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## Women issuing fatwas: female Islamic scholars and community-based authority in Java, Indonesia

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## CHAPTER FOUR



### **The Indonesian Congress of Women Ulama (Kongres Ulama Perempuan Indonesia, KUPI 2017): Fatwa-making, Community Network, and the Building of a Social Movement**

#### **Introduction**

In the previous chapter, I described women who have established and practiced their roles as ulama and fatwa-givers at local levels. This experience is grounded in the grassroots. It is not only everyday practice but also progressive because it breaks through common sense about the ulama-ness and practices of making fatwas that are based on male individuals and also organizations that have been dominated by men for a long time. While in the previous chapter I focused on the experience of individual female ulama at the community level, in this chapter I broaden my view. This chapter focuses on the mobilization and networks of female ulama at the national and international levels. Interestingly, these women do not only take action at the grassroots. They are also involved in the making of a social movement as female ulama with a grander purpose, namely to assert their existence and to reclaim their religious authority at a national level through the Kongres Ulama Perempuan Indonesia (KUPI, Indonesian Congress of Women Ulama). I will use its abbreviation, KUPI, throughout the discussion in this chapter.

This chapter elaborates on KUPI based on my observations and interviews during my fieldwork. I approach KUPI as a network, a site of sharing knowledge and experience, and a social movement of female ulama through which they seek to establish

their collective and female ulama's community-based authority. I will address the following questions. Firstly, how and why was KUPI held and organized? Secondly, what were its goals, and how have the organizers behind the event sought to achieve the goals? Thirdly, what kinds of debates, challenges, and responses emerge at the conference? Fourthly, to what extent does KUPI strengthen the religious authority of female ulama, and provide them with a space to establish a movement of female ulama?

I will examine the background of KUPI by contextualizing it in the history of Islamic feminism in Indonesia and other Muslim countries. I argue that the KUPI movement did not appear all of a sudden. Instead, it emerged from a long history of Islamic feminist mobilization in Indonesia and in the context of the influence of global feminism. KUPI is a national-level movement with local and community-based practices and activism that brought two significant implications in the Third World women's movement, as explained by Mohanty (2003, 17 and 22). Firstly, the Third World women's movement challenges the Western feminist movement, which has assumed that oppressed women everywhere have experienced the same forms of oppression for the same reasons, namely oppression based on their "feminine gender (read: sexually constrained) and her being 'Third World' (read: ignorant, poor, uneducated, tradition-bound, domestic, family-oriented, victimized, etc.)."<sup>107</sup> Secondly, the movement has proposed a locally grounded and distinctive framework that is rooted in the local context. Thus, KUPI implies a circulation of knowledge and ideas that connect the local community with the national and even global community.

This chapter will begin with an explanation of the context of Islamic feminism in Indonesia and the urgency of the presence

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107 Mohanty (2003, 23) further described her analysis on some Western feminist writings that represent the Third Women as oppressed women: "women are defined as victims of male violence (Fran Hosken); as universal dependents (Beverly Lindsay and Maria Cutrufelli); victims of the colonial process (Maria Cutrufelli); victims of the Arab familial system (Juliette Minces); victims of the Islamic code (Patricia Jeffery); and, finally, victims of the economic development process (Beverly Lindsay and the [liberal] win school)."

of KUPI. The emergence of KUPI is connected to the community-based authority established by individual female ulama at the grassroots, as I elaborated in the third chapter. There is also a more recent context that needs to be sketched, namely the rise of conservative interpretations of Islam in Indonesia, because this has also inspired (or at least accelerated) the establishment of KUPI. I contend that community-based authority among female ulama is a resource by which they can exercise their agency and achieve their goal in the broader context, nationally and internationally. The goal of KUPI has been to amplify the voices of women ulama and to reclaim their authority through the making of a social movement.

In this section, I also discuss the debates, doubts, hopes, and challenges in the preparation, during the 2017 conference, and afterwards with regard to the exchange of new knowledge, the redefinition of female ulama, fatwas, recommendations, role models, the proponents and opponents, and responses of participants. This chapter then goes to the essence of KUPI, which is the centrality for KUPI of innovating legal methodology. KUPI's process, including in the organization and formulation of fatwas, and its results have become exemplary in some ways. Firstly, KUPI has facilitated the knowledge circulation among female scholars from secular and Islamic backgrounds. What makes KUPI quite unique is that the interaction between secular and Islamic scholars is built on community-based authority, which is different from Muslim feminists who do that more purely on a scholarly level. Secondly, KUPI has stimulated a significant innovation in legal methodology, which advances substantive justice (*keadilan hakiki*) and *mubadalah* in the fatwa-making process and Islamic studies in general to result in a gender-sensitive interpretation. They write, publish, and disseminate their precedents, resources, texts, and arguments in books and online media such as websites and social media to reach and expand their network. This is the approach developed by KUPI and its network to stimulate doctrinal changes in Indonesian

Muslim society. Thirdly, its fatwas and their production constitute a break with the long history of absence of women in the practice of issuing fatwas, as I explained in the second chapter.

### **Islamic Feminism: Local and International Circulations**

The feminist movement as it emerged and was subsequently localized and recontextualized in various parts of the world implied the effects of the circulation of knowledge, ideas, and ideology from the place where it was originally coined. The term “feminism” was first used by Hubertine Auclert in the journal *La Citoyenne* in the late 1880s. Using that term, she criticized the dominance of men and advocated human rights and the emancipation of women. In the early twentieth century the term feminism was used in Britain, it emerged in the United States in the 1910s, and in the early 1920s was known in Egypt (Badran 2009, 242). However, feminism took different forms and was translated into different meanings according to the place and context, even if the central idea remained the same, which was to claim women’s rights and emancipation. One of these different forms and approaches was Islamic feminism.

Margot Badran (2009, 242) defined Islamic feminism as “a feminist discourse and practice articulated within an Islamic paradigm”. It emerged in the 1990s and has been extensively debated because of its connection to controversial issues embedded in terms such as Islam and women’s rights. For instance, there was a false assumption that Islam is an inherent cause of sexual discrimination, especially in the Middle East, and the roles of women prescribed by Islamic code and law were often argued to be the main element of women’s status (Keddie and Beck 1978, 26; Moghadam 1993, 3; Mohanty 2003, 23). Accordingly, Islamic values have often been positioned as conflicting with feminism and women rights. The debate also touches on the position of Muslim women in both majority Muslim and minority Muslim countries. Another debate concerns the exact meaning and use of the terms “Islamic feminist” and “Islamic feminism” because

of the differences in understanding the concept of feminism or the debate between the meaning of ‘Islamic’ or ‘Islamist’ in relation to feminisms (Kynsilehto 2008, 9). For instance, it has been argued that the subjectivity of a Muslim woman conflicts with her subjectivity as a feminist because she is bounded by religious rules that to some extent can be seen as a constraint on her individual autonomy and rights (Khan 2016). Discussion of this term also exacerbates the dichotomy between “East” and “West, and between “secular feminists” and “Islamic feminists”, as apparent also within the context of the 2017 Indonesian Congress of Women Ulama in Indonesia.



FIGURE 10: The road heading to Pesantren Kebon Jambu Al-Islamy, the venue of KUPI, in Babakan, Ciwaringin, Cirebon, West Java, in April 2017. Photo by David Kloos.

Knowledge and ideas about Islamic feminism have circulated globally through books and other publications. Writers in the Iranian journal *Zanan* (est. 1992) published their thoughts on gender equality and justice from an Islamic perspective. Pamphlets criticizing the forgiveness of men beating their wives in the name of Islam were circulated by Sisters in Islam, an

influential organization founded in Malaysia in the mid-1980s. Fatima Mernissi wrote *Women and Islam: An Historical and Theological Inquiry* (1991), which elaborated on the illegitimacy of misogynist hadiths. Amina Wadud's *Qur'an and Woman: Reading the Sacred Text from a Woman's Perspective* (1992, 1999) argued that the scripture contained messages of gender equality and social justice (Badran 2008, 30). The term "Islamic feminism" was already well recognized when Asma Barlas's *Believing Women in Islam: Un-reading Patriarchal Interpretations of the Qur'an* was printed in 2002. Islamic feminism attempts to explain gender equality and social justice grounded in re-readings of the Qur'an and other religious texts because it believes that it is not the texts themselves that contain biased values but rather the interpretations of the texts that have allowed for patriarchal traditions to persist (Badran 2008).

The intersection of Islam with the idea of feminism in Indonesia, as Etin Anwar (2018) has argued, can be divided into five distinct phases. This intersection goes back to the Kartini period (1879-1905), or the era of emancipation. The second period was the era of association, that is, the beginning of the formation of Muslim women's organizations such as Aisyiyah and Muslimat, and their contact and negotiation with Islamic reformism, the 1937 Marriage Bill, and the organization's contribution to society. The third period was the era of development after independence, when the women's movement was directed at the search for progress and emancipation to develop the country. During the New Order, the significant influence of the state in emphasizing gender order led to a different relationship between Islam and feminism. Secular feminism viewed Islam as an obstacle to progress and conducted offensives against Islamic views on women. The fourth period was the era of integration, in which feminist and Islamic ideas came to be accepted in both secular and Islamic settings. The fifth era was the era of proliferation during the early 1990s when Islam and feminism increasingly converged.

Those five eras show that in the Indonesian context, the historical development of Islamic feminism was related to the effort of achieving convergence between Islam and feminist ideas. Therefore, the translation of feminist ideas and methods into Islamic references is one way to revisit the interpretation of Islamic texts which supported the practices of gender injustice. In 1991, Muslim feminist activists together with members of Muslimat NU, Fatayat, and Aisyiyah organized a seminar to develop a local discourse on Islamic feminism. Among the activists were Wardah Hafidz and Lies Marcoes.<sup>108</sup> The seminar concluded that the patriarchal tendencies of Islamic doctrines can be eliminated by incorporating context in the interpretation of Islamic texts based on the equal spirit of the Qur'an and hadith (Wieringa 2005).

The development of this Islamic feminist movement and discourse cannot be separated from the influence of progressive thoughts introduced through Muslim feminist writings. Since the late 1980s, NGOs such as P3M (the Centre for Pesantren and Community Development), in which Lies Marcoes was also involved, initiated the expansion of alternative and progressive interpretations of Islam, women's rights, and democracy. Activists started to read the writings of Muslim intellectuals from the Middle East, Pakistan, India, and Malaysia to deepen their understanding of Islamic gender discourse, including

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108 According to Lies Marcoes, Wardah Hafidz was one of the few pioneers who started translating the concepts of feminism for an Islamic audience. She was from Jombang, had a *pesantren* background and graduated from English Literature at the University of Malang (IKIP Malang). She then continued her study in the United States. She read the works of international Muslim feminists such as Rifat Hassan, Asghar Ali Engineer, and Fatima Mernissi in her attempt to find convergences between women's rights and Islam. Her translation of Rifat Hassan's *Equal before Allah* into Indonesian was published in the journal *Ulumul Qur'an* (Mahmood 2016, 140). Lies Marcoes came from a Muhammadiyah family background. She graduated from the State Institute for Islamic Studies (Institute Agama Islam Negeri/IAIN) Syarif Hidayatullah in Jakarta. She was influenced by Professor Harun Nasution, who taught her "how to think freely and [to see] that Islam could be understood from many different perspectives". She began her social activism by being involved with LP3ES (Institute for Economic and Social Research, Education and Information) and HMI (Himpunan Mahasiswa Islam/Muslim Student Association). In HMI Lies was encouraged to read not only Islamic texts but also secular science texts as a window to think about social problems and find solutions. In 1982 she began to deepen her interest in women and gender when she worked as a research assistant for the Dutch anthropologist Martin van Bruinessen. He had a great influence of Lies's career as an anthropologist and researcher (Harvey 2017).

the seminal works by Fatimah Mernissi and Amina Wadud. The translation of the books into Indonesian during the 1990s signified the emergence of academic thinking about women and Islam among educated middle-class activists. Over the years, this Islamic feminist discourse travelled beyond academic and NGO circles, especially between 1995 and 2000 (van Doorn-Harder 2006, 37—8).

The United Nations and other international donors have been important actors in building and supporting Indonesian women's organizations. These organizations were strongly influenced by international conventions such as the UN's Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), signed in 1979 (Evrard 2014, 140-142). Indonesia ratified CEDAW in 1984 (Rinaldo 2013, 46), and this ratification justified the application of two key transnational feminist frames, which are "equality" and "women's human rights", as supported also by other countries (Evrard 2014, 11). International donors such as the Ford Foundation in Indonesia provided programme grants and scholarships for women leaders and activists to pursue higher education overseas. An example is Lies Marcoes, who did her Master's in anthropology at the University of Amsterdam in 2000 (Harvey 2017). P3M and LP3ES received grants from the Ford Foundation to run an education programme for *pasantren* (Wieringa 2005).

Women's activism must be regarded in the context of various conservative movements. KUPI emerged from the history of the global feminist movement, but it was also, indeed, a response to a local reality rooted in the Indonesian context. One important local factor is the ongoing influence of New Order ideas about gender, including for instance the ideology dubbed *State Ibuism* by Julia Suryakusuma, which advocates the domestication of Indonesian women (Suryakusuma 2011, 8). Another contextual factor concerns twenty-first-century Islamic conservative movements originating from the Middle East and more specifically the Arabian Peninsula. The graduates of Saudi universities, Saudi-

owned and Saudi- or Kuwaiti-funded educational institutions are returning to Indonesia and supporting translations of a number of “fundamentalist” texts as well as providing ideological and financial sustenance for transnational Islamic movements (van Bruinessen 2013, 5). They have spread their messages not only through conventional means, such as public sermons, but also through online media that allow them to reach large number of audiences (I will discuss this in more detail in Chapter 5). Debates and contestation related to women and Islam have emerged, for instance, in regulations on women accessing the public sphere, on the wearing of the *jilbab* (tight headscarf) and *hijab* (a wider type of headscarf) as a symbol of piety, polygamy as male privilege, and other biases and male-focused interpretations of Islamic doctrines. Those challenges to some extent hindered the progressive movements led by Muslim feminist activists and sharpened the debate on the convergence between Islam and feminism.

In responding to the challenge of conservative ideas on women, the collaboration of Rahima, Fahmina, and Alimat (the Indonesian node of Musawah)<sup>109</sup> organized KUPI in 2017. Activists from secular and Islamic backgrounds, including *bu nyai*, *ustazah*, and *muballigah*, gathered in KUPI to share knowledge and experiences as well as to voice Muslim women’s roles as ulama and reclaim their authority. This conference resulted in a new belief that the two paradigms, namely Islam and feminism, could be aligned as reflected through the framework, fatwas, and recommendations offered by KUPI. This conference also showed that the feminism that came to and circulated in Indonesia was not unidirectional and merely an adoption and application of ideas coined and developed in the West and Middle East. KUPI, rather, constitutes a continuation of attempts to localize and recontextualize the ideas of feminism in the local context of Indonesian Muslim society.

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109 Musawah was launched in February 2009 in Kuala Lumpur, Malaysia. It is a global feminist movement that is concerned with equality and justice in the Muslim family. See Musawah (n.d).

In this chapter, I argue that the movement that ultimately culminated in KUPI, firstly, has become a site of convergence between Islam and feminism where secular activists and Muslim women scholars can actually meet and build an alliance for creating social justice. Lies Marcoes stated that KUPI is a meeting point between Islam and feminism (Tim KUPI 2017b, 161). Hatoon Al-Fassi, a woman ulama from Saudi Arabia, said, "I think this congress is a starting point for a collaboration of Muslim ulama, female scholars from all over the Muslim world, in order to present, create a platform, so that women could actually exchange their knowledge, their experiences, and not need to go and re-build or re-create the will but continue from where the previous scholars have started" (Tim KUPI 2017b, 206). Secondly, KUPI's framework for analysing women's issues (i.e. sexual violence, underage marriage, and environmental degradation impacting women) and issuing fatwas that was presented through the concept of *mubadalah* and *keadilan hakiki* is distinctive as it is rooted in the local Indonesian experience

### **The Formation of KUPI and the First Conference**

Indonesian Muslim women's NGOs have been working on building an intellectual movement through education and training for Muslim women leaders since the 1980s. The three organizations that established KUPI are Rahima, Fahmina, and Alimat. They played significant roles providing a supporting system for the organization of the first KUPI conference, which took place in Cirebon on 24-27 April 2017. The founders of these NGOs are all intellectually connected with the progressive intellectual movement introduced above, as alumni of the P3M programme in particular. They have been working on empowering women since the 2000s and are familiar with the discourse of Islam and gender equity. Rahima, as I have explained in Chapter 2, is a women's Islamic NGO based in Jakarta.

Fahmina works on issues of community empowerment, democracy, human rights, pluralism, and gender justice that

are rooted in the knowledge and traditions of the *pesantren*. Fahmina gave shape to its activism through the organization of education programmes for women leaders. For example, in 2004 Fahmina initiated a course on Islam and gender, “Dawrah *Fiqh* Perempuan (Study Circle of *Fiqh* on Women)”, by inviting senior secular activists, both men and women, to share their problems with their *pesantren* counterparts by considering Islamic methodology based on a perspective from the *pesantren*. They studied the Qur’an, Hadith, and *Fiqh*, and incorporated historical perspectives of Islamic civilization and the national legal framework into their discussion. Twelve cohorts have now completed this course; one of the more prominent alumni of the programme is Ibu Nyai Masriyah Amva, who leads Pesantren Jambu where KUPI took place (Kodir 2017b, 14).

Alimat is an Indonesian movement for “equality in the family”. It represents a diffuse network for transnational advocacy that is linked to Musawah (a global movement for equity and justice in the family). It was founded in 2009 by activists of organizations concerned with women’s issues in Indonesia, such as Komnas Perempuan, Rahima, Fahmina, Fatayat NU, and Nasyiatul Aisyiyah. In collaboration with the training provided by Pemberdayaan Perempuan Kepala Keluarga (PEKKA, the Empowerment of Women-Headed Household), Alimat provides Islamic teachings that help to support women as single parents or household heads. In addition, Alimat also delivers Islamic sermons in the MNC Muslim TV programme (Tim KUPI 2017a, 185).

The origins of KUPI lie in a meeting on the preparation of KUPI, which was initiated by Rahima. The meeting was held at Wisma Hijau Depok, West Java, on 24-25 February 2015. Faqihuddin Abdul Kodir, one of KUPI’s leading figures, explained to me that he had a talk with A.D. Eridani, the former director of Rahima, about the continuation of Rahima’s PUP by creating a forum for the alumni to meet and do something. It was then agreed that Rahima would collaborate with Fahmina and

Alimat.<sup>110</sup> According to the KUPI manual, the aims of KUPI are to recognize and confirm the existence and role of female ulama in the history of Islam and Indonesia; to create a space for female ulama in Indonesia and the world to share experiences about the work of empowering women and social justice in order to unify Islamic, national and humanitarian values; to build a reservoir of shared knowledge about the ulama-ness of women and their contribution in the advancement of women and human civilization; and to formulate the decisions and religious views of Indonesian female ulama on contemporary issues from the perspective of Islam *rahmatan li al-‘alamin* (Tim KUPI 2017a, 175).



FIGURE 11: The national seminar was held on the second day of KUPI in Pesantren Kebon Jambu Al-Islamy, Babakan, Ciwaringin, Cirebon, West Java, in April 2017. Photo by David Kloos.

KUPI was attended by Islamic scholars and activists from all over Indonesia and overseas. There were 519 registered participants and 131 observers from Indonesia and other countries such as Afghanistan, Bangladesh, Malaysia, Saudi Arabia, Pakistan, Nigeria, Kenya, Singapore, Thailand, the Philippines, Australia, the USA, and the Netherlands. They were joined by guests, speakers, and participants who did not attend

110 Author's interview with A.D. Eridani, 12 August 2017.

the whole programme. In total there were more than 1,500 attendees, with especially large numbers during the opening and closing ceremonies (Tim KUPI 2017a, iv). The majority of these participants were alumni of programmes, as well as fellow members, of Rahima, Fahmina, and Alimat. Most of them were from a traditional Muslim background culturally related to the world of the *pesantren* and NU. However, there were also delegates who had not joined any of these programmes. They included individuals from Aisyyiah, Fatayat, PERSIS, Ahmadiyah, Darud Da'wah wal Irsyad, and delegates from *majelis taklim*, *pesantren*, universities, and government institutions. The organizing committee of KUPI understood that the participants, including the committee members, came from heterogeneous backgrounds. Although they were all Muslim believers, their views on certain issues varied, depending on their social and educational background and organizations with which they were affiliated.

How seriously KUPI was taken from the start can be gauged from the long and careful process of preparation for the conference. An initial meeting was held in Depok to discuss the concept and preparation. The KUPI committee subsequently held a second, third, and fourth meeting in Yogyakarta (October 2016), Padang (November 2016), and Makassar (February 2017) to socialize the concepts of KUPI among PUP alumni and fellow members of Rahima, Fahmina, and Alimat, and to assess crucial issues to be discussed in the *musyawarah keagamaan* (religious consultation). A subsequent meeting was held in Jakarta (2-6 April 2017) to discuss specifically the *musyawarah keagamaan*, including the methodology, the questions, and the concept notes to be discussed in KUPI. In addition to these meetings, there were other separate meetings attended only by the organizing committee (Tim KUPI 2017a, 36-7).

The conference took place on 24-27 April 2017. On the first day, an International Seminar on Women Ulama (Ulama Perempuan) was held in IAIN Sheikh Nurjati Cirebon, presenting

speakers from seven Muslim countries and attended by more than 250 participants. The event generated a discussion on *perempuan* based on facts, data, and the field experiences of women activists. On the same day, in the afternoon, some of KUPI's participants joined a consolidation meeting in Pondok Pesantren Jambu. The aim of this meeting was to assess the background of the delegates and their overall views on KUPI and *ulama perempuan*. This was followed that night by the KUPI opening ceremony.

The programme on the second day consisted of a national seminar on *ulama perempuan*, including parallel discussions, as well as a book launch and discussion about the work of women ulama. The seminar discussed the history of *ulama perempuan*, new methodologies for approaching Islamic texts, and the strategy and challenges of women's *da'wa* (Islamic propagation). Meanwhile, the parallel discussions were divided into nine themes: (1) the education of *ulama perempuan*; (2) the response of *pesantren*; (3) sexual violence; (4); child marriage; (5) justice-based village development; (6) migrant labour care; (7) social inequality and environmental degradation; (8) religious radicalism; and (9) the crisis and conflict of humanity. These themes were approached by considering the lived realities of women, the influence of international and national legal instruments, and the Islamic perspective. On the third day, a religious consultation (*musyawarah keagamaan*) of female ulama was held. This programme was intended to issue religious views in regard to three issues: (1) sexual violence; (2) child marriage; (3) environmental degradation and its implication for gender imbalance. The participants were divided into three discussion groups, whereby each worked on one issue by referring to the concept notes drafted in the previous pre-congress meeting on *musyawarah keagamaan*. At the same time there was another meeting on drafting the recommendations of the congress. These recommendations covered all the issues that came up during the seminars and parallel discussions. The overall programmes

of KUPI ended on the last day with the closing ceremony in the afternoon.

KUPI issues three fatwas. I summarize the fatwas as follows:

Fatwa on sexual violence

The questions are:

- (1) What is the Islamic law on sexual violence?
- (2) Is rape the same as *zina* (adultery) with regard to the aspects of definition, punishment, and evidence required in Islamic law?
- (3) What is the view of Islam towards government authorities and parties who have a responsibility to protect victims of sexual violence but do not fulfil their obligation? Does Islam contain the concept of imposing punishment for these offenders?

The legal judgements are:

- (1) The law regarding sexual violence in any of its forms, as stated in the *Tashawwur* (description) and *Istidlal* (the analytical and interpretative principles), is that sexual violence is *haram*. This applies for sexual violence committed both inside and outside the bond of marriage;
- (2) Rape is not the same as *zina*, seen from the view point of definition, punishment, and required proof to prosecute;
- (3) The view of Islam towards state authorities and other parties who have a responsibility to protect victims of sexual violence but do not fulfil their responsibility and in some cases even act as perpetrators of sexual violence [is as follows]: a) The state has a responsibility to guarantee the fulfilment of all of its citizen's rights, including the rights of victims of sexual violence. If the

state and/or law enforcement officers neglect this duty or create difficulties regarding the fulfilment of citizens' rights, the state has failed to uphold principles of justice and has committed despotic acts that contravene the Constitution of the Republic of Indonesia; b) In the case that the state or other parties who have a responsibility to protect become, in fact, perpetrators of violence—including perpetrators of sexual violence—the view of Islam is that the sins and the punishment for these perpetrators should become more severe (*taghlidhu al-'uqubah*). This is because these parties have carried out multi-layered violations: the violation of sexual violence itself and then the neglect to fulfil their responsibilities to protect victims and the rights of citizens. This applies both for state authorities and other parties who have been given a mandate to protect. (Tim KUPI 2017a, 57 and 78-81)

#### Fatwa on child marriage

##### The questions are:

- (1) How does the law prevent child marriage which gives rise to all *mudarat* (damage) in the context of realizing a peaceful Islamic family (*sakinah*)?
- (2) Who are the parties responsible for preventing child marriage?
- (3) What can be done to protect children with such an experience?

##### The legal judgements are:

- (1) Preventing child marriage in the context of the realization of the benefits of a family with *sakinah* (peacefulness), *mawaddah* (love), and *wa rahmah* (compassion) is mandatory because child marriage brings more *mudarat/mafsadah* (damage and harm) than benefits;

- (2) The parties most responsible for preventing child marriage are the parents, families, communities, the government, and the state.
- (3) As a form of protection, what can be done for children who are the victims of child marriage is to ensure their rights just like other children, especially with regard to the rights to education, health care, upbringing by their parents, and protection from all forms of violence, exploitation, and discrimination (Tim KUPI 2017a, 94 and 103).

Fatwa on nature destruction

The questions are:

- (1) What is the law on the destruction of nature in the name of development?
- (2) What is the role of religion in providing the protection of nature?
- (3) What is the religious view on the state's responsibility in overcoming the destruction of nature that impoverishes people, particularly women?

The legal judgements are:

- (1) Inflicting damage on nature, resulting in social oblivion and inequality in any name including in the name of development, is forbidden in absolute terms as stipulated in the Qur'an. Allah created nature to be preserved, with the balance of its ecosystem maintained;
- (2) Religion must play a role in protecting the sustainability of the natural environment. In the basic doctrine of Islam, other than protecting the religion, soul, good sense, descendants, dignity and wealth, there is the decree to protect nature and the environment.
- (3) The religious views on the responsibility of the state in overcoming the destruction of nature that impoverishes

the people, especially women, are:

- a. The state with all its apparatus shall be obliged to protect nature from any damage, and shall impose strict sanctions in the form of punishment to the fullest extent of the law against perpetrators of vandalism, whether individuals, communities, state apparatuses or corporations.
- b. The state is responsible for preventing the destruction of nature and promoting its recovery by providing necessary policies, strictly enforcing existing regulations, and engaging in concrete activities with communities to conserve nature. In such efforts, the state must involve women, who experience the most negative impact and the excessive burden caused by the destruction of nature (Tim KUPI 2017a, 112 and 125).

As said, KUPI was formally established through a large conference that involved more than a thousand of participants. There were some enabling factors that supported the event. Firstly, there was solid cooperation between each actor involved in preparing the event and providing financial support. Nur Rofiah, one of the leading figures of KUPI, called the actors involved “social support” (*dukungan sosial*).<sup>111</sup> This social support came from “the *pesantren*, *ibu nyai*, the people from the neighbourhood, and in Cirebon there was a supporting system of Fahmina and Institute Agama Islam Negeri (IAIN, the State Institute for Islamic Studies). It was rather difficult to get all of that.” This social support was also evident in the cooperation between the various institutions involved. Rahima used the remainder of the PUP programme funding. The Asian Muslim Action Network (AMAN) Indonesia provided financial and organizational support by hosting the international seminar.

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111 Nur Rofiah is a well-known and respected scholar of *tafsir* at the Universitas Islam Negeri (State Islamic University) Syarif Hidayatullah and the College of Qur'anic Sciences (Institut Perguruan Tinggi Ilmu Qur'an) in Jakarta. Her short biography will come later in this chapter.

Ruby Kholifah, the head of AMAN Indonesia, explained that the international seminar brought together women scholars from several countries. "They [overseas visitors] became an integral part of our efforts to reclaim the space for women scholars and to establish women scholars' authority to interpret religious texts," Ruby stated.<sup>112</sup> Likewise, KUPI participants came to Cirebon voluntarily and financed their own travel.

The second enabling factor of KUPI's achievement is that KUPI succeeded in drawing attention and convincing participants to come because it was the first Congress of Women Ulama in Indonesia and offered a platform for mobilizing supporters of gender-just ideas. Wahidah Fitriyani, a KUPI participant from Tanah Datar, West Sumatra, told me that she thought KUPI was a very interesting phenomenon because there had never been a female ulama congress in Indonesia. A delegate from Muslimat Ahlul Bait, the women's wing of a Syiah Muslim mass organization in Indonesia, argued that this congress was very significant because it could address threats posed to Islamic groups that are considered heretics by a growing number of Muslims. A male participant from Satunama, an NGO in Yogyakarta, stated that the women's problems discussed in KUPI were always interesting and it was crucial to address them. Therefore, he was interested in attending the conference.<sup>113</sup>

From the overall process, I figure out a strategy used by the organizing committee of KUPI to achieve the main goal of the congress, which was "to affirm the existence of the female ulama and to appreciate their roles and works in realizing Islamic values, national identity and humanity" (Tim KUPI 2017a, 9). The organizers' strategy was to use the conference to introduce the concept of *keadilan hakiki* (substantive justice) and *mubadalah* (hermeneutics of reciprocity) and to popularize and redefine the term female ulama. According to Nur Rofiah, people came to the

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112 Author's interview with Ruby Kholifah, 25 April 2017.

113 Author's interview with the KUPI participants, 26 April 2017.

Congress because they had hopes of gaining new knowledge and methods; therefore the KUPI committee had already prepared the knowledge building in advance.

### **The Leading Figures: Knowledge Circulation and Network**

This section introduces the individuals who played central roles in the establishment of KUPI and the organization of the conference. I argue that as a social movement, KUPI needs leading figures as role models, committee leaders, and think-tank intellectuals to inspire and mobilize its participants. Studies have shown the important role of individuals in social movements (McCarthy 1994, Tarrow 1998). These include leaders and activists who are considered human resources in social movements besides other individuals who participate in the movement (Edwards, McCarthy, and Mataic 2019, 80). The action and sustainability of a movement relies on the extent to which a group structure and social network is connected and activated; individuals therefore play an important role at the beginning in deciding whether or not a collective action will be taken up (Tarrow 1998, 22). A study of the success and failure of any given social movement can be thus approached by looking at the mobilization of resources, including human resources.

Many individuals have contributed to KUPI. They have done the hard work of conceptualizing the congress, carrying it out, and making sure they get all women scholars and ulama together, such as Afwah Mumtazah, whose biography is described prior to this chapter. She was involved in KUPI from the beginning. There were many such participants. However, it is also important to single out the most significant figures and explain their background and specific role. Considering not only leadership, but also labour, experience, skills, and expertise as leaders and activists in their contribution to the event, I identified seven key leaders. I categorize these figures and their positions in the organization into three distinct groups, namely charismatic, organizational, and intellectual leaders.

The first group, charismatic leaders, consists of role models who are respected for their charisma, knowledge, and long commitment to work on gender equality, Islamic ethics, and *pesantren*. They are authoritative and inspirational *guru* (teachers) for the other figures and KUPI participants in general. They include Kiai Husein Muhammad and Ibu Nyai Masriyah Amva.

Kiai Husein Muhammad was born in Arjawinangun, Cirebon, West Java, in 1953 into the family of the founder of the Pesantren Daar Al-Tauhid Arjawinangun. He was taught to read the Qur'an by Kiai Mahmud Toha and Kiai Syathori, his grandfather. He finished his primary formal education in Arjawinangun, then moved to Pesantren Lirboyo in Kediri, East Java for three years for his Islamic training. He continued his study at Perguruan Tinggi Ilmu Al-Qur'an (PTIQ, the Al-Qur'an College of Higher Education) in Jakarta, graduated in 1980 and moved to Cairo, Egypt, to study at Al Azhar University (Nuruzzaman 2005). Kiai Husein's contact with the ideas of Islamic feminism began when he joined the P3M training programme in gender theory for Muslim leaders managed by Lies Marcoes in 1990s. This training succeeded in changing his conservative mindset to become more gender sensitive. He developed the approach of *maqashid shari'ah* and *maslaha* based on the principle of *tauhid* to Allah in the interpretation of the Qur'an. He wrote many books about Islam, women, and gender justice (Harvey 2017). He was awarded the title of doctor *honoris causa* in 2019 from UIN Walisongo in Semarang. In 2000 he established Fahmina Institute, an NGO which strives to promote community empowerment and gender justice based on the *pesantren* tradition.

Nyai Masriyah Amva was born in Cirebon, West Java, in 1961. Her father, Kiai Amrin Hanan, was an ulama. Her mother, Nyai Fariatul Aini, was a preacher. Together they founded Pesantren Asy-Syuhada in Babakan, Cirebon. Masriyah studied in three *pesantren*, namely Pesantren Al-Muayyad in Solo headed by Kiai Umar (for three years), Pesantren al-Badi'iyah

in Pati, Central Java, led by Nyai Nafisah Sahal, and Pesantren Dar Al-Lughah wa Ad-Da'wah in Bangil, East Java. She then got married to Syakur Yasin, a diplomat who worked at the Indonesian Embassy in Tunisia, and accompanied him to live in that country. She returned to Babakan after divorcing her husband, and continued her education at the State Institute for Islamic Studies Sunan Syeh Nur Jati in Cirebon, majoring in Islamic education, but could not finish her studies. In 1993, she married Kiai Muhammad, the leader of Pesantren Kebon Melati Pesantren in Babakan, Cirebon. Together with him, she then established Pesantren Kebon Jambu. When her husband passed away in 2006, many students left the school, as often happens when a *kiai* dies without having appointed a successor. But, Nyai Masriyah stayed strong in this moment of crisis. As she wrote in her personal narrative, she prayed for help, and the strength of her faith and submission to God enabled her to "rise from the abyss" (Masriyah Amva 2010). Nyai Masriyah Amva was the ideal host for the conference. She invested KUPI with an aura of traditional religious and charismatic authority. In 2017, at the time of hosting KUPI, her *pesantren* was doing better than ever before, counting 1,400 students. Today, perhaps partly because of the conference, this number has risen to 1,700 (Kloos and Ismah, forthcoming).

The second category consists of representatives of organizations involved with KUPI, who played an important role as the leaders of organizing committees. Badriyah Fayumi and A.D. Eridani are included in this category. Badriyah Fayumi was born in 1971 in Pati, Central Java. Her father, Kiai Fayumi, and her mother, Nyai Yuhanidz, were the founders of Pesantren Raudlatul Ulum in Pati, Central Java. Badriyah received her primary and secondary education at the Pesantren Mathaliul Falah led by Kiai Sahal Mahfudz (1937—2014), a NU and MUI leader, and studied for a Bachelor's degree at the State University for Islamic Studies (UIN) Syarif Hidayatullah in Jakarta. She then went to Al-Azhar University in Cairo, Egypt, to advance her knowledge in Qur'anic

interpretation and went on to complete her Master's degree at UIN Syarif Hidayatullah. Badriyah began her involvement in gender activism when she was active in student organizations. She served as the chair of KOPRI (Korps PMII Puteri), the women's wing organization of Pergerakan Mahasiswa Islam Indonesia (PMII, the Indonesian Muslim Students Movement). In her activism she was strongly inspired by Lies Marcoes. Together with Ratna Batara Munti, the chair of KOHATI (Korps HMI-Wati), the women's wing organization of Himpunan Mahasiswa Islam (HMI), she established an independent women's study institute called Tjut Nja 'Dhien in 1993 (Katjasungkana and Munti n.d., 87). Badriyah has taught at UIN Syarif Hidayatullah, became a member of parliament for PKB, was active as a Komisi Perlindungan Anak Indonesia (KPAI) commissioner, and also became a member of the Indonesian Ulama Council fatwa commission. Today, she is active as a preacher and a writer. She is a permanent contributor to the Islamic women's magazine *NooR*. With her husband, she is developing Pesantren Mahasina Daarul Qur'an wal Hadith.

A.D. Eridani was the director of Rahima when KUPI was held in 2017. She was born in 1967. She finished her education in public schools and university, including public junior high school in Ambon, public senior high school in Purwokerto, and Diponegoro University in Semarang, Central Java. Her involvement with the NGO scene began in 1992. She joined P3M in 1996, working in the Fiqhunnisa' programme with Lies Marcoes. She was one of the founders of Rahima when it was established in 2000, and in 2007, she was appointed as the director. Eridani participated in Rahima's PUP programme as a facilitator together with Nur Rofiah and Faqihuddin Abdul Kodir. In 2014, she contributed in a writing project on the profile of Rahima's female ulama. She was considered to be the main actor responsible for the establishment of KUPI. Wawardi, a staff member of Rahima, characterized her as a very determined and persevering woman. He writes: "Mbak Dani's wish for a Congress of Women Ulama finally revealed itself in the form of decisions,

instructions, and directions to us at Rahima. The instructions became more intense after the historic conversation between Mbak Dani, Bang Helmi (Helmi Ali), and Kang Faqih (Faqihuddin Abdul Kodir) on the prayer gathering for the fortieth day of the death of Lia Aliyah (a female ulama figure from Cirebon who graduated from the Rahima PUP programme) in October 2014 in Cirebon” (Mawardi 2017b, 17-22).

The next three figures are Nur Rofiah, Faqihuddin Abdul Kodir, and Kamala Chandrakirana. They are included in the third category, intellectual leadership. They have played a significant role in developing concepts and frameworks for the study of Islam with a gender-sensitive approach in Indonesia, which subsequently became a method and framework for KUPI. Nur Rofiah was born in 1971 in Pemalang, Central Java. She finished her primary education in her hometown. Then she went to the Khoiriyah Hasyim Seblak Foundation in Jombang, East Java, for six years to finish her junior and senior high schools. Nyai Hj. Jamilah Ma’shum is the highest-ranked leader of the *pesantren* and one of her sons, Kiai Umar Faruq, influenced Nur Rofiah by inspiring her critical thinking (Ridwan 2019). She then moved to Komplek Hindun at Pesantren Ali Maksum in Krapyak, Yogyakarta, where she learned and memorized the Qur’an. She got her BA from the State University for Islamic Studies Sunan Kalijaga in Yogyakarta, majoring in *tafsir* and hadith and continued her studies for her Master’s and doctorate degrees at Ankara University in Turkey. Nur Rofiah got involved with Jaringan Islam Emansipatoris (Islamic Emancipatory Network), organized by P3M, where she became aware of the importance of understanding the context and lived realities when interacting with and interpreting Islamic texts. After that, she joined Rahima, PEKKA, and Alimat (Rofiah 2017b, 70). She organized a series of training courses on Keadilan Gender Islam (Islamic Gender Justice), both through offline classes and on social media such as Facebook, Instagram, and WhatsApp. During the pandemic, she held her classes through Zoom meetings.

Faqihuddin Abdul Qodir was born in 1971 in Cirebon, West Java. He came from a *pesantren* and Nahdlatul Ulama background. He attended Pesantren Dar at-Tauhid in Arjawinangun Cirebon, from 1983 to 1989. He obtained his Bachelor's from Abu Nur University and Damascus University in Syria. He then continued with a Master's programme in Islamic Law at the International Islamic University in Gombak, Malaysia, while he was involved with the international branch of Nahdlatul Ulama in Malaysia. Returning from Malaysia in 2000, Faqih started his involvement with Fahmina Institute along with Kiai Husein Muhammad. They established the institute in 2000. Since then, Faqih has worked as a researcher, facilitator, and resource person for training and seminars on issues of Islam and gender for government and non-government organizations. Faqih received his PhD in Religious Studies from ICRS, Graduate School of Gadjah Mada University in Yogyakarta, Indonesia. Since KUPI, he has actively promoted the concept of *qira'ah mubadalah*, which he developed, by organizing a series of forums, called Majelis Mubadalah, throughout Indonesia and in other countries such as Malaysia, Thailand, the Netherlands, Belgium, and France. He has also promoted the principle of *mubadalah* through social media such as Instagram and YouTube and a website, [mubadalah.id](http://mubadalah.id).

Kamala Chandrakirana was born in 1960. She finished her BA at the Faculty of Social Sciences, University of Indonesia, in Jakarta, and studied Sociology Studies at Sophia University, in Tokyo, Japan. She got her Master's from Cornell University, Ithaca, New York, USA. Chandrakirana is a representative of a group of secular feminists who were also among the leading figures in KUPI. She was a researcher who worked for a development programme, but when the May 1998 riots happened and led to a mass rape of women, she changed from a researcher into a determined activist. She took part in the new mobilization on the issue of women's human rights. She was asked to be part of a national commission which was established by the new president, B. J. Habibie, called the National Commission on

Violence against Women, more commonly known as Komnas Perempuan. The Commission, which grew out of that moment of historic political change in Indonesia, after thirty-two years of authoritarianism, has since become a unique institution, nationally and globally (Berkley Center for Religious, Peace, and World Affairs 2015). Since then, she has networked with Muslim women's organizations such as Rahima, Fahmina, and Alimat, and has served on a steering council for the development of the organizations.

The educational backgrounds and activism of these figures suggest that KUPI draws on two different networks of knowledge and activism. Firstly, they are graduates of both *pesantren* and formal Islamic educational institutions, in particular the UIN and PTIQ, that have played a significant role in providing higher education for Islamic studies in Indonesia. The exceptions are A.D. Eridani and Kamala Chandrakirana, who were trained in secular universities. This fact also shows that the main organizing figures are from middle-class families and that most of them have experienced education overseas. Secondly, their activism is connected through empowerment and gender training programmes initiated by P3M for Muslim leaders that subsequently inspired a network of Islamic feminists, and which is also connected to the network of the secular women's human rights movement. Connecting these two networks is a major strength of KUPI; yet it is also a major challenge, as issues and concepts are contested between these groups (Kloos and Ismah, forthcoming).

### **Redefining the Term *Ulama Perempuan* and the Methodology of KUPI's Fatwas**

One of the main goals of KUPI is to amplify women's voices and share experiences and to gather together in a collective exercise of redefining key concepts such as the term *ulama perempuan* (female ulama) and outlining the methodology for KUPI's fatwas. This included the incorporation of nine essential values,

namely *ketauhidan* (monotheism), *kerahmatan* (compassion), *kemaslahatan* (social good), *kesetaraan* (equality), *kesalingan* (mutuality), *keadilan* (justice), *kebangsaan* (nationality), *kemanusiaan* (humanity), and *kesemestaan* (universality), the foundation of compassion (*kerahmatan*) in the Qur'an and hadith, the framework of *maqashid shari'ah* (the goals of the shari'a), and the approach of *ma'ruf* (goodness), *mubadalah* (hermeneutic reciprocity), and *keadilan hakiki* (substantive justice). The methodology was applied in the process of religious consultations (*musyawarah keagamaan*) to produce the three KUPI fatwas mentioned above.

The term *ulama perempuan*, as referring to women with the capacity to become ulama, was not heard much before KUPI. Personally I often received questions for clarification when I mentioned this term to interlocutors who were not part of Rahima's circle. "I would suggest naming this congress the congress of Indonesian *nyai* instead of the Kongres Ulama Perempuan Indonesia," K.H. Arwani Syaerozi said. He is the director of Ma'had Aly al-Hikamus Salafi, Babakan Cirebon, West Java. He argued that the word "*nyai*" is more acceptable because it is rooted in the *pesantren* tradition.<sup>114</sup> Questions about the existence of *ulama perempuan* were even raised by members of Rahima, however. Some asked, "Do *ulama perempuan* exist?" and "Why don't we call this congress 'Muslimah Congress'?" Responding to those questions, Nur Rofiah stated, "We intended to make people aware that there are women who have capabilities as ulama." And the term *ulama perempuan* holds a strong reference to that goal that would be lost if it were replaced by other terms such as *nyai*, *muslimah*, or even *alimat*. KUPI attempted to reclaim the use of the term ulama with specific reference to women, and to affirm the ulama-ness of women.<sup>115</sup> In other words, *ulama perempuan* are not just two empty words; rather, they have deep sociological and ideological implications.

114 Author's interview with K.H. Arwani Syaerozi, 21 March 2017.

115 Author's interview with Nur Rofiah, 8 May 2017.

In social use, the term *ulama* is often attributed to religious leaders who have mastered Islamic sources, are associated with good deeds, and are able to give guidance to people in their social lives. As written in a remarkable compilation of hadith titled *Sunan Abu Dawud*, *Shahih Bukhari*, and *Al-nasha'ih al-Diniyah*, the word “*ulama*” is used to refer to the heirs of prophets; the primary responsibility of *ulama* is to guide the people to the right way. Both the Qur'an and hadith emphasize the attitude of *ulama*, rather than specific knowledge that should be acquired. Based on these sources, KUPI defines an *ulama* as “someone who has deep knowledge that makes her/him feel in awe of Allah (integrity), carries out good deeds (*al-akhlaq al-karimah*), implements, delivers, and stands for justice, and conveys a sense of peace to the world (*rahmatan li al-'alamin*)”. Furthermore, according to al-Syatibi's (d. 1388) *al-Muwafaqat*, “deep knowledge” means an understanding of legal texts (*al-nushush al-syar'iyah*), the goals of the shari'a (*al-maqashid al-shar'iyah*), and the current social lives (*waqa'i al-hayat*) (Tim KUPI 2017a, 18-9).

KUPI emphasizes that the word *perempuan* (woman) has two meanings, one biological and one ideological. According to the *Kamus Besar Bahasa Indonesia* (Indonesian Language Dictionary), in biological terms the word *perempuan* refers to someone who has *puki* (female genital organs), and is able to menstruate, conceive, give birth, and breastfeed. By contrast, from the ideological point of view, *perempuan* in the meaning given to it by KUPI denotes a gender-equal perspective, denoting a consciousness and motivation to stand up for women in order to create equity in relation to men in the family or social life. These meanings differentiate *perempuan ulama* (female ulama) from *ulama perempuan* (women's ulama). The term *perempuan ulama* (female ulama) refers to those *ulama* who are biologically women and demonstrate the scholarly capabilities, and may or may not maintain a gender perspective. On the other hand, in the KUPI framework *ulama perempuan* (women's ulama) connotes all *ulama*, either men or women,

who maintain and implement the perspective of gender equity. In their work, intellectually and practically, *ulama perempuan* integrate the perspective of gender equity with Islamic sources in responding to life's realities in order to establish justice and a civilized humanity. Thus, according to KUPI, the term *ulama perempuan* (women's ulama) refers to those who possess deep knowledge, either women or men, who have integrity and nobility (*akhlaq karimah*), stand for justice, and work to bring peace to the world (*rahmatan li al-'alamin*). They are faithful to Allah (*taqwa*) and therefore respect humanity in general, specifically women, not only in public life, but also in relation to the family. They are people of integrity, who stand for justice and disseminate a sense of peace not only among men, but also among women. As such, they can establish the harmony of reciprocal relationships (*relasi kesalingan*) between men and women, without violence, with the ultimate goal of building a just and civilized society (Tim KUPI 2017a, 18-9).

The congress not only redefined the term *ulama perempuan*, it also outlined a methodology for arriving at and formulating fatwas. According to KUPI, there are four elements to be applied in the fatwa-making procedure. Firstly, it identified nine essential values as the basis for ethical reasoning in fatwas, namely monotheism (*ketauhidan*), compassion (*kerahmatan*), social good (*kemaslahatan*), equality (*kesetaraan*), reciprocity (*kesalingan*), justice (*keadilan*), nationalism (*kebangsaan*), humanity (*kemanusiaan*), and universality (*kesemestaan*). The application of these nine values ensures that "women and men are seen as complete subjects, human beings with dignity, and both are *khalifah fi al-'ardh* (caliph of God on earth), so they have the right to be involved and receive benefits of this life. Because of this, women's life experiences, with their two distinctive conditions, biological and social, become an authoritative source for the KUPI knowledge production" including fatwas (Kodir 2021, 29).

Secondly, KUPI identified compassion (*kerahmatan*) as a core message of the Qur'an and hadith, and central to its vision of fatwa-making. Compassion can be translated into an act of having a noble character (*akhlaq karimah*), doing justice, being kind, spreading peace, creating social good, and taking sides with the vulnerable and disadvantaged people, including women and children. This vision ensures that KUPI fatwas are the reflection of *akhlaq karimah*, justice, kindness, peacefulness, social good for humankind, especially women and children, and spreading compassion for the universe (*rahmatan li al-'alamin*) (Kodir 2021, 30).



FIGURE 12: A consolidation process among KUPI participants led by Bu Afwah Mumtazah (in black colour batik pattern) in Pesantren Kebon Jambu Al-Islamy, Babakan, Ciwaringin, Cirebon, West Java, in April 2017. Photo by David Kloos.

Thirdly, there is the framework of *maqashid shari'ah* (the goals of the shari'a) as a basis of legal reasoning to maintain and protect basic human rights, and also to ensure that they are fulfilled in a good and perfect manner. The substance of the *maqashid shari'ah* can be found in the rules regarding *qiyas* (legal analogy), 'illah (legal causes), *istihsan* (seeking goodness), and *maslaha* (social good). *Maqashid shari'ah* has been narrowed to the fundamental elements of human existence (*al-dharurat al-khamsah*) as a framework for understanding and deciding Islamic law, which are preserving religion, life, intellect, progeny, and property.

Fourthly, KUPI advances an approach of *ma'ruf* (goodness), *mubadalah* (reciprocity), and *keadilan hakiki* (substantive justice), thus strengthening the application of *maqashid shari'ah* in fatwa-making. The approach of *ma'ruf* as derived from the Qur'an was proposed by Badriyah Fayumi. She defines *ma'ruf* as cited by Faqihuddin Abdul Kodir (2021, 40): "Everything that contains the value of goodness, truth, and appropriateness according to the shari'a, common sense, and the general view of a society." The concept of *ma'ruf* in the Qur'an contains three basic ideas. Firstly, *ma'ruf* is one of the principles of social relations, in addition to the principles of justice, reciprocity, and cooperation. Secondly, *ma'ruf* is a form of appreciation and reference to traditions that are accepted and practiced by society (*fiqh* Muslim scholars call this 'urf, *adah*, or custom). Thirdly, *ma'ruf* is viewed as an approach for deriving and contextualizing universal Islamic values, such as the necessity for men and women to be mutually willing and prepared to consult each other (Kodir 2021, 40-1).

During the second day of KUPI's 2017 conference, Nur Rofiah gave a lecture on "substantive justice," which she translated into Indonesian as *keadilan hakiki*, as a critique on patriarchal systems that present the biological conditions of women (i.e. the capacity to bear children) as a reason to subjugate them and treat them unequally in social life. Nur Rofiah stated that substantive justice requires consideration of women's experiences, which can be biologically and socially different from men. One difference is indeed biological. It concerns women's reproductive organs, which implicate five distinctive experiences of women that are not experienced by men. The experiences are menstruation, pregnancy, childbirth, post partum, and breastfeeding. Another experience is the social condition that leads women to be stigmatized (negatively labelled), subordinated, marginalized, and subjected to the double burden of domestic and public tasks, and (physical or psychological) violence. Thus, the pain, health issues and needs, and what is good for women cannot be

defined by men and in male-only forums, but must be based on the real experiences of women and in the forums that involve them. Likewise, a fatwa on women cannot be considered *ma'ruf* when women are discredited because of these five biological attachments and if the fatwa ignores the distinctive experiences of women (Kodir 2021, 43-4).

Another approach in interpreting Islamic texts as a part of KUPI's fatwa framework is the "hermeneutics of reciprocity" coined by Faqihuddin Abdul Kodir, one of the leading figures of KUPI. He translates this as *qira'ah mubadalah* in his book *Qira'ah Mubadalah: Progressive Interpretation for Gender Justice in Islam* (2019). This book offers a method for reading or interpreting Islamic texts, including the Qur'an and hadith, that enables the interpretation of gender roles as a reciprocal matter. Unlike methods introduced through Muslim feminist writings that criticize the authority of the hadith and the authenticity of traditional scholarship, *qira'ah mubadalah* attempts to combine classical Islamic scholarship, modern methods, and feminist discourse to reinterpret Islamic texts, including hadith and the Qur'an, in more gender-sensitive ways. The work of *mubadalah* is based on three premises. Firstly, Islamic texts and teaching address both men and women. Thus, a text that seems to be addressing men only because of a certain context can be reread to also address women. Secondly, the relationship between women and men is regarded to be based on cooperation and reciprocity, not hegemony and power. Every legal decision that leads to a hegemonic and despotic model of relations is contrary to this principle. Thirdly, to harmonize the two principles above, all source texts are open to reinterpretation, and all legal decisions, as far as technical contextual matters are concerned, are also subject to change (Kodir 2021, 42).

The KUPI methodology was applied in the process of religious consultations (*musyawarah keagamaan*) to produce three KUPI fatwas. It was also disseminated through book publications and online media such as websites and social

media and applied as a framework in producing articles about women and human rights published by *mubadalah.id*. The KUPI methodology, including *mubadalah* and *keadilan hakiki*, is thus an important device used by female ulama to exercise their Islamic authority, to speak about Islam, and to re-interpret Islamic texts from women's perspectives. Both *qira'ah mubadalah* and *keadilan hakiki* enabled KUPI to connect an abstract discussion about interpretative methodology and inalienable rights to the experiences of participants living and working in a variety of social and institutional contexts.

### **Building Solidarity and the Challenge from Established Authority**

KUPI's achievement was not only the accomplishments of KUPI and the scholarly works produced, such as the fatwas and gender-sensitive frameworks for interpreting Islamic texts, but also the demonstration of the fact that the organizing committee of KUPI could manage all the KUPI programmes and handle a thousand participants quite well. This accomplishment certainly required cooperation, thorough preparation, and the ability to solve problems and challenges that arose during the congress. Two sets of challenges may be identified: internal and external. Internal challenges related to individual conditions and the process of building networks and solidarity between the individuals or elements involved in KUPI, while external challenges were related to the power relations between KUPI as a platform for the female ulama movement and established institutions of religious authority and fatwa-making. KUPI's leading figures played an important role in drawing up a strategy for dealing with these challenges.

According to the stakeholders involved in KUPI, internal challenges emerged from two dimensions: social and psychological. I have written about these dimensions in Chapter 3. They include the difficulty that Muslim women leaders have in referring to themselves as ulama. None of the four female ulama

whom I highlight in this dissertation acknowledge themselves as ulama. Many of the attendees of KUPI's first conference agreed with this. "Don't say we are *ulama perempuan*. Let's just call ourselves *ustazah*, *mubaligah*, *daiyah*. The label of ulama is not suitable for us, because ulama is a huge title," stated Umi Rahimun, one of the participants from Aceh.<sup>116</sup> For KUPI, however, recognition and self-acceptance were essential in order to affirm the existence of female ulama and their religious authority. Because of this psychological difficulty, the redefinition of the concept and the role of female ulama seems merely a concept that operates at the level of ideas rather than being a living subjectivity on the ground. This psychological barrier is influenced by the social and common understanding of the concept of ulama, which is still biased toward men. There are doubts that women can be ulama and issue fatwas, and to some extent this has challenged the effort of grounding the concept of *ulama perempuan* and their Islamic authority as defined by KUPI.

Changing this very mindset has been part and parcel of the KUPI project from the beginning. The organizing committee framed and distinguished between the concepts of *ulama perempuan* and *perempuan ulama*, and expanded the background category of KUPI's attendees to include *pesantren* leaders and teachers, teachers at educational and Islamic higher institutions, leaders of Islamic organizations, leaders of *majelis taklim*, *ustazah*, *mubaligah*, and *daiyah*, women activists, experts, academicians, researchers, and observers who are interested in Islamic and women's issues (Tim KUPI 2017a, 18-9). These various titles and categories might relieve the psychological burden of the individual women because they are not categorized under only one title which is *ulama perempuan*. The participants came up with their own alternative titles instead of calling themselves female ulama. The titles of *ulama perempuan* and *perempuan ulama* were not included in the list of the participant categories. "This

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116 Author's interview with Umi Rahimun, 27 April 2017.

is the first Indonesian women's ulama congress, and we saw the psychological burden among the women themselves. They were still not one hundred per cent confident in acknowledging the existence of *ulama perempuan*. So we avoided that psychological burden, for example, by escaping from using terms such as fatwas and *ijtihad*," Nur Rofiah stated.<sup>117</sup> Another strategy was to position the charismatic figure of women from *pesantren* settings as a role model of *ulama perempuan*. Among these figures was Nyai Masriyah Amva. These strategies were carried out through pre-conference meetings, consolidation gatherings during KUPI, and media framing.

Another internal challenge lay in managing the collaboration between *ulama perempuan* and secular activists. These two groups have different formal appearances and way of accessing knowledge and critical thinking. They also represent a dichotomy between religious and secular knowledge. On the one hand, there is the dimension of religion, the divine, and the traditional. On the other hand, there is the secular, worldly, and progressive. Nur Rofiah gave an example of female ulama participants who had concerns about secular activists who did not wear a proper *jilbab*. Because it was an Indonesian Congress of Women Ulama, all the participants should follow Islamic values in terms of their appearance. Some female ulama participants also worried that KUPI would spread liberal ideas that are not in line with Islamic values. These different views and attitudes challenged the process of building solidarity among participants. These two subjectivities came with their own boundaries and seemed difficult to align. This concern became evident in the International Conference, the first programme activity of the conference, in which two speakers criticized guardianship of women and polygamy as not part of Islamic tradition. The speakers were Ruhaini Dzuhayatin, a leading Indonesian Muslim woman activist, and Hatoon al-Fasi, a female scholar from Saudi

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117 Author's interview with Nur Rofiah, 14 March 2018.

Arabia.<sup>118</sup> According to Nur Rofiah, this view was considered too critical by the traditional Muslim community.

Anticipating such doubts and concerns by participants, the committee decided to select more participants from among Muslim women leaders because they were the central figures of KUPI. According to Nur Rofiah, the committee was aware that the decision of having 70-80 per cent of the participants be women leaders with an Islamic background would limit the participation of secular activists. They also attempted to frame the understanding of the participants by affirming the concept and history of female ulama as delivered by Badriyah Fayumi during the opening ceremony of KUPI and introducing the framework of *keadilan hakiki* and *mubadalah* as approaches to studying and interpreting Islamic texts. "Many participants were initially hesitant. Then after listening to the speech of Mbak Badriyah and Ibu Nyai Masriyah, that was from a Sufism perspective and an excellent approach, and my presentation at the seminar, they apparently agreed that the *ulama perempuan* exists," Nur Rofiah added.<sup>119</sup>

Establishing KUPI as a site for sharing knowledge and experience between female ulama and secular activists was an effort to transcend boundaries between the two and make them complement each other. Badriyah Fayumi said, "We want to apply a new religious perspective. It is that religious discourse cannot only be studied from texts. In this sense, the activists can speak for context and reality."<sup>120</sup> This integration has actually been employed, for example, by MUI in its making of fatwas on the *halal* status of commercial products. They involve experts who have experience and knowledge about the context and reality.<sup>121</sup> This two-sided meeting of experience and knowledge could be seen through a series of parallel discussions in the 2017 KUPI on nine themes. These nine themes were women's religious

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118 Ibid.

119 Ibid.

120 Author's interview with Badriyah Fayumi, 9 February 2018.

121 Ibid.

education, the response of *pesantren* to women's religious leadership, sexual violence, child marriage, migrant workers, rural development, religious radicalism, and conflict and natural destruction. These themes were discussed by female ulama and secular activists from two perspectives simultaneously: text and context (Tim KUPI 2017a, 40).

Apart from internal challenges, KUPI also had to deal with external challenges related to established (institutional and intellectual) authority; that is, the sources of authority that are dominated by male ulama and their perspectives. KUPI had no intention of challenging these institutional ulama and fatwa authorities directly. But the use of the term "ulama" implied the effort to affirm the role of women as ulama and KUPI as a platform of the ulama-ness of women and to position their ulama roles parallel to established authority. Advancing women's intellectual authority meant positioning women as agents who have the authority to speak about Islam, produce knowledge related to Islam, and issue fatwas.

KUPI's organizing committee anticipated a possibly hostile reaction by those institutions. Thus, they had to make sure that there would not be a public accusation that they were liberals posing a threat to Islam. They were, in other words, anticipating the possibility of serious opposition by very powerful institutions that claim to be the main authorities when it comes to Islamic law and practice in Indonesia. So they made sure to cultivate their image as being properly Islamic, properly traditional, and properly pious, and they deftly cultivated relations with those institutions and the people in them; this was possible because many of the women in KUPI are very well connected.

They then took an initiative to approach those Muslim mass organizations and ulama institutions. Some delegates from the organizing committee of KUPI went to those institutions to introduce KUPI and explain what it was about (Tim KUPI 2017a, 31-2). They also made a compromise by taking on board some

of the inputs suggested by these institutions, for example, from Kiai Ma'ruf Amin, whom they met as the head of MUI in 2017 and who was elected as the vice president of Jokowi Widodo. "Kiai Ma'ruf said that KUPI will be rejected if the community assume that KUPI challenges MUI. So, one solution was not to use the term fatwa because the fatwa belongs to MUI," Faqihuddin Abdul Kodir shared.<sup>122</sup> However, Kiai Husein Muhammad thought that there were two groups in MUI that had different attitudes towards KUPI. "Kiai Ma'ruf Amin did not mind the use of the word fatwa. He only warned that the fatwa issued by KUPI should not conflict with the fatwa issued by MUI," he explained. But there was another group who did not allow KUPI to use the term fatwa because the fatwa is the prerogative of MUI and may not be used by others. In response, KUPI decided to operate carefully and diplomatically in the sense of not being confrontational in their attitude toward the established authorities. KUPI used the term "outcome of religious consultation" (*hasil musyawarah keagamaan*) instead of the term fatwa as a strategy of avoiding a rejection of KUPI's fatwas.<sup>123</sup> However, despite using the term *hasil musyawarah keagamaan*, religious opinions produced by KUPI were accepted by the public as KUPI's fatwas and also represented as such in the media.<sup>124</sup>

The decision to hold KUPI in Cirebon was also a strategy to anticipate these tensions and possible challenges to KUPI's legitimacy. This decision was related to the cultural capital found in Cirebon. Firstly, Cirebon has a cultural basis to support KUPI because there are hundreds of NU *pesantren* that believe in the unity of Islamic values, nationality, and humanity, which is in line with KUPI's motto. Secondly, Cirebon is the location of Pesantren Kebon Jambu. This *pesantren* is led by Nyai Masriyah Amva, a woman who has been working on justice and equality

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122 Author's interview with Faqihuddin Abdul Kodir, 3 May 2017.

123 Author's interview with Kiai Husein Muhammad, 21 May 2017.

124 Some examples of the media headlines are "Female Muslim clerics in Indonesia issue rare fatwas" (*thefrontierpost.com*), "Female Clerics Declare Fatwa on Child Marriage in Indonesia", (*free-malaysiatoday.com*), and "Tiga Fatwa Hasil KUPI 2017" (*NooR magazine*) (Tim KUPI 2017d).

for men and women for almost a decade. Thirdly, one of KUPI's organizing institutions, Fahmina, is based in Cirebon. Fahmina has a strong network with the *pesantren* and NU's cultural base through empowerment programmes concerning Islam and gender equality. The participants at KUPI, especially from the local area of Cirebon coming from *pesantren*, universities, and organizations, were those who have been involved with Fahmina's work since the early 2000s and have emotional and cultural connections to this progressive movement, and to Fahmina in particular (Tim KUPI 2017a, 187-8).

Another external challenge was to deal with intellectual power relations in the field of fatwa-making. KUPI had to deal with its position in the Indonesian Islamic intellectual landscape and power relations undergirding it, especially matters related to the Islamic authority of female ulama to speak about Islam and issue fatwas. Established ulama and fatwa institutions such as NU and MUI already have a framework in the study of Islam and making fatwas, for example, by referencing *aqwalul 'ulama* (the opinion of religious scholars) and employing textual methods. They have also issued fatwas on issues related to women. The challenge was that KUPI's method of issuing fatwas is not considered legitimate from the vantage point of the frameworks applied by those institutions and therefore it cannot issue authoritative fatwas. Huzaemah Tahido Yanggo, the head of MUI's fatwa commission, commented, "Are they really experts [in issuing fatwas]? If there are experts, go ahead. We are experts in issuing [fatwas] but still sometimes there are people who oppose."<sup>125</sup>

Concerns about the legitimacy of KUPI's methods and the fatwas produced by KUPI also appeared during the pre-conference meeting on 4-6 April 2017, which was attended by the organizing committee including the seven leading figures I mentioned in the previous section. They then decided to apply the structure employed by the established fatwa institutions

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125 Author's interview with with Khuzaemah Tahido Yanggo, 8 February 2018.

regarding *adillah* (sources), which were the Qur'an, the hadith, *aqwalul 'ulama*, and the Indonesian constitution. Although the other foundations, namely women's experiences and the International Constitution, were considered essential in KUPI's framework, to avoid controversy they regarded them as a perspective in the process of the analysis of *adillah* (*istidlal*).<sup>126</sup>

Another strategy was to avoid having fatwas issued by KUPI that conflicted with existing fatwas on the same issue, for example about child marriage. They formulated a question that was different from the usual question used in the fatwa formulation such as "what is the legal judgement on child marriage?" Instead, they framed the question by referring to the *impact* of child marriage. The question was: "What is the legal judgement on preventing child marriage that leads to a harmful impact in the context of creating the welfare of a *sakinah* (safe and prosperous) family?" This led to the answer that child marriage is unlawful (Kloos and Ismah, forthcoming).

KUPI's experience in dealing with internal and external challenges shows that the movement of female ulama through KUPI as a platform has destabilized male domination over ulama's roles and fatwa-making. This is a necessity in a social movement, because "a social movement collectively challenges authorities, sometimes in an attempt to bring about social change, and agitate in institutional settings, including in the government, schools, religious institutions, and corporations, challenging and pressuring authorities in these settings" (Tarrow 1998, 5). On the one hand they dealt with challenges, but on the other hand they challenged the authorities, especially with regard to the juristic authority of women as scholars. The long history of NU women in making efforts to be involved in the fatwa formulation shows the enthusiasm and creativity of women in utilizing their scholarly capacity and network to issue fatwas that are in line with gender equality.

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126 Meeting Proceedings, 4-6 April 2017.

## Affirming Juristic Authority: The Fatwa-making of KUPI

KUPI seeks to reclaim the juristic authority of women interpreting Islamic texts through fatwa-making. Ultimately this was the key aim while formulating three fatwas on sexual violence, child marriage, and natural degradation impacting on women. In the process of issuing fatwas, on the one hand KUPI's committee made a compromise by considering the input from the ulama and authoritative fatwa-making institutions they visited (calling KUPI's Islamic legal opinion religious consultations instead of fatwas was a result of this). But on the other hand, KUPI defended the substantial part of its fatwa-making, namely the incorporation of women's experiences and the perspective of substantive justice (*keadilan hakiki*) as a means to see lived realities as part and parcel of its methodology and analytical procedures. This substantial part of KUPI's methodology is a prerequisite in the process of making fatwas so that KUPI can produce fatwas that are progressive in terms of gender equality and bringing benefit, especially for women.

Each fatwa institution in Indonesia, such as MUI and NU's Bahtsul Masail, has its own methodology, including structure and procedure. This structure results in fatwas that are written materials published either on printed paper or online. A fatwa typically begins with a question submitted by *mustafti* (fatwa seeker) about the legal judgment of something. However, both MUI and NU's Bahtsul Masail have a fatwa-like form that is not an answer to a question, but a legal statement on an issue in society or a response to a law. Regarding KUPI's fatwas, the three questions discussed for the answers were assessed and decided in several pre-KUPI meetings attended by Muslim women leaders and secular activists. Apart from the matter of structure, those established fatwa institutions also apply different procedures such as the use of *dalil* (pl. *adillah*), which is the whole of legal sources and proof to be used for *istidlal* (the analytical and interpretative principles) to finally formulate the fatwas. KUPI, MUI, and NU's Bahtsul Masail also have their own terms to refer

to each part of the procedures, as I will demonstrate in detail in this section.

This section analyses the differences between KUPI's methodology and the methodology of two other organizations issuing fatwas, namely MUI and NU's Bahtsul Masail. The reason for choosing these two organizations is because first, there is a basic similarity between the three in the sense they all use *aqwalul 'ulama* (the opinion of religious scholars) as one of the sources of *dalil*. This makes them comparable. Second, they have all issued fatwas on the three issues discussed in the KUPI conference. By analysing the differences, this section will show the particularities of KUPI's methodology compared to the other methodologies. These particularities can be seen from three elements of the methodology, namely the structure of fatwas, the formulation of questions and answers, and the use of *adillah* and *istidlal*. Each element will be illustrated by an example of a fatwa issued by KUPI and one from either MUI or Bahtsul Masail of NU.

The first aspect is the structure of the fatwas. KUPI's fatwas consist of *tashawwur* (description), *adillah* (sources), *istidlal* (analysis of the sources), *sikap dan pandangan keagamaan* (religious positions and view), *tazkiyah* (recommendation), *maraji'* (reference), and *marafiq* (appendix) (Tim KUPI 2017a, 52-4). This is different compared to the structure of fatwas from NU's Bahtsul Masail, which are composed of a brief description of the issue, questions, answers (judgement/*hukm*), and *dalil*, which is only taken from *aqwalul 'ulama* and *kitab kuning* as primary sources. Let me explain this difference through an example of a fatwa on natural degradation. NU formulated a fatwa on this issue at the 33rd NU Congress in Jombang, East Java, in 2015. It has five short paragraphs of description explaining the general condition of natural damage impacted by mining exploitation. This fatwa was not supported by extensive data or lived realities of the victims, including women, that show the damage and its impacts. Following the description, three questions arose: (1) what is the legal judgement on exploiting natural resources in

ways that are legal but endangering the environment? (2) What is the legal judgement on government apparatuses giving mining licences that have an impact on natural damage? (3) What should people do in response to natural destruction caused by mining?<sup>127</sup>

The structure of KUPI's fatwa on natural degradation is remarkably different from NU's Bahtsul Masail, as becomes clear when comparing the parts of *tashawwur*, *adillah*, and *istidlal*. I will explain the particularity of *tashawwur* first because the explanation on *adillah* and *istidlal* will be discussed in the third aspect of the uniqueness. Unlike the short description of the result by NU's Bahtsul Masail, the *tashawwur* is an important part in the structure of KUPI's fatwas because it explains the background of the problems supported by data and lived realities related to the natural destruction. In contrast to what NU does, this allows KUPI to bring the gendered dimensions of the issue to the fore; and integrate it in its legal opinion. This section is also a place to include women's experiences and the perspective of *keadilan hakiki* in describing why the problem for which a fatwa is sought is significant. I quote some lines from the *tashawwur* as an example:

"The granting of exploitation permits in the name of development which was then carried out by means of destruction of nature has resulted in the emergence of conflicts that occur due to the struggle for (agrarian) living space ... At least 450 agrarian conflicts throughout 2016 covered an area of 1,265,027 hectares and involved 86,745 families. It increased twice compared to 2015 (KPA, 2017; Komnas Perempuan, 2005). ... The extraordinary shift in land functions has made farmers suffer. Whereas the traditional agricultural field is mostly managed jointly by men and women, or in certain segments only by women. During 2003-2013 around 5.01 million farmer households switched to other professions. Men worked as labourers or coolies in big cities, while young women migrated without adequate skills so that they were

127 The answers to those questions are: (1) Excessive exploitation of natural resources causing damage is *haram* (forbidden); (2) The granting of an exploitation permit by a government official that has an impact on unrepaired natural damage is *haram* if it is done intentionally; (3) The community is obligated to respond as *amar ma'ruf nahi munkar* according to the ability (PBNU 2016, 139-142).

the lowest paid and most vulnerable workers (Tania Li, 2010). This happened in conjunction with the conversion of agricultural land to other uses which reached 0.25 hectares per minute (BPS, 2014) (Tim KUPI 2017a, 126)."

The section of *tashawwur* is followed by the following questions: (1) What is the legal judgement on destroying nature in the name of development? (2) What is the role of religion in providing protection for nature? (3) What is the religious view of the state's responsibility in dealing with the natural destruction that impoverishes the people, especially women? So the key intervention here is taking lived realities as a point of departure, rather than a more abstract definition of "natural damage". This subsequently allows for an inclusion of a gendered dimension in the questions. The answers to these questions in the structure of KUPI's fatwa come after the elaboration of *adillah* (sources) and *istidlal* (analysis of the sources). *Adillah* is taken from the Qur'an, hadith, *aqwalul 'ulama* (opinion of religious scholars) including *ushul fiqh* (the general principles of Islamic jurisprudence), and the Indonesian constitution. Then it concludes with the statement: "Based on the legal basis and analysis thereof, as mentioned above, the consultations decide on the following religious attitudes and views," followed by the answers<sup>128</sup> (KUPI 2017b, 130-6).

Based on this comparison, I may highlight the particularity of KUPI's fatwas as presented following KUPI's fatwa methodology, which includes the nine essential values, the

128 The summary of KUPI's fatwa on natural degradation is (1) the legal judgement of destroying nature which results in social decadence and inequality regardless of the purposes, including for development, is absolutely *haram*; (2) religion plays a role in preserving nature. In the basic principles of Islamic teachings (*al-kulliyat*), in addition to protecting religion (*hifzu al-din*), soul (*hifzu al-nafs*), reasoning (*hifzu al-aql*), heredity and dignity (*hifzu al-nasl wa al-'irdh*), and wealth (*hifzu al-mal*), there is protection of nature and the environment (*hifzu al-bi'ah*); (3) the religious view on the state's responsibility in dealing with the natural destruction that impoverishes the people, especially women, is that the state and all its instruments are obliged to protect nature from all damage and to impose strict punishment and sanctions on the perpetrators of the destruction, including individuals, communities, state officials, and especially corporations. The state is responsible for preventing the natural degradation and enabling its recovery by providing the necessary policies, strictly implementing existing regulations, and carrying out activities with the community for the natural preservation. In this effort the state is obliged to involve women as the party who are affected the most by the negative impacts and excessive burden due to the natural degradation (Tim KUPI 2017a, 142-3).

foundation of compassion (*kerahmatan*) in the Qur'an and hadith, the framework of *maqashid shari'ah* (the goals of shari'a), and the approach of *ma'ruf* (goodness), *mubadalah* (hermeneutic reciprocity), and *keadilan hakiki* (substantive justice) (Kodir 2021). The application of this methodology can be identified in the section on *tashawwur* (description) and *istidlal* (analysis of the sources) of the fatwa (KUPI 2017c, 48). Likewise, the incorporation of the Indonesian constitution can also be seen as a source of legal judgement in the *adillah* (sources) and *istidlal* (the analysis of the sources). To give an example of the Indonesian constitution on the issue of natural degradation:

"In the context of administering governance, this has been regulated through the 1945 Constitution as the Constitution of the Republic of Indonesia, which asserts that the task of the State is to regulate the use of natural wealth for the welfare of the people, not for the benefit of a group of investors and entrepreneurs. Article 33 Paragraph (3) affirms that: "The earth, water and natural resources contained therein are controlled by the State and used solely for the prosperity of the people." Meanwhile, paragraph (4) states that: "The national economy is implemented based on economic democracy with principles that are mutual, efficient, fair, and sustainable, with environmental insight and independence, and by maintaining a balance of progress and national economic unity. In line with the mandate of the Constitution above, the state's control over natural resources shall consider the rights of every living being therein including humans, animals, plants as well as other sources of life. Therefore, Article 28H Paragraph (1) of the 1945 Constitution stipulates that: "Every person shall have the right to live in physical and spiritual prosperity, have access to housing, and a good and healthy living environment as well as to be entitled to health services" (KUPI 2017c, 123-4).



FIGURE 13: A religious deliberation on child marriage led by Maria Ulfa Anshor, a member of the organizing committee of KUPI and the former commissioner of the Indonesian Child Protection Commission, in Pesantren Kebon Jambu Al-Islamy, Babakan, Ciwaringin, Cirebon, West Java, in April 2017. Photo by the author.

A second particularity is the formulation of the question and answer. Requests for fatwas typically start with a question, usually in the form of: “What is the legal judgement on (...)?” and the answer is focused on answering the literal question. Let me explain this with an example of NU’s Bahtsul Masail on the minimum age for girls and boys to get married regarding the formulation of question and answer. The 32<sup>nd</sup> Mukhtamar of NU in Makassar in 2010 issued a fatwa on *kawin gantung* (suspended marriage). The description section explained that *kawin gantung* is underage marriage with the aim of binding children as a couple so that later they will not get married to others. This marriage does not cause legal consequences for “married” children. They still live with their parents. As adults they can renew their marriage. Regarding this issue, four questions are posed. Two of them relate directly to the issue of child marriage: (1) What is the legal judgement on suspended marriage? (2) What is the age limit for marriage, both for men and for women? (PBNu 2010).

The answers to these two questions are exclusively based on the opinions of religious scholars as written in the *kitab kuning* (the classical Islamic books), including *Syarh Al-Nawawi*

*'ala Muslim, al-Fiqh al-Islamy, Syarh al-Syihab li Ibni Hajar, and Qurratu al-'Uyun.*<sup>129</sup> Referring to these sources, suspended marriage is judged as legally allowed under conditions that there is a *maslaha* (social good), consent of agreement (*qabul*) by the *mujbir* guardian (guardian with 'coercive' authority to force a girl to marry), and other conditions and pillars of Islamic marriage. These answers are thus merely based on the *maslaha* as it is written in the text rather than the context and lived reality that the number of child marriages is considered high in Indonesia and often harmful for children. Unlike KUPI's fatwa, the reasoning of NU's fatwa confirms that child marriage is allowed according to Islamic jurisprudence and legitimizes the practice regardless of the actual impacts and circumstances. NU's resulting legal judgement reads as follows:

"The answers: (1) suspended marriage is legal if there is *maslaha*, the consent of the *qabul* is done by the guardian of *mujbir*, and it fulfils the requirements and other pillars of marriage; (2) According to *jumhur* ulama (majority of scholars) there is no age limit for marriage in Islam. However, marriage should be done when the person is of age (*baligh*)" (PBBNU 2010, 206-207).

The KUPI committee approached the process of formulating questions and answers creatively. The contentious issue of child marriage was a case in point. Persuasive cases could be made, on the basis of textual interpretation, both for and against the implementation of a minimum marriage age. In conservative Muslim circles, including many *pesantren*, the practice of "underage" marriage is often considered acceptable, and protests against it are often seen as a form of secular infringement. To break the deadlock, the committee decided to pass over the "usual question", namely "What is the legal judgement on child

129 *Syarh Al-Nawawi 'ala Muslim* is *kitab syarah* (commentaries) on hadith written by Al-Nawawi. The full title is *Al-Minhaj Syarbu Shahih Muslim ibni Al-Hajjaj*. This *kitab* is included as a primary reference book to find out the opinion of the *mu'tamad* of the Shafi'i school of thought (Rozikin 2018). *Al-Fiqh al-Islamy* or *Al-Fiqh al-Islami wa Adillatuhu* is a *fiqh* book consisting of ten volumes and written by Wahbah Az-Zuhaili. He wrote this book based on the thoughts of classical scholars from the Shafi'i, Maliki, Hambali, and Hanafi schools, as well as other scholars among Sunnis (Kusumaningtyas 2018).

marriage?" Requiring a choice between "allowed" or "forbidden", this question was anticipated to result in endless debates. Instead, the committee formulated an alternative question, namely: "What is the legal judgement on preventing child marriages that are causing harm (*kemudaratatan*) in the context of producing well-being (*kemaslahatan*) in a safe and prosperous family (*keluarga sakinah*)?" A draft note drawn up in response to those questions stated that the substantive aim of marriage was to obtain the safety and peacefulness of care and love in the family. Child marriage, it reasoned, stood in the way of this aim. This reasoning confirms that the prevention of child marriage is a religious obligation.

The third element is *adillah* and *istidlal*. KUPI's *adillah* and *istidlal* are different compared to the *adillah* and *istidlal* of the other fatwa institutions. To show the difference, I will compare KUPI's religious view with the fatwa of MUI on sexual violence as an example. MUI's *adillah* consists of the Qur'an, hadith, and *fiqh* texts or *aqwalul 'ulama*. These *adillah* are analysed by applying *ushul fiqh* and *tarjih*, which is finding the strongest opinion from *fiqh texts* (Hosen 2004). MUI's fatwa Number 02/MUNAS-IX/MUI/2015 specifically counters the criminalization of sexual intercourse between husband and wife by force, which is categorized as sexual violence according to the draft of the law on the Elimination of Sexual Violence.<sup>130</sup> It is a "fatwa-like" document, that is to say, not an answer preceded by a question asked by a *mustafti*, but a statement in response to the draft of the law.

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130 The draft of the Indonesian law on the Elimination of Sexual Violence defines sexual violence as "all acts that meet the elements of a criminal act as regulated in this Law and other acts of sexual violence as regulated in the Law as long as it is stipulated in this Law ... Sexual Violence Crimes consist of non-physical sexual harassment, physical sexual harassment, forced contraception, forced sterilization, forced marriage, sexual torture, sexual exploitation, sexual slavery, and electronic-based sexual violence ... Sexual Violence Crimes also include rape, obscene acts, sexual intercourse with children, obscene acts against children, and/or sexual exploitation of children, acts of violating decency against the will of the victim, pornography involving children or pornography that explicitly contains violence and sexual exploitation, forced prostitution, criminal acts of trafficking in persons intended for sexual exploitation, sexual violence in the household, money laundering crimes whose origin is a crime of sexual violence, and other crimes that are expressly stated as crimes of sexual violence as regulated in the provisions of laws and regulations" (The Law Draft of the Republic of Indonesia Concerning Criminal Acts of Sexual Violence. n.d.).

The fatwa has five legal judgments (*keputusan hukum*) on marital sexual relations. The first three highlight the Islamic principle on the relations according to *fiqh* texts, which state that the relationship between husband and wife must be built as a manifestation of love (*mawaddah*) and compassion (*rahmah*). Sexual intercourse between husband and wife is unlawful under conditions that are prohibited by *shara'* (Islamic rules), which are when the wife is in menstrual and post-partum conditions, husband or wife are fasting during Ramadan, husband or wife are practicing *ihram* (the pillar of haji), the intercourse is done by *liwath* (anal sex), or in conditions of illness that prohibit sexual activities. Without one of these five conditions, the wife must obey her husband by not refusing an invitation to have sexual relations. These three legal judgments become the foundation for the next two fatwas, which read, therefore: "(1) Sexual intercourse between husband and wife by force is *khilaful aul* (disobeying the principal Islamic lessons), but it cannot be categorized as rape; (2) Criminalization of marital sexual intercourse is against Islamic law." (Ramadhanti 2019, 178).

KUPI's fatwa on sexual violence is remarkably different from MUI's fatwa and is determined by a different analytical procedure with regard to *adillah* and *istidlal*. KUPI's *adillah* includes the Qur'an, hadith, *aqwalul 'ulama*, and the Indonesian constitution. In the process of analysing the four bases of arguments (*istidlal*) that are related to the questions on sexual violence, KUPI's fatwa also incorporates international laws and women's experiences within the framework of KUPI's fatwa, including the application of the nine essential values and other foundations mentioned above. The use of international law and the approaches could not be explicitly listed in the *adillah* (sources) to avoid the possibility of resistance from Indonesian Muslim communities in general who are not familiar with KUPI's methodology, which might thus lead them to reject KUPI's fatwas (Tim KUPI 2017a).

KUPI's fatwa on sexual violence answers three questions. The first two are particularly significant in terms of seeking an

alternative Islamic legal judgement (fatwa) on marital rape in particular. The two questions are: (1) What is the legal judgement on sexual violence? (2) Is rape the same as adultery, both in terms of definition, punishment, and proof? To answer these questions, KUPI explains the *adillah* (textual proofs) derived from the Qur'an, hadith, *aqwalul 'ulama*, and the Indonesian constitution. These *adillah* affirm messages about equality of status and dignity between men and women, responsibility for maintaining individual independence and human rights, and fundamental differences between rape and adultery that have implications for the protection of victims and punishment for perpetrators. In the *istidlal*, the *adillah* are elaborated, supported by data on sexual violence, to arrive at a logical conclusion, which is KUPI's fatwa on sexual violence: (1) the legal judgement on sexual violence is that sexual violence in all its forms, as mentioned in the *tashawwur* and *istidlal*, both outside and inside marriage, is *haram* (unlawful); (2) rape is not the same as adultery, in terms of definition, punishment, and proof.

The procedure of KUPI's fatwas, as elaborated above, shows that KUPI has made the structure and methodology of its fatwa different from that of NU's Bahtsul Masail and the fatwa of MUI in providing answers and legal statements on the same issues. However, it is important also for KUPI not to adopt a completely different methodology from MUI and Bahtsul Masail of NU because a lot of authority lies in using a commonly accepted method of fatwa-making, namely scholarly legal judgement, and KUPI is still in the process of establishing its authority in this field. Through its particular procedure, KUPI seeks to reclaim juristic authority for women and place it alongside male ulama and male-dominated fatwa institutions in Indonesia. KUPI's fatwas seem comparatively more open in terms of accommodating change in society because they explicitly consider lived contexts. They are more progressive, especially for women, because they consider women's experience together with the perspective of *keadilan hakiki* and *mubadalah*. Through this unique approach, KUPI

succeeded in creating a balance between two objectives. On the one hand it wanted to be distinctive while on the other hand it mitigated the risk of potential religious and ideological conflicts, both within KUPI internally and externally between KUPI and established ulama institutions.

Apart from establishing juristic authority through fatwa-making—its ulama-ness, so to speak—KUPI actively engages in exerting a different mode of authority, namely community-based authority that has been well developed at the grassroots level so that it can be an asset for the formation of the community of KUPI at the national level, as will be explained in the next section.

### **KUPI: A Transformation from Intellectual to Social Movement**

As a reiteration of the effort of KUPI activists to transform a scholarly/intellectual movement into a more action-driven movement, in this section I argue that KUPI is a social movement that meets Tarrow's definition (1998, 4). Tarrow understands a social movement as carrying out collective challenges, based on common purposes and social solidarities, in sustained interaction with elites, opponents, and authorities. These four resources—"collective challenges, common purposes, social solidarity, and sustained interaction"—can mobilize people to get together in the field, form alliances, oppose challengers, and be motivated to achieve their goals for the future after the success of mobilization. Concerning KUPI, I have shown earlier that KUPI is a form of collective action energized by both male and female Islamic scholars from different backgrounds, and subjectivities who were brought together at the event by a shared purpose and solidarity to reclaim female Islamic authority. KUPI emerged from a long history of intellectual movements initiated by Muslim gender activists and continues to promote social justice through the roles of female ulama.

KUPI's model for mobilization, according to Helmi Ali, a member of KUPI, is based on three functional divisions, namely

front line, back line, and supporting system. The forefront consists of a campaign and a mode of advocacy that tends to be political. KUPI applies the front line as a platform for the Indonesian female ulama movement to create welfare for humanity. The back line works at the cultural level, and is focused on education and changing people's mindset at the grassroots. This function is also called the organizing function. The back line is the area of work for female ulama who deal directly with the community and build community-based authority. The supporting systems, finally, are several parties that provide means of analysis, formulate methodologies and frameworks in the movement to help the front and back lines, and streamline campaign work, organizing, and mobilization. The supporting systems of KUPI are the organizations Rahima, Fahmina, and Alimat.<sup>131</sup>

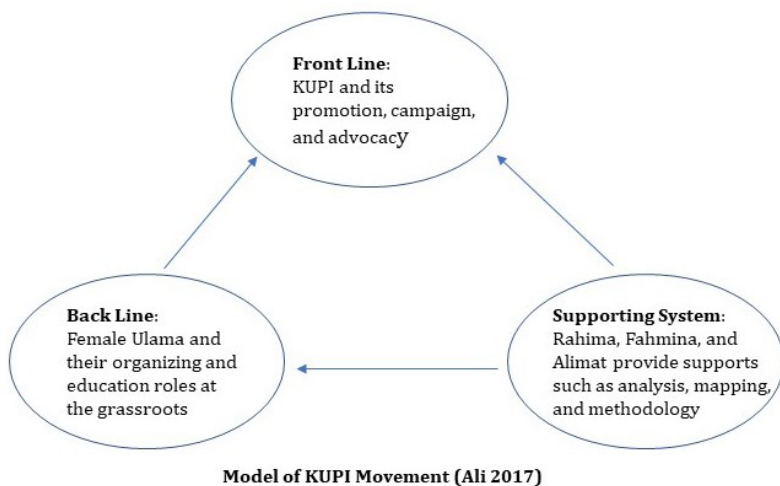


FIGURE 14: model of KUPI movement drawn by Helmi Ali, one of advisory board of Rahima and KUPI. Photo by the author.

Female ulama work individually at the local level by educating their community and building a community-based authority. To play a role at a level beyond local communities,

131 Author's interview with Helmi Ali, 5 April 2017.

establish more legitimate authority, and be involved in policy-making, female ulama shape an alliance and solidarity in a movement that began with the 2017 KUPI conference. Through KUPI, they carry out promotions, campaigns, and advocacy to achieve their goals, supported by the organizations. However, this alliance of female ulama does not aspire to become a formal hierarchical organization. This is because, according to Helmi Ali, KUPI is by nature a site of sharing and forming solidarity where its supporters and followers gather and voice something together, which is to reclaim Islamic authority for female ulama. The institutionalization of KUPI into a formal hierarchical organization could affect its sustainability because of the potential intervention and conflict of interest.<sup>132</sup> Nur Rofiah stated, "So KUPI is a meeting forum. And indeed, it was set from the start without an institutional tone. Because once it exists, the substance can be lost. People will argue about who is in charge and lobby here and there."<sup>133</sup>

The fact that KUPI is not a formal, hierarchical, registered organization does not mean that it lacks a stable organizational leadership and supporters. The organization of a movement can be considered from different perspectives. The most common understanding of the organization is the "formal hierarchical organization". Zald and McCarthy, as cited by Tarrow, define this as "a complex, or formal, organization that identifies its goals with the preferences of a social movement or a countermovement and attempts to implement those goals". The second way of understanding a movement is as "the organization of collective action at the point of contact with the opponent". It starts out as momentary meetings of opponents but can develop into "informal social networks, to formal branches, clubs, and even military-like cells". Formal organizations can also control this model, for example by coalitions of organizations. Social networks become the most potential factor motivating people to join a social

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132 Ibid.

133 Author's interview with Nur Rofiah, 14 March 2018.

movement. The third meaning of organization, according to Diani as cited by Tarrow, relates to “the connective structures that link leaders and followers, center and periphery, and different parts of a movement sector, permitting coordination and aggregation between movement organizations and allowing movements to persist even when formal organization is lacking”. This meaning implies a semi-autonomous and grounded local component connected by connective structures and organized by the formal organization. This model is considered as the most effective form of organization movement (1998, 123-4), and it is also the model that best helps us understand KUPI as a social movement.

KUPI tries to achieve a connective structure through what I call community-based authority. I define this as a mode of authority within community circles achieved by building relationships and being involved with the community for a long period. This is especially important for female ulama because they cannot draw on a long history of cultural assumptions about the legitimacy of men’s leadership. This is not, of course, to suggest that community support is unimportant for male ulama. For instance, Jeremy Kingsley, as cited by Feener (2014, 511), has studied the various sources from which the Tuan Guru, male religious leaders on the eastern Indonesian island of Lombok, derive their authority. Like the women described in this paper, they must also be seen as knowledgeable about religious texts and capable of assuming leadership positions, be known for personal piety and connections with centres of Islamic learning, and exhibit personal charisma. However, the evidence indicates that a male ulama who falls short in any of these categories can still draw on centuries of tradition that affirms men’s religious authority and links them with institutional and collective authority. This is not the case for women.

Being educated and graduating with an Islamic education such as that acquired in a *pesantren* is not the only prerequisite for female ulama to gain Islamic authority. They must also demonstrate their ability in leading the community, solving

ethical and social problems by providing guidance and advice. Unlike the men, they do not have the privilege of becoming a religious leader and ulama, which makes it much easier to gain authority within the community. In contrast to men, women are often questioned about their qualifications, virtue, and abilities. Moreover, systems and authoritative institutions in Indonesia relating to religious matters are dominated entirely by men.

The community-based authority of female ulama can be manifested, first, in religious authority in providing religious advice and fatwas for the community. I have described earlier in Chapter 3 how female ulama play their role as fatwa-givers for their community. Questions asked by *jamaah* range from daily *ubudiya* (worshiping Allah) to more pressing concerns related to working as migrant workers and cases of marital violence. Holding community-based authority also enables the female ulama to exercise social and cultural authority and organizational authority. Community-based authority implies a link between female ulama and *jamaah* that is not a formal hierarchical organization but instead refers to a unit of connective structures that allow for coordination and continuity of efforts to achieve goals among leaders and followers even without a formal organization. Likewise, when female ulama build alliances among Islamic scholars at the national level, forming a national community-based authority, this authority strengthens their solidarity and links between the centre of the KUPI movement and people at the grassroots.

The link between KUPI and female ulama supporters can be seen from two points of views. On the one hand, KUPI tries to reach the lowest layer of followers, namely the *jamaah* of female ulama, through the activities of female ulama. The female ulama are the bearers and spokespersons of the significant results of KUPI, such as fatwas on sexual violence, child marriage, and natural degradation and the framework of *keadilan hakiki* and *mubadalah* for the reinterpretation of religious texts. On the other hand, female ulama have benefited from KUPI as a platform for

their social movement and site for sharing knowledge, building solidarity, and strengthening their authority as ulama. Umdatul Khoirot, a leader of Pesantren As-Saidiyyah in Jombang, East Java, stated that KUPI is not merely a congress; it signifies the awakening of the Indonesian female ulama. "Solidarity among female ulama in KUPI gives positive energy and awareness to help them grow because the problem of women's deterioration has gone global," she added. This congress also allows her to knit back together old networks that had been cut off and encourage her colleagues who have come a long way in struggling to voice women's rights.<sup>134</sup>

KUPI is driven not only by social solidarity among female ulama but also by an intellectual network that connects and allows this female ulama movement to take root from the national level down to the grassroots. For example, Ratna Ulfa, a female ulama from Purworejo, Central Java, was inspired and motivated to intensify education, preaching, and discussion of the Qur'an and hadith with a new perspective learnt from KUPI in order to widen the insight of her *jamaah*.<sup>135</sup> Umdatul Khoirot synergized her activities with the Women's Crisis Center in Jombang to establish an organization named Pesantren Care. With other female *pesantren* leaders, she organizes programmes dealing with local issues affecting women and children, such as bullying and sexual violence. Nuril Hidayati, a lecturer at the State Higher School for Islamic Studies in Kediri, East Java, said, "I am a lecturer, gender activist, and housewife. When I carry out these roles, I always apply and reiterate important points about gender justice. In every event, I campaign for *mubadalah* and *keadilan hakiki* of KUPI."<sup>136</sup> This intellectual network also strengthens the Islamic authority of female ulama so that they are known as female ulama of the KUPI network. Dewi Setyarini, the director of Lembaga Penyiaran Publik Lokal (LPPL, the Radio

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134 Author's interview with Umdatul Khoirot, 9 May 2018.

135 Author's interview with Ratna Ulfa, 9 May 2018.

136 Author's interview with Nuril Hidayati, 9 May 2018.

Local Public Broadcasting Institutions) in Purbalingga, Central Java, admits that the Indonesian Muslim community requires many competent *ustazah*, especially for media broadcasting. And in responding to this need, the KUPI ulama network has established a website displaying names of male and female preachers for media references, namely [cariustadz.id](http://cariustadz.id).

In addition to community-based authority, the support system played by formal organizations, mainly Rahima, Fahmina and Alimat, plays an essential role in maintaining the continuity of the KUPI movement. These organizations facilitated follow-up forums after the congress in Cirebon, for example, and the launches of KUPI books attended by female ulama, such as Umdatul Khoirot and Ratna Ulfa.<sup>137</sup> Those formal organizations also maintain the network with governmental institutions by conducting national programmes on women and children. Nuril Hidayati shared her experience of attending and contributing in formulating recommendations at the National Symposium on the Role of Women and Female Ulama as Peace Leaders organized by the Ministry of Women's Empowerment and Child Protection of the Republic of Indonesia in December 2017. This programme took place in Jakarta.<sup>138</sup> Through the international network of those organizations, delegates of KUPI, namely Badriyah Fayumi, Faqihuddin Abdul Kodir, Kamala Chandrakirana, and Ruby Kholifah were invited by Coventry University in the United Kingdom in March 2018 to reflect on KUPI.

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137 KUPI published six books containing all documents about KUPI, including the preparation, the process, and results. The books are: *Dokumen Resmi Proses dan Hasil Kongres Ulama Perempuan Indonesia 25-27 April 2017* (Tim KUPI 2017); *Diskursus Keulamaan Perempuan Indonesia: Kumpulan Tulisan Terkait Materi Kongres Ulama Perempuan Indonesia 25-27 April 2017* (Tim KUPI 2017); *Proyeksi Masa Depan Ulama Perempuan Indonesia; Kumpulan Tulisan Refleksi Tentang Kongres Ulama Perempuan Indonesia 25-27 April 2017* (Tim KUPI 2017); *Liputan Media Kongres Ulama Perempuan Indonesia 25-27 April 2017* (Tim KUPI 2017); *Menguatkan Eksistensi dan Peran Ulama Perempuan Indonesia: Rencana Strategis Gerakan Keulamaan Perempuan Indonesia Paska KUPI, 2018-2022* (Faqihuddin Abdul Kodir 2018); *Metodologi Fatwa KUPI: Pokok-pokok Pikiran Musyawarah Keagamaan Kongres Ulama Perempuan Indonesia* (Faqihuddin Abdul Kodir 2021). KUPI also launched a repository website, namely KUPIPEDIA, containing the profiles of female and male ulama who supporting KUPI, key concepts that are commonly held by KUPI, the discourse of Islamic law which documents articles on the Islamic law concept written by KUPI's ulama, an online library, namely Khazanah, lists of networks including communities and institutions, and all kinds of information about KUPI. The website address is [www.kupipedia.id](http://www.kupipedia.id).

138 Author's interview with Nuril Hidayati, 9 May 2018.

On top of all these efforts to mobilize and sustain the KUPI movement, the media also play an important role. KUPI members and networks are spread throughout Indonesia so the most effective way to stay connected is through media. KUPI has several WhatsApp groups. During the conference, these functioned as a medium for coordination. Today, they are maintained and used for sharing information and updates about KUPI activities and sustaining the network. Two online media sites that have become a platform to promote KUPI's ideas are Mubadalah.id and Kupipedia.id. Umdatul Khoirot explained that she often read articles written by KUPI experts posted in the KUPI WhatsApp group and on Mubadalah.id.<sup>139</sup> These digital media display and explicitly evoke the religious authority of female ulama. One form that can be found in these media is the religious opinions of female ulama, presented in the form of articles or ethical questions and answers as the formulation of the fatwa. The discussion on the mediatization of fatwas and female Islamic authority will follow in the next chapter.

## Conclusion

Kongres Ulama Perempuan Indonesia (KUPI, the Indonesian Congress of Women Ulama) was preceded by a long struggle of intellectual movements that started in the late 1980s and that were initiated by Muslim activists with their organizations, such as P3M. These organizations conducted training and educational programmes to develop critical thinking among *pesantren* generations and leaders including women. In this era, Islam and feminism increasingly converged. Muslim activists pioneered the Islamic feminist movement in Indonesia, which according to Etin Anwar is included in the fifth era of the genealogy of Islamic feminism in Indonesia.

KUPI was held in Pesantren Jambu Al-Islamy, Cirebon, on 25-27 April 2017 and became a site of sharing and exchanging

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139 Author's interview with Umdatul Khoirot, 9 May 2018.

the knowledge and experience of female ulama and secular activists, who have different bases of education and areas of expertise. Both groups have benefited and been supported by each other's knowledge and experience, and therefore their collaboration has generated distinctive processes and results for KUPI, such as the building of its national and local networks. KUPI has shown that this congress is not only an intellectual movement, but also a social movement. Through KUPI, female ulama carry out promotions, campaigns, and advocacy to create social justice for all human beings, both women and men, from an Islamic perspective.

In achieving KUPI's goal, which is to affirm the existence of female Islamic scholars and to appreciate their roles and works in realizing Islamic values, national identity, and humanity, KUPI seeks to gain juristic authority through fatwa-making. Besides, KUPI also builds community-based authority to ground KUPI's framework of a new method for interpreting texts and to sustain the movement. The accomplishment of KUPI supports the idea that the two paradigms, Islam and feminism, can be aligned, as reflected through the practice of issuing fatwas. KUPI's fatwas are not just Islamic scholarly knowledge production generated by female ulama, but also a knowledge product that has resulted from a critical and gender perspective rooted in the context and experience of working with women's issues in everyday life.

This congress also shows that the feminisms that circulate in Indonesia are not unidirectional and merely adopted and applied as coined and developed in the West and the Middle East. KUPI is the continuation of attempts to localize and recontextualize the ideas of feminism in the local context of Indonesian Muslim society. The *mubadalah*, *ma'ruf*, and *keadilan hakiki* approaches in interpreting Islamic texts and issuing fatwas exemplify thoughts resulting from reflection on local experience and knowledge of Indonesia.

## Interlude

### Nyi Ruq: Writing for the Question-and-Answer Section

One of the resource persons for the Question-and-Answer (Q&A) section of *Swara Rahima*, a community magazine published by Rahima, is Nyi Siti Ruqayyah. She is one of the board members of Rahima Association together with Bu Afwah Mumtazah. She has been involved with the publication of the Q&A section of *Swara Rahima* since 2001. The editorial team of *Swara Rahima* sent a question to Nyi Ruq to be answered and received the answer back for editing before publication.

Nyi Ruq was born in Bondowoso, East Java, on 2 December 1970. She grew up in a noble family of Pesantren Kiai Mas Prajekan, Bondowoso, East Java, which was founded by Kiai Mas Atmari (d. 1892), well known as Kiai Mas. According to Nyi Ruq, the community believes that Kiai Mas was the first ulama to teach Islam in Prajekan. She admitted that one of the factors that strengthened her religious authority was the charisma inherited from her family. Nyi Ruq's great-grandfather, Kiai Suhud, was the younger brother of Kiai Mas. Nyi Ruq's father, K.H. Ma'shum Dimyati, was the grandson of Kiai Suhud. He married Nyai Siti Rusyati. They had six children, and Nyi Ruq was their oldest child. From her father Nyi Ruq learnt Quranic recitation and Islamic knowledge as she grew up. She remembered how her parents loved her as the oldest child in the family. When Nyi Ruq was only forty days old, her father took her when teaching *santris* in the *mushala* (prayer house). He did not mind having to change his shirt and *sarung* after he got dirty from his daughter's pee. Then he returned to his *santris* to resume teaching.

Nyi Ruq's father passed away in 1982. She then moved to her uncle's place in Pesantren Zainul Ishlah, Probolinggo, East Java, to enrol in junior high education. But she could not finish her school because soon after she had to marry her fiancé, to whom she had been engaged since she was nine. He was the son of *kiai* from Pesantren Mabdaul Arifin, Situbondo, East Java. Nyi Ruq was not happy in her marriage. She often passed out and became unconscious. Various treatments were tried, but none of them could make her condition better. In the midst of her suffering, she was able to resume her study on *kitab kuning* and to preach with the supervision of her father-in-law. He was very supportive and became Nyi Ruq's second teacher after her father. Hence her preaching ability developed considerably. When Nyi Ruq was eighteen years old, she preached in small Islamic congregations in her living area and was invited to teach in other places as well. She was appointed by her father-in-law to deliver a speech on behalf of the *pesantren* board when his *pesantren* held the Haflatul Imtihan (post-exam) festival. Her father-in-law also encouraged her to join Fatayat NU, and she was active in its Dakwah Division.

However, in 1992 her father-in-law passed away, and this affected Nyi Ruq's knowledge trajectory as well as her married life. Finally, she got divorced in 1993 and moved back to her hometown with her four-year-old son. In 1994, Nyi Ruq got married for a second time but apparently it did not work out. She even suffered from violence and abuse in the first year of her marriage. During this time, Nyi Ruq still preached to *jamaah* and was active in the Bondowoso branch of Fatayat NU. She was appointed as the head of this wing organization for young NU women from 1996 to 1999. With this position, Nyi Ruq had an opportunity to develop her critical knowledge of gender, Islam, and women's issues which now, according to her, become the foundation of her progressive fatwas. She was invited by P3M to join the Fiqhunnisa' programme organized in Pesantren Nuris, Jember, East Java, in 1997. By then she had a chance to connect with women activists and NGOs in Jakarta, such as Lembaga Bantuan Hukum (LBH, Legal Aid Institute) APIK and Jaringan Peduli Perempuan Korban Kekerasan (the Care Network of Women Victims of Violence), through which she got help to file a divorce because her second husband did not want to divorce. She then got divorced in 2003.

Nyi Ruq's involvement with women's NGOs enriched and broadened her preaching and teaching subjects, and her roles become more established. She joined an interreligious dialogue programme with the United States with around ten women and men leaders from different religious backgrounds. She also participated in the PUP programme, cohort I, in 2005, together with Muslim women leaders from the East Java area. In 2006 she was invited by Sisters in Islam (SIS) Malaysia to share her experience in gender training from an Islamic perspective. In 2009, she went to Hong Kong with Nyai Sinta Nuriyah Wahid, the wife of the former Indonesian president, Abdurrahman Wahid, from Puan Amal Hayati to observe the condition of Indonesian women migrant workers.

Nyi Ruq also became more passionate about spreading her knowledge and experience among other women and communities. Therefore, she accepted the proposal from women in her village to start a *majelis taklim* in 2002, and to establish a *pesantren* for *santriwati* (female students), namely Pesantren Al-Ma'shumi, in 2004. Through her involvement with the community, Nyi Ruq became a prominent preacher and Islamic guide for the people. "I started building the rooms for the *santriwati*. The community supported me. They donated the building materials and foods. This small *pesantren* was a real community project," Nyi Ruq stated. She manages learning programmes in her *majelis taklim* and also teaches *kitab kuning*, such as *ayyuh al walad* and the work of K.H. Hasyim Asy'ari, in the *mushala* of her *pesantren*.

Furthermore, she was motivated to continue her formal education that she had to abandon when she could not stay on in the second year of her junior high school. She found out about this opportunity from the head

of Unit Pelaksana Teknis Dinas (UPTD, the Technical Implementation Unit of Education) Pendidikan of Bondowoso, a government unit institution where she usually preaches. She took the *kejar paket* B and C (acceleration programmes) to obtain diplomas from junior and senior high school so that she could go to college. She got a scholarship to study in the Sekolah Tinggi Agama Islam (Islamic Higher Education) At-Taqwa in Bondowoso. She took four years to finish her college education and graduated in 2015. She then studied for her Master's degree at the Kiai Abdul Chalim Institute at Pacet Mojokerto and graduated in 2020.

For Nyi Ruq, conveying religious opinions as answers to questions about Islamic law or ethics in writing requires attention to the use of written language. That means “easy-to-understand language,” she stated. Therefore, the role of the editor is very important to ensure that Nyi Ruq has written a complete answer, and if not, ask if she can complete the answer. “Because sometimes I answer it globally so it needs a more detailed explanation and also needs attention to be paid to the use of written language,” Nyi Ruq added. The sources that Nyi Ruq uses in providing answers are the Qur'an, hadith, *aqwalul 'ulama*, and Indonesian legislation, such as the 1974 Indonesian marriage law.

In formulating the answer, Nyi Ruq incorporates her Islamic knowledge, interpretation of the text by paying attention to context and reality, as well as a gender perspective. For example, in explaining the prohibition against hitting your wife, Nyi Ruq said that the term *wadhribu* cannot be interpreted textually as “beat it”, because the term in Arabic has many meanings that can be used by adjusting the context of the sentence, as explained in the progressive *tafsir* books. So, in the context of this verse, *wadhribu* can be interpreted as a hit that is not painful or does not hit the face.

Another important aspect in formulating an answer, for Nyi Ruq, is the suitability of the question as well as the conditions and experiences of *mustafti* as written in the question. Nyi Ruq wrote religious opinions regarding women's *aurat*, the legal judgement on sexual intercourse during menstruation, masturbation, breastfeeding rights and obligations, and forcing marriage on children. The question regarding masturbation is “Is it legal to masturbate for a wife whose husband is sick and cannot fulfil his wife's sexual needs?” The snippet of Nyi Ruq's answer that shows concern for the *mustafti* situation is: “According to the Islamic view, as a solution to overcome domestic problems, your temporary step [masturbation] is innocent because you avoid adultery, which is clearly *haram* ... especially because you worry about the impact, as you stated, which is being irritable towards your children due to your unstable psychological condition.”