy to understand. Namely an interpretation that directly wants to give a message to the reader without causing confusion due to the large variety of interpretations. The interpretation of this model tends to reject interpretations that are considered wrong. Third, the type of interpretation is relative or refracts meaning. 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 *Hadith* can have various interpretations and Fatwas. Although the source of producing the Fatwa is the same al-Qur'an and *Hadith*, the Fatwa that emerges from three Islamic organization are completely different. I used qualitative research, particularly a descriptive method, by administering interviews and analyzing research documents. The data gathered by interviewing and taking the opinions of ulama from the workshop I attended, will be used as a primary data, and Fatwa from Muhammadiyah, NU, and MUI. Additionally, secondary data are obtained from books, journals, and news that had been verified, which will be analyses to find conclusions. This study is importance because commonly people did not realize that Islam has many perspectives related to female circumcision.

### The Issues of Female Circumcision in Indonesia

The government of Indonesia has been receiving comments and recommendations to eliminate the practice of female circumcision, which confound between tradition and religious paradigm that still have gender biases. Such recommendations can be seen in the following reports, as reported by the CEDAW Committee Year 2007, the UN Special Rapporteur Juan E. Mendez Year 2011,<sup>70</sup> recommendation of the Universal Periodic Review 2017, and SDGs Goal 5 on the harmful traditional practices to women's body. However, despite these recommendations, female circumcision is still often practiced by some people in several areas.

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

2006, 2008	2010	2014	26 Feb 2014	2018
Circulation Letter Number: HK 00.07.1.3.1047a on the Prohibition of the Medicalization of Female Circumcision, by	Regulation of the Ministry of Health Affairs Number 1636 Year 2010 It's about	The Regulation of Ministry Health Affairs Number 6 Year 2014 on the Withdrawal of the Regulation of Ministry	The Health and Syara' Consideration Assembly of the Ministry of Health Affairs that had been formed by and	The Ministry of Women's Empowerment and Child Protection Republic of Indonesia published

<sup>70</sup> Statement by Juan E. Mendez, Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment female genital mutilation: progress-realities-challenges. Side event sponsored by Women's UN Report Network, Worldwide Organization for Women and NGO Committee on the Status of Women-Geneva, 1 June 2011.

<p>Ministry of Health Affairs on 20 April 2006.</p> <p>But 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, in 7 May 2008.</p> <p>Note: The Fatwa of MUI had made the government of Indonesia that had clearly rejected female circumcision practices, and sees such practice as moving backwards.</p>	<p>allow the practices of female circumcision and in order to keep the process hygienic, female circumcisions should be done by medical health workers. But, had received rejections and strong reactions from activists.</p>	<p>Regulation Year 1636</p> <p>And article 2 mandates <i>Majelis Pertimbangan Kesehatan dan Syara'</i> (The Health and Syara' Consideration Assembly) to issue guidance regarding the implementation of female circumcision that ensures the safety and health of circumcised women and avoiding the female genital mutilation (FGM) practices.</p>	<p>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>guidelines for advocacy and dissemination of 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 any comparing.<sup>71</sup></p>
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Table 1: national decision

### Muhammadiyah and the Process of Issuing Fatwa

This part consists of a brief description of Muhammadiyah profile and how through the founding of Majelis Tarjih dan *Tajdīd* (MTT) or Tarjih and *Tajdīd* Council of Muhammadiyah implement its mechanism in forming Tarjih products (the Fatwa products). So that achieving the Fatwa products that so called progressive. Muhammadiyah defines itself as an Islamic movement, *al-Amr bil ma'rūf wa an-nahy 'an al-munkar* and *tajdīd* organization, based on the Qur'an and *Ḥadīth* rooted in Islam<sup>72</sup> which has become the largest modern Muslim organization<sup>73</sup> that was founded by KH.

<sup>71</sup> Agustina Erni, et.al, *Panduan Advokasi dan Sosialisasi Pencegahan Sunat Perempuan bagi Tokoh Agama*, Jakarta: KPP-PA, 2018, 5.

<sup>72</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>73</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.

Ahmad Dahlan on 18 November 1912. Although calls to return back to the teaching of the Qur'an and al-Sunnah were advised,<sup>74</sup> there has not been much polemics to the political issues, and much of the focus is directed towards implementing its organizational activity through building modern schools, hospitals, *pesantren*, orphanages, microeconomics, and others which 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. The function of this council is to deploy the Fatwas or ensuring the laws on specific issues. Tarjih and *Tajdīd* Council use the *tarjih* method, which means by choosing one and its consequences leaving another opinion if there is a meaning of a two hadith or more that seems contradictory. The making of law's conclusion was based on the Quran and *Ḥadīth*, especially in the new problem which had not legal provisions before or a problem that always become a debate in the society.

The main motivation for the founding of this Tarjih and *Tajdīd* Council is because Muhammadiyah found that society still have various perspectives in implementing a law of a *fiqh* (Islamic jurisprudence) problem which have the same issue. This situation created restlessness among society, especially on the value of character building of its members. Therefore, it becomes necessary to create an institution that was able to compile the various Islamic school of thoughts and find solutions for issues that had not been committed by the previous ulama, by putting forth values that pertains to the protection of individual rights.

In its development, Tarjih and *Tajdīd* Council in addition to sourcing from the Qur'an and the Sunnah, also adopted the development of Islamic law.<sup>75</sup> According to Syamsul Anwar, the spirit of *tarjih* also accommodates the perspectives of religious understanding that is not affiliated to a certain school of thought (*mazhab*), but rather, to have the *tajdīd* (innovation) insight, tolerance insight, openness insight, and accepted the progress ideas in the society to become its considerations.<sup>76</sup> Therefore, Muhammadiyah does not do the *taqlid* (imitation) to rigidly follow one of the prominent *mazhab* (school of thoughts) in Islam, but echos the *ijtihad* (strong efforts), in order to interpret and understand the Qur'an and the Sunnah directly. In understanding the Sunnah, Muhammadiyah only take as-Sunnah ash-*Ṣaḥīḥ* (the correct and authorized Sunnah). The *dha'if* (weak) Hadith or as-Sunnah is means the weak words of the Prophet Muhammad SAW, cannot be used as a legal reference, is not practiced, although for the worships that is considered as virtue.

The Tarjih method uses the method *ijtihād bayāni*, *ijtihād qiyāsi*, and *ijtihād istiṣlāḥi*. First, *ijtihād bayāni* is a kind of *ijtihād* (religious effort) that relates to linguistic. For example, a verse can be interpreted as *majāz* (connotation), *mushtarak* (ambiguitas), the general verses (*ʿĀm*) or *mubayyan*, that is specifically applied and explaining 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 Qur'an. Second,

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<sup>74</sup> As-Sunnah is every act done by the Prophet Muhammad saw. as-sunnah there are three namely *sunnah qouliyah* that is every word of the Prophet or also known as *Ḥadīth*, *sunnah taqrīriyah* that is the silence of the Prophet on something done by the companions and the Prophet did not blame it so it can be used as a source of law/determination, and *sunnah fi'liyah* or every physical act performed by the Prophet.

<sup>75</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.

<sup>76</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.

*ijtihād qiyāsi*, or often known as *ta'līlī* (causation) is a kind of *ijtihad* or an effort that is implemented to find the law, as a solution to a problem that had not been mentioned in the *nash* (Quranic texts) directly. So, it becomes necessary to use the reason to utilize *'illat* (legal reason, causes) as its foundation. The way to find *'illat* is to use the *qiyas* (parable) method and *istihsān* (juristic preference) to change the law itself, in order to substitute the old *'illat* with the new *'illat*. Third, *ijtihād istiṣlāḥī* (to deem proper) is a kind of *ijtihad* that is used to identify the problem that had not been mentioned in the *nash* (Quranic texts).<sup>77</sup>

In addition to the method above, the Tarjih and *Tajdīd* Council also used a women's rights perspective. The contribution of the ulama of Muhammadiyah who have the 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>78</sup>

The Fatwa had been produced by Tarjih and *Tajdīd* Council; among them 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 it is uploaded on the website of Tarjih and *Tajdīd* Council and published in Suara Muhammadiyah Magazine or printed in the book The Fatwa of Tarjih and Questions and Answers of Religious Issues.<sup>79</sup> Since the Tarjih Discourse derives from the individual perspective or opinion of the member of the Tarjih and *Tajdīd* Council, this opinion cannot be used as legal institutional reference; but it can be applied as religious knowledge.

### NU and MUI, the Process of Issuing Fatwa

Indonesia is not a country that implements its laws based on the *Sharī'ah* or Islamic Law, but the national law. Indonesia as a predominantly Muslim country with the biggest Muslim population in the world, the Fatwa from the Islamic mass organization as well as the opinion of religious leaders, are generally implemented by Muslim society. Fatwas from the Tarjih and *Tajdīd* Council of Muhammadiyah, Bahtsul Masail (Problem Discussion Forum) of NU, and MUI is 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 with the NU which implement the opposite things. According to KH Sahal Mahfudh, in the beginning, Bahtsul Masail NU referred to the opinions of the ulamas and

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<sup>77</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>78</sup> Some Tarjih product are Adabul Mar'ah fi Islam (1970), Keluarga Sakinah (2015) implementing happy family should monogamy, no domestic violence, and equal relation between husband and wife. See Yulianti Muthmainnah. "Aisyiyah dan Ijtihad Berkemajuan untuk Hak-Hak Perempuan", *Jurnal Maarif*, Vol.14, No.2 (2019): 114-134.

<sup>79</sup> Majelis Tarjih dan Tajdid Muhammadiyah, Fatwa-fatwa Tarjih, Buku Tanya Jawab Agama Jilid 2, Cet-8. Yogyakarta: Suara Muhammadiyah. 2004, 48-49.

considered *fiqh* principles, even though the Quranic verses are rarely referred directly by the NU. There are three methods of concluding the Fatwa of NU. First, the *qauliy* method, which is the exploration of the laws based on the opinion of the *fiqh* ulama that had been written in the prominent (*mu'tabarah*) books. Second, the *ilhāqiy* method, which is a method that assimilate the law on the problem 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'tabarah*) books. Third, the *manhajiy* method, which solves religious problems that had been elaborated through *bahtsul-masail* by following the thought and principles of the law-making conclusion that had been arranged by the Imam of *madzhab* or Islamic school of thoughts.<sup>80</sup>

The process of issuing the Fatwa in NU is done by conducting the *Musyawarah Nasional (Munas) Alim Ulama* or National Assembly of the Ulamas, inviting ulama, kyai, leaders of NU or not, to discuss religious problems that are related to life of *ummah* (people) and nation. NU was divided into three commission, namely *wāqī'iyah* (the discussion of the actual religious problems), *mauḍū'iyah*, (the discussion of thematical religious problems), and *qānūniyyah* (the discussion of religious problems related to the national laws and policies). Given that the *fiqh* that had been formulated hundred years ago, is not enough to answer the social problems in the contemporary, the ulama of NU also use the *istinbath* (recognize and explore legal sources for law making conclusion) method. In addition to that, the *ijtihād* method is also applied by the Ulama of NU, namely *ijtihād jama'i* (collective efforts), by exploring the foundation of the texts or *ijtihād ilhāqiy* or *qiyāsi*.<sup>81</sup> By referring to previous ulama in talking the law, the ulama of NU tries to preserve past traditions. As the opinion of Marzuki Wahid, the consideration of ulama of NU did not refer to the Quranic verses interpret of a verse, so that a *mujtahid* or *mufassir*—the person who interpret the Quranic texts—should understand the Qur'an and its knowledge in it perfectly (the knowledge of *naḥwu*, *Ṣarf*, *manṭiq*, *tafsīr*, *uṣūl al-ḥadīth*, *qawā'id*, *maqāṣid sharī'ah*, *balāghah*, and related knowledge). As Imam Ghazali requires, several knowledges must be managed to interpret the text verses. Considering this, the ulama of NU perceived that the previous ulama had been qualified on their knowledge, and referred to the Quran to conclude the law, so that the ulama of NU felt more safe and comfortable if interpreting the verses of the Koran is done by reading the results of the *ijtihād* of previous scholars—the priests of the school of thought—which has become a source of law. The Fatwa of NU are divided into *wāqī'iyah*, *mauḍū'iyah*, *qānūniyyah*. The Fatwa of NU regarding the issue of female circumcision is part of *masail ad-Diniyyah al-Maudhu'iyah* or the discourse on the thematical religious issues; its foundation of law directly refers to the opinions of ulama and does not refer to the Qur'an.<sup>82</sup>

While the MUI utilize three approaches in issuing the Fatwa namely the *nash qath'iy* through the *qauliy* and *manhajiy* approaches. The Fatwa of MUI based on the Quran and Hadith, if the answer of can be found, so the answer will be looked for through the opinions of the previous ulama. If the law arguments had been clear (*ma'lum min al din bi al-dharurah*), so the law conclusion will be taken.

## Women's body in the contestation of Fatwa

<sup>80</sup> KH. MA. Sahal Mahfudh, *Nuansa Fikih Sosial*, Yogyakarta: LKiS, 2004, xxiii-li.

<sup>81</sup> Sahal Mahfudh, *Nuansa...*

<sup>82</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.

Muhammadiyah has several narrations related to female circumcision. First, the Fatwa of female circumcision is present in the Fatwas of Tarjih, Questions and Answer on the Religious Issues Number 1 Year 1991. The Fatwa starts with the definition of female circumcision in accordance with the World Health Organization (WHO), which states that the practice had been done by people in Africa, and mentions the long and short impacts of the circumcised women. The Quranic verse that is often used is the QS an-Nisa'[4]:125 which talks about following the teaching of Prophet Ibrahim and hadith that is usually used as reference to the law. It was the hadith, narrated by Ibnu Majah from Aisyah and Ibnu Amr, which states that if the two of circumcised genital organs meet, they must take a shower. This hadith is not analyzed as a form of legal determination. The Quran of surah an-Nisa'[4]:125 is compared to the hadith whereby Prophet Ibrahim a.s. does the circumcision when someone decides to convert to Islam, and the hadith that states that circumcision is a *makrūmah* (glory) for woman and an obligation for man. The hadith was considered to be 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 woman does not need to be circumcised.

Second, analysis that came from the subject of 'Fiqh on Women' in the National Assembly of Tarjih 27th year 2010 in Malang, East Java. The source of law that was referred is not far from the Fatwa year 1991. The verse was mentioned in QS. an-Nisa'[4]:125, QS. an-Nahl[1]:123 and QS. an-Nisa'[4]:125. The hadith that was referred was the hadith narrated by Bukhari-Muslim that said that Prophet Ibrahim was circumcised when he was 80 years old by the ax. Islam is the religion that follows the religion of Prophet Ibrahim that affirms the 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 pull-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).

يا أم عطية: أَشِمِّي وَلَا تَنْهَكِي، فَإِنَّهُ أَسْرَى لِلْوَجْهِ وَأَحْظَى عِنْدَ الزَّوْجِ" أَخْرَجَهُ أَبُو دَاوُدَ

("O Umm 'Attiyah, when you do circumcise, restrict yourself to cut a minute part and do not excise. That will be far more pleasant for the wife and satisfying for the husband"). It is one Hadith that is often quoted, known as Umm Attiyah.

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, Ibnu Munzhir, as quoted by Ibn Hajar al-Asqalani, states "none of hadith that can be used as the law reason for the female circumcision problems, and none of the sanad (linkage) that 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, the opinion of Muhammad Rofiq Muzakkir, a secretary of Muhammadiyah, America Bunch said before taking the conclusion on the law regarding female circumcision, Muzakkir 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. 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 a mufti from the United Kingdom of Saudi Arabia who said that this is a *sunna*, Syeikh Jadal Haq the leader of a Fatwa institution in Egypt which also said that this is *sunna*, Yusuf Al-Qaradhwani who said that this is *mubah* (allowed), Salim al-Awwa, a scholar from al-Azhar University who said that female circumcision is an action that contained *mudharat* (danger), and Syeikh Mahmoud Syalthout as an Al-Azhar Syeikh who said that there is 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 reference to prohibit female circumcision or FGM/C because there is no argument that avoids the prohibition of female circumcision, no medical benefit 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 had been developed in the society.<sup>83</sup>

Based on the three Fatwas and opinions above, there is a suitable conclusion. It ends with the commitment that female circumcision should be avoided, because it is not part religious teaching; and furthermore if it is implemented, it will disadvantage women. In addition to the decision of the Tarjih, a prominent figure in Tarjih Council, Wawan Gunawan Abdul 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>84</sup> Since 1959, the Mufti of Egypt, Syeikh Ali Gom'ah, has pronounce female circumcision as haram, and the Mufti of Al-Azhar, Muhammad Sayyed Thanthowi, support of this Fatwa.<sup>85</sup>

NU<sup>86</sup> uses five hadith for the issue of female circumcision, namely that the *khitān* (circumcision) is a sunnah (promoted) for men and honour for women (HR. Ahmad dari Usamah, Thabrani in al-Mu'jam al-Kabir dari Syaddad bin Aus dan Ibn Abbas); that there are five kinds of nature (*fitrah*), 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

<sup>83</sup> Muhammad Rofiq Muzakkir, *Problematisa Fikih Perempuan*, Yogyakarta: Suara Muhammadiyah, 2017, 103-131.

<sup>84</sup> Wawan Gunawan Abdul Wahid, interview 9 November 2019. He is member of the Tarjih and Tajdid Council of Muhammadiyah. Interview during the question-and-answer session, DKI Jakarta Tarjih Cadre High Level Training, 9-10 November 2019, in Jakarta.

<sup>85</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>86</sup> Pengurus Besar Nahdlatul Ulama. "Khitan Perempuan, Solusi Problematisa 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. pp 1050-1064.

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 *ḥadīth* Ummi Ayman, and narrated by Abu As-Syaikh in the book of Aqiqah, as well as the *ḥadīth* of Ad-Dlahhak Ibn Qays, narrated by al-Baihaqi as said by al-Adzim Abady the author of Aunul Ma’bud; and the last *ḥadīth* on ‘Do circumcise and do not overcut, because circumcision will brighten the face and will make the husband feel 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 *ḥadīth* that gives reference to the Prophet Ibrahim who was circumcised when he was 80 years old by a carpenter.

While the opinion of ulama that was chosen is the opinion of Fath al-Bari Syarh Shahih al-Bukhari, there are still a variety of opinions among the ulama regarding female circumcision. According to Imam Shafi’i’s, circumcision is obligatory for men and women in *khitān al-ināth* which states that circumcision is useful for men and women to reduce lust or libido, prevent unpleasant odors from the pile of dirt behind the *qulfah*, and 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 *sy’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 *ḥadīth* 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 are ‘*sunah*’ circumcising, women are permissible, or that 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 *ḥadīth* that explains female circumcision (Abui Dawud’s *ḥadīth*) 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 women is not. Syarh Zad al-Mustaqni said circumcision was prescribed to purify men as well as to reduce the lust of women. However, a woman’s lust flares up as she is left without circumcision, 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 the female circumcision practices had been pursued by the Fatayat NU when discussing the Fatwa of female circumcision in Makassar, January 29-31, 2010. According to Maria Ulfa Anshor, was Chairperson of Fatayat NU, said that 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 text, but also, its



context.<sup>87</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>88</sup> His opinion was also not made a reference by NU National Conference participants in the National Conference. Discussion Mahbub Maafi, a NU figure, said 'female circumcision in Indonesia is different from the cases in Africa'. He said that 'only liberal activists who do not agree with the symbol of Islam about this female circumcision'.<sup>89</sup> This situation shows that it is still difficult for 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. MUI refers to al-Qur'an in its Fatwa which is QS. An-Nisa'[4]:125, QS. An-Nahl[16]:123, QS. Ali Imran[3]:95, QS. Ali Imran[3]:31, QS. Ali Imran[3]: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 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, from adh-Dhahhak bin Qais 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, 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.). 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, the status of circumcision should practice for men and women are the nature and symbols of Islam. Female circumcision is perceived as glory and a form of worship. Second, the law regarding the prohibition of female circumcision, which is contrary to *shari'a* law because here, circumcision applies for both men and women, considered to be 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 Qur'an, al-Hadith, and the opinion of the same ulama. Reference of the three organizations is shown below.

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<sup>87</sup> Interview Maria Ulfa Anhor, 11 April 2020.

<sup>88</sup> Husein Muhammad, *Fikih Perempuan*, Yogyakarta: LKiS-Ford Foundation, 2001, 49-56.

<sup>89</sup> Mahbub Maafi, responded that NU agreed female circumcision. He was one of the speakers 'the Fatwa methodology at Muhammadiyah, NU, and Persis', the Muhammadiyah High Level Tarjih Ulama Cadre Training, 27-28 December 2017 at Muhammadiyah Ki Bagus Hadikusumo Pesantren, Jombang-Bogor. I attended.

Reference Organization	The Qur'an	The Hadith	Opinions of the Ulamas	Conclusion
Muhammadiyah	Yes	Yes	Yes	Yes
NU	No	Yes	Yes	No
MUI	Yes	Yes	Yes	No

Table 2: comparative decision

The same Quranic texts which are used by Muhammadiyah and MUI were QS. an-Nisa'[4]:125, QS. An-Nahl[16]:123, and QS. An-Nisa'[4]:125.

وَمَنْ أَحْسَنُ دِينًا مِمَّنْ أَسْلَمَ وَجْهَهُ لِلَّهِ وَهُوَ مُحْسِنٌ وَاتَّبَعَ مِلَّةَ إِبْرَاهِيمَ حَنِيفًا وَاتَّخَذَ اللَّهُ إِبْرَاهِيمَ خَلِيلًا

“And who is better in religion than one who submits himself to Allah while being a doer of good and follows the religion of Abraham, inclining toward truth? And Allah took Abraham as an intimate friend” (QS. An-Nisa'[4]:125).

ثُمَّ أَوْحَيْنَا إِلَيْكَ أَنْ اتَّبِعْ مِلَّةَ إِبْرَاهِيمَ حَنِيفًا وَمَا كَانَ مِنَ الْمُشْرِكِينَ

Then We revealed to you, [Muhammad], to follow the religion of Abraham, inclining toward truth; and he was not of those who associate with Allah. (QS. An-Nahl[16]: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.

While the hadiths were undertaken by the three organizations, some of the organization were the same argue while others were different, as shown in this table.

Hadith	Organization	Muhammadiyah	NU	MUI
Prophet Ibrahim a.s was circumcised at 80 years old		Yes	Yes	No
Five natures, including circumcision		Yes	Yes	Yes
Ummu 'Athiyyah, women were circumcised in Madinah, Prophet's message to not overdo the process of circumcision		Yes	Yes	Yes
Ummu 'Athiyyah, 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

Table 3: comparative hadith

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 have to be circumcised, although not to 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 that reads do not perform female circumcision. The sentence states to not overdo it, because the clitoris actually give pleasure to the husband when having sexual relations. *Hadith* five *fitrah*, as mention above, Muhammadiyah understands this is an obligation for men, while MUI and NU also ordering for women not only for men, especially circumcision issue. 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 with female circumcision. If you practice female circumcision, so you will hurt women's body, because female circumcision often hurts the clitoris and vagina, and it destroys the aim of the *maqāsid sharī'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, which assumes that women are prostitutes, thereby their libido must be curbed. The interpretations should be read by using the and a gendered perspective. An interpretation of a verse will conclude to a law that don't happen in an empty space. But it was also influenced by various perspectives and factors such as social, political, cultural, language, and actors such as the state and men who have the vested interest in concluding the law, which can potentially intensify gender inequality.

Even though the verse Qur'an and *Hadīth* is 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. According to Pink, typology of Qur'an, first, the interpretation of polyvalence provided, practicing by NU. Second, the interpretation is practical and easy to understand also to reject interpretations that are considered wrong. Practicing by Muhammadiyah. Third, the type of interpretation is relative or refracts meaning, is accepted by all groups in different situations of religious, practicing by MUI.

Finally, decision of the three Fatwas of the organization, Muhammadiyah Fatwas are in line with the laws that are moving in accordance with the times. Muhammadiyah, argued that female circumcision is not an Islamic syllable command, it has a very detrimental effect on a woman's body, it was not necessary, that 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 and a form of one's Islam. Female circumcision is also a way to curb libido, controlling one's desires so that they are not too wild (untamed, undomesticated). MUI underlines the female circumcision part of the symbols of Islam, *syiar*, which is carried out by men and women. The implementation of female circumcision has rules to not overdo it.

Recommendations for further research, after the negative impact known, I recommend to research, exploring how Muhammadiyah hospitals campaign to stop female circumcision according to their Fatwa.

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Bukti Artikel Terbit

# 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 Nurdiana, "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 Pemotongan, 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%20Pemotongan](https://komnasperempuan.go.id/uploadedFiles/webOld/file/pdf_file/2019/Hasil%20Kajian%20Kualitatif%20Pemotongan)

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-ʿaql* 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>Sulistyowati Irianto, "Kawin Kontrak dalam Perspektif Pluralisme Hukum dan Perempuan", *Jurnal Srintil Desantara: Ketika Aurat Dikuasai Surat*, Vol.4 (2003): 6-15. Also see Sulistyowati Irianto, *Perempuan dan Hukum yang Berperspektif Keadilan 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'ruf 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 *ijtihad bayāni*, *ijtihad qiyāsi*, and *ijtihad istiṣlāḥi*. First, *ijtihad bayāni* is a kind of *ijtihad* (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 *qat’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, *ijtihad qiyāsi*, or often known as *ta’līlī* (causation) is a kind of *ijtihad* 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, *ijtihad istiṣlāḥi* (to deem proper) is a kind of *ijtihad* 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'tabarah*) 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'tabarah*) 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 *wāqī'iyah* (the discussion of the actual religious problems), *maud u'iyah*, (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 *ijthad* of previous scholars. Here, the issue of female circumcision is part of *masail ad-Diniyyah al-Maudhu'iyah* 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.

<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, *Problematisa 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

<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> acceded 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 *qulḥah*, 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 ‘Athiyyah, women were circumcised in Madinah, Prophet’s message to not overdo the process of circumcision	Yes	Yes	Yes
Ummu ‘Athiyyah, 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 ‘Athiyyah’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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# The Progressiveness of Quranic Interpretation in the Fatwa of Muhammadiyah on Female Circumcision

*by Ilham Mundzir*

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The Progressiveness of Quranic Interpretation in the Fatwa of Muhammadiyah  
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**Abstract**

The Indonesian Muslim community has been accustomed to requesting and carrying out religious Fatwa related to *ibadah* (worship) or *muamalah* (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 *Hadith* can have various interpretations and Fatwas. Although the source of producing the Fatwa is the same (al-Qur'an and *Hadith*), 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 Muhammadiyah is considered to be 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 allow female circumcision, even though it has negative impacts on women and baby girls, including the death of baby girls.

**Keywords:**

Fatwa, Muhammadiyah, female circumcision, interpretation, Quran,

**Abstrak**

Masyarakat Muslim Indonesia terbiasa meminta dan menjalankan Fatwa keagamaan terkait ibadah *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-Qur'an dan *Hadith* yang sama, digunakan untuk merumuskan Fatwa oleh tiga organisasi keagamaan tersebut. Sekalipun sumber Fatwa sama (al-Qur'an dan *Hadith*), 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, sunat perempuan

## 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> 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 practice is influenced by cultural and religious perspectives within and outside of 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> a difficulty in achieving orgasm, pain during sexual intercourse,<sup>13</sup> and can even lead to the deaths of female infants.<sup>14</sup> Female circumcision brings out various interpretations and fatwas<sup>15</sup> on the same al-Qur'an verses and

<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*, 7, 12, No.2 (October 1998): 6.

<sup>2</sup> Rachmah Ida, S. 11, *Belunggu Adat Perempuan Madiera*, Yogyakarta: PSKK UGM, 2004, 3-10.

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

<sup>4</sup> Ristiani Musyarofah, et.al, *Khifad 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. 19, No.2 (Desember 2015): 103-111.

<sup>6</sup> Tunjung Nurdiana, "Sunat Perempuan Pada Masyarakat Banjar di Kota Banjarmasin", *Jurnal Komunitas*, Vol.2, No.2 (2015): 116-124.

<sup>7</sup> Putri Septyaning Rahayu Ariesta, *Praktik Sunat Anak Perempuan*, Thesis Magister Sociology at Faculty of Social and Political 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 (Oktober 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> Jurnal 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 Terpasang*, Jakarta: Pustaka Sinar Harapan, 1998, 2-3.

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

<sup>13</sup> Manal Ibrahim HanafiMahmoud, "Effect of female genital mutilation on female sexual function, Alexandria, Egypt", *Egyptian Journal of Medicine*, Vol.52 (March 2016): 55-59. In <https://www.sciencedirect.com/science/article/pii/S2090506815000238>, accessed 30 January 2020.

<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 Pemotongan, Pelukaan, Genitalia Perempuan (P2GP) di 10 Provinsi 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%20Pemotongan-Pelukaan%20Genitalia%20Perempuan%20di%2010%20Provinsi%20Kabupaten-Kota.pdf](https://komnasperempuan.go.id/uploadedFiles/webOld/file/pdf_file/2019/Hasil%20Kajian%20Kualitatif%20Pemotongan-Pelukaan%20Genitalia%20Perempuan%20di%2010%20Provinsi%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>, 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.

*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, I write this research.

According to Auda, *maqāsid shari'ah* 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 *maqāsid shari'ah* should include women's perspectives: First, by interpreting *hiḥẓ 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, *hiḥẓ 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, *hiḥẓ al-'aql* or to keep the reason, as women has rights to think, express their political choice, and express their thoughts. Four, *hiḥẓ 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, *hiḥẓ al-māl* or to keep their ownership of property, which means women should have rights to obtain property or work for the purpose of having a sustainable life.

Irianto said that the gendered perspective of the law aims to address women contains three elements. First, to examine whether the law had failed to consider women's experience, disadvantaged women, and whether the law has double standards for women. Second, to apply critical method<sup>23</sup> gives when implementing the law. Third, 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 Qur'an<sup>19</sup> as my theoretical lens. Pink suggests the need for a typology of Qur'an to analyses the verses in the al-Qur'an. It should be noted that the same verses of the Qur'an can be interpreted differently by scholars because each interpretation are 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 Qur'an 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 *Hadīth* can have various interpretations and fatwas. Although the al-Qur'an and *hadīth* use the same source in producing the fatwa, the fatwa that emerges from three Islamic organizations are completely different. For this research I used qualitative research, particularly a descriptive method,

Commented [AK1]: previous apa?

<sup>16</sup> M. Alfatih Suryadilaga, "Khitam 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.

<sup>18</sup> Sulistyowati Irianto, "Kawin Kontrak dalam Perspektif<sup>25</sup> alisme Hukum dan Perempuan", *Jurnal Srintil Desantara: Ketika Aurat dikuasai Surat*, Vol.4 (2003): 6-15. Also see Sulistyowati Irianto, *Perempuan dan Hukum yang Berperspektif Keadilan 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*, Edinburgh University Press, SOAS, (2010): 6063. 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.



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; while secondary data are obtained from books, journals, and news that had been verified, which will be analyzed to find conclusion<sup>4</sup>. 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 tradition and religious paradigm 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 body.

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

2006, 2008	2010	2014	26 Feb 2014	2018
<p>Circulation<sup>12</sup> 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</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</p>	<p>The Regulation of Ministry of 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</p>	<p>The Health and Syara' Consider<sup>5</sup> on 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</p>	<p><sup>12</sup> 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</p>

<sup>20</sup> A statement made by Juan E. Mendez, a <sup>6</sup> 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.



Prohibition of Prohibiting Female Circumcision, Fatwa of MUI, on 7 May 2008.	hygienic, female circumcisions should be done by medical health workers. However, this policy received rejections and backlash from activists.	1 regarding the implementation of female circumcision that ensures the safety and health of circumcised women and avoids female genital mutilation practices.	Circumcision that was addressed to the Ministry of Health, 26 February 2014.	circumcision, and mentions Fatwas on female circumcision from Muhammadiyah, NU, and MUI without making any comparisons. <sup>21</sup>
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Table 1: national decision

#### 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 *tajdid* organization, based on the Qur'an and *Hadith*,<sup>22</sup> which has become the largest modern Muslim organization.<sup>23</sup> Although calls to return back to the teaching of the Qur'an and al-Sunnah were advised,<sup>24</sup> there has not been much polemics to the political issues, and much of the focus is directed towards implementing its organizational activity through building modern schools, hospitals, *pesantren*, orphanages, microeconomics, and others which provide social services for citizen.

KH. Mas Mansyur, one of the leaders of Muhammadiyah built a committee called Tarjih and *Tajdid* Council in 1927 in Pekalongan, to deploy the Fatwas and ensures the laws on specific issues.

<sup>21</sup> Agustina Erni, et.al, *Panduan Advokasi dan Sosialisasi Pencegahan Sunat Perempuan bagi Tokoh Agama*, Jakarta: KPP-PA, 2018, 5.

<sup>22</sup> Article 4 verse (1) of Muhammadiyah's Basic Constitution of Association. Anggaran Dasar Muhammadiyah, in <http://133.muhammadiyah.or.id/anggaran-dasar/>, accessed 16 August 2019.

<sup>23</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>24</sup> As-Sunnah is an act that is done by the Prophet Muhammad saw. The three As-Sunnah includes: *sunnah qauliyah*, a discourse or *Hadith*, which is written by the Prophet, *sunnah taqririyah*, the Prophet's silence which marks an avowal of one's actions, and *sunnah fi'liyah*, are physical acts performed by the Prophet.

Tarjih and *Tajdid* Council uses the *tarjih* method to analyze two competing hadiths and choose the hadith that is 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 *Tajdid* Council also adopted the development of Islamic law.<sup>25</sup> According to Anwar, the spirit of *tarjih* accommodates the perspectives of religious understanding that is not affiliated to a certain school of thought (*mazhab*), and considers the *tajdid* (innovation) insight, tolerance insight, openness insight, and accepted progressive ideas in society.<sup>26</sup> Therefore, Muhammadiyah does not do the *taqlid* (imitation) to rigidly follow one of the prominent *mazhab* (school of thoughts) in Islam, but echos the *ijtihad*, in order to interpret and understand the Qur'an and the Sunnah directly. In understanding the Sunnah, Muhammadiyah only considers as-Sunnah ash-*Ṣaḥīḥ* (the correct and authorized Sunnah). The *dha'if* (weak) Hadith or as-Sunnah-meaning the weak words of Prophet Muhammad SAW-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 linguistic. Here, a verse can be interpreted as *majāz* (connotation), *mushtarak* (ambiguities), the general verses (*Ām*) or *mubayyan*, that 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 Qur'an. Second, *ijtihād qiyāsi*, or often known as *ta'lili* (causation) is a kind of *ijtihad* or an effort that is implemented to find the law as a solution to a problem that had not been 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 *ijtihad* that is used to identify the problem that had not been mentioned in the *nas* (Quranic texts).<sup>27</sup>

In addition to the method above, the Tarjih and *Tajdid* 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>28</sup>

The Fatwa had been produced by Tarjih and *Tajdid* Council; among them 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

<sup>25</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.

<sup>26</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.

<sup>27</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>28</sup> Some Tarjih products include *Adabul Mar'ah fi Islam* (1970), *Keluarga Sakinah* (2015) and the implementation of a happy family that consist 44 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.

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 *Tajdid* Council and published in Suara Muhammadiyah Magazine or printed in the book *The Fatwa of Tarjih and Questions and Answers of Religious Issues*.<sup>29</sup> Since the Tarjih Discourse derives from the individual perspective or opinion of the member of the Tarjih and *Tajdid* Council, this opinion cannot be used as legal institutional reference, but it can be applied as religious knowledge.

#### 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 the national law. Here, Fatwas from the Islamic mass organization as well as the opinion of religious leaders, including the Tarjih and *Tajdid* 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 things. According to Mahfudh, in the beginning, Bahtsul Masail referred to the opinions of the ulama and considered *fiqh* principles, even though the Quranic verses are rarely referred directly by the NU. There are three methods of concluding the Fatwa of NU. First, the *qauliy* method, which explores the laws based on the opinion of the *fiqh* ulama that had been written in the prominent (*mu'tabar*) books. Second, the *ilhāqiy* 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, the *manhajiy* 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>30</sup>

The process of issuing the Fatwa in NU is done by conducting the *Musyawarah Nasional* (Munas) *Alim Ulama*, which consists of ulama, kyai, and leaders and non-leaders of NU, to discuss religious problems that are related to the life of *ummah* (people) and nation. NU was divided into three commission, 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 use the *istinbath* (recognize and explore legal sources for law making conclusion) method in their decision making, in addition to the *ijtihad* method, namely *ijtihad jama'i* (collective efforts), which explores the foundation of the texts or *ijtihad ilhāqiy* or *qiyāsi*.<sup>31</sup> By referring to previous ulama in discussing the law, NU tries to preserve past traditions.

<sup>29</sup> Tarjih Council and Tajdid Muhammadiyah, *Fatwa-fatwa Tarjih*, Religious Book of Questions and Answers Volume 2, Cet. 36, gyakarta: Suara Muhammadiyah, 2004, 48-49.

<sup>30</sup> KH. MA. Sahal Mahfudh, *Nuansa Fikih Sosial*, Yogyakarta: LKIS, 2004, xxiii-li.

<sup>31</sup> Sahal Mahfudh, *Nuansa...*



According to Wahid, the consideration of the ulama of NU does not refer to the Quranic verses' interpretation of a verse, so that a *muftahid* or *muftasir*—the person who interpret the Quranic texts—should understand the Qur'an and its knowledge perfectly (the knowledge of *nahwu*, *ṣarf*, *manṭiq*, *tafsīr*, *uṣūl al-ḥadīth*, *qawā'id*, *maqāṣid sharī'ah*, *balāghah*, and related knowledge). As Ghazali requires, several knowledges must be managed to interpret the verses. Considering this, NU perceived that the previous ulama had been qualified on their knowledge, and referred to the Quran to conclude the law, so that NU felt more safe and comfortable if the interpretation of the verses of the al-Qur'an is done by reading the results of the ijtihad of previous scholars. Here, the issue of female circumcision is part of *masail ad-Diniyyah al-Maudhu'iyah* and its foundation of law directly refers to the opinions of ulama and does not refer to the Qur'an.<sup>32</sup>

The MUI utilizes three approaches in issuing the Fatwa, namely the *nash qath'iy*, the *qauly*, and *manhajy*. The Fatwa 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.

#### 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 1 Year 1991. The Fatwa starts with the definition of female circumcision in accordance with the World Health Organization, which states that the practice had been done by 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 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 to be 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 that was 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 mentions 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

<sup>32</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.

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*).<sup>33</sup> 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 secretary 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, Syekh bin Baz said that this is a *sunna*, Syekh Jadal Haq said 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 is 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 reference to prohibit female circumcision or FGM/C because there is no argument that avoids the prohibition of female circumcision, no medical benefit 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 had been developed in the 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 teaching, and 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>34</sup> Since 1959, the Mufti of Egypt, Gom'ah, has pronounced female circumcision as haram, and the Mufti of Al-Azhar, Muhammad Sayyid Thanthawi, support this Fatwa.<sup>35</sup>

<sup>33</sup> Muhammad Rofiq Muzakkir, *Problematisasi Filah Perempuan*, Yogyakarta: Suara Muhammadiyah, 2017, 103-131.

<sup>34</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.

<sup>35</sup> Yulianti [35](https://travel.kompas.com/read/2011/07/29/02515846/larangan.khitan.perempuan?page=all) thmainnah. Larangan Khitan Perempuan. *Koran Kompas*. 29 July 2011, [15](https://travel.kompas.com/read/2011/07/29/02515846/larangan.khitan.perempuan?page=all) 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.

NU<sup>36</sup> uses five hadith for the issue of female circumcision, namely that the *khitān* (circumcision) is a *sunnah* for men and honour for women (HR. Ahmad dari Usamah, Thabrani in al-Mu'jam al-Kabir dari Syaddad bin Aus dan Ibn Abbas); that 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 *ṣahid* (witnesses) which were *ḥadīth* Anas and *ḥadīth* Ummi Ayman, and narrated by Abu As-Syaikh in the book of Aqiqah, as well as the *ḥadīth* of Ad-Dlahhak Ibn Qays, narrated by al-Baihaqi as said by al-Adzim Abady the author of Aunul Ma'bud; and the last *ḥadīth* that states 'Do circumcise and do not overcut, because circumcision will brighten the face and will make the husband feel more pleasure during intercourse', HR. ath-Thabarani and Al-Hakim from Ad-Dlahhak Ibn Qais, were regarded as *Ṣaḥīḥ* (correct) according to Imam Suyuthi, and the last *ḥadīth* gives 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-in'āth*, as circumcision is useful for men and women to reduce lust or libido, prevent unpleasant odors from the pile of dirt behind the *qulḥah*, and 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 *ṣi'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 *ḥadīth* 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 are '*sunnah*' circumcising, 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 *ṣar'i* argument, except to see that female circumcision hurts the victim (women), while the *ḥadīth* that explains female circumcision (Abui Dawud's *ḥadīth*) does not show *taḥlīf* and its validity is also doubtful.

Though there is a *fiqh* principal argument which states that '*adam al-dalīl laisa bīdalīlīn*' (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

<sup>36</sup> Executive Board of Nahdlatul Ulama. "Khitan Perempuan, Solusi Problematik Aktual Hukum Islam". Keputusan Muktamar, Munas, dan Kombes Nahdlatul Ulama Tahun 1926-2015M, and Keputusan Komisariat Masalah Ad-Diniyyah al-Maudhu'iyah Muktamar ke-32 Nahdlatul Ulama di Asrama Haji Sudiang Makassar, 06-13 Rabiul Akhir 1431 H/22-29 Maret 2010. Surabaya: Khalista dan Lembaga Ta'lim Wan Nasyr, Cet-2, 2019. pp. 1050-1064.



reduce the lust of women, as a woman's lust flares up as she is 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 the female circumcision practices had 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, said that 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>37</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>38</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>39</sup> This situation shows that it is still difficult for 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 al-Qur'an 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 the prohibition of female circumcision, which is contrary to *shari'a* law because here, circumcision applies for both men and women, and is considered to be part of nature, and the nature of Islam. Third, the limits or procedures for female circumcision, which states that

<sup>37</sup> Interview with Maria Ulfa Anshor, 11 April 2020.

<sup>38</sup> Husein Muhammad, *Fikih Perempuan*, Yogyakarta: LKiS-Ford Foundation, 2001, 49-56.

<sup>39</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 Muhammadiyah Ki Bagus Hadikusumo Pesantren, Jombang-Bogor, which I attended.

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 Qur'an, al-Hadith, and the opinion of the same ulama. Reference of the three organizations is shown below.

Reference Organization	The Qur'an	The Hadith	Opinions of the Ulamas	Conclusion
Muhammadiyah	Yes	Yes	Yes	Yes
NU	No	Yes	Yes	No
MUI	Yes	Yes	Yes	No

Table 2: comparative decision

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 do not, as shown in this table.

Hadith	Organization	Muhammadiyah	NU	MUI
Prophet Ibrahim a.s was circumcised at 80 years old		Yes	Yes	No
Five natures, including circumcision		Yes	Yes	Yes
Ummu 'Athiyyah, women were circumcised in Madinah, Prophet's message to not overdo the process of circumcision		Yes	Yes	Yes
Ummu 'Athiyyah, 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

Table 3: comparative hadith

The same hadith selected by these three organizations gave rise to different interpretations. Ummu 'Athiyyah's hadith, for example, demonstrates that MUI and NU women still have to 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 hurts women's bodies, because it hurts the clitoris and vagina, and destroys the aim of the *maqāsid 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.<sup>41</sup> Given this, the interpretations should be read using a gendered perspective. Even though the verses in the Qur'an and Hadith is 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 are moving 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 too wild (untamed, undomesticated). 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 is needed after the negative impact known, including exploring how Muhammadiyah hospitals have campaigned to stop female circumcision according to their Fatwa.

# The Progressiveness of Quranic Interpretation in the Fatwa of Muhammadiyah on Female Circumcision

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