

# **ASSESSING WOMEN ULAMA'S PERSPECTIVES ON GENDER CONTESTATION AND LAW ESTABLISHMENT IN INDONESIA**

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DOI: <https://doi.org/10.35719/ijlil.v4i1.224>

Abstract: In contrast with the history gender abroad, women's attitudes and relations with various sectors in Indonesia can be said to be completely different. without distinguishing between both of them, local culture and approaches that affect one's perspective. This article describes the history of gender in Indonesia that is inseparable from the dogma and history of Indonesian women who fight for justice before the law, the variety of religions and cultures which are the main concerns that will distinguish the history of gender in Indonesia from others. Women ulama brought up several gender issues in Indonesia which later became the product of a fatwa, including the elaboration of kyai Husein Muhammad highlighting how women's rights fighters in Indonesia seek to ratify the marriage law and bunyai Nur Rafiah's argument saying that gender in Indonesia will never be separated from the method of Islamic studies which views the essential justice for which positions ultimate justice for women as the ultimate target, this argument leads to laws in Indonesia which are starting to lead to the mainstreaming of regulations. This discussion is further reinforced by kyai Faqihudin Abdul Kodir who argued that the goal of gender in Indonesia is the ratification of CEDAW, hence the issuance of UU no. 7 of 1984.

Keywords: Gender concepts in Indonesia, women, ulama, contestation

**IJLIL: INDONESIAN JOURNAL OF LAW AND ISLAMIC LAW**  
**VOLUME 4 NOMOR 1 JANUARI-JUNI 2022;**  
**ISSN 2721-5261 E-ISSN 2775-460X**



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Abstrak: Berbeda dengan wajah perempuan Nusantara, relasi antara laki-laki dan perempuan di Indonesia nyaris berbeda dengan barat, tanpa bermaksud membedakan keduanya, budaya lokal dan ajaran pendahulu sangat mempengaruhi cara pandang seseorang. Dalam artikel ini ditekankan sisi historisitas para perempuan Indonesia yang memperjuangkan keadilan dimata hukum. Selain itu, ragam agama dan budaya di Indonesia juga menjadi sasaran utama yang membedakan antara konsep gender barat dan timur. Kiai Husein menyebutkan, gender muncul di Indonesia salah satunya karena perjuangan para perempuan untuk mengesahkan undang-undang perkawinan. Hampir senada dengan kiai Husein, bunyai Nur Rafiah lebih meyakini bahwa gender di Indonesia juga dipengaruhi oleh metode studi Islam yang memposisikan keadilan Hakiki bagi perempuan menjadi kunci paling utama yang menjadi target final, argumen ini sekaligus mengarah kepada undang-undang di Indonesia yang berangsur mulai mengarah kepada pengarus utamaan aturan yang responsif gender. Hasil kesimpulan dari artikel ini di akhiri dengan pandangan Kiai Faqihudin Abdul Kodir bahwa *goal* dari gender di Indonesia adalah diratifikasinya CEDAW sehingga keluarlah UU no. 7 tahun 1984.

Kata Kunci: Konsep gender di Indonesia, ulama perempuan, kontestasi

## Introduction

Gender studies represent one example of a form of modernization that has emerged as one of the challenges for people to answer in a responsive manner. However, one of the reasons for the inability of Muslims to respond to these challenges is the methodological poverty to interpret the sources of religious teachings, which are actually always alive, creative, active, dynamic, open.<sup>1</sup> The term gender is not a foreign term to people, yet, there is a widespread assumption

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<sup>1</sup> Jamhari & Ismatu Ropi, *Citra Perempuan Dalam Islam* (Jakarta: PT Gramedia Pustaka Utara, 2003), 1.

that gender is only a women's problem, even though it concerns both men and women. Studying gender means studying the roles, functions and relations between men and women. Studying gender means saving women, men and the universe from an act of injustice.<sup>2</sup>

The concept of gender so far is better known as being born from the western spirit; an argument corroborated by a number of scholars. Arif Syamsudin said that to know how feminism was born and developed, one must read the history of the Western world in the Middle Ages where the voices of feminism began to be heard. In the Middle Ages, the church, which served as the center of power with the Pope as supreme leader, positioned itself as the center and source of power. Until the 17th century, the church still maintained its hegemonic position, so things that were feared could shake the authority and legitimacy of the church were considered a threat.<sup>3</sup>

In addition, an English socialist theorist Sheila Rowbotham mentioned that Mary Wollstonecraft, a western intellectual, was called a female scientist who rejected misogyny and then carried out social movements with her followers such as H. Brion from France, C. Zektin from

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<sup>2</sup> Murniati, *Getar Gender* (Magelang: Indonesiatara, 2004), 2.

<sup>3</sup> Arif Syamsuddin, *Orientalis Dan Diabolisme Pemikiran* (Jakarta: Gema Insani Press, 2008), 106.

Germany and Anna Kuliscioff from Italy.<sup>4</sup> Another figure who advocated the power of gender in the west is Sojourner Truth who called for the independence of women in the west in political rights and independence in economic matters.<sup>5</sup> Feminist political actions driven by western liberal feminists had brought changes to the condition of women at that time. Women were finally given their rights to vote in elections in 1920, and at the same time managed to win property rights for women, favorable reproductive freedom and better access to education and profession.<sup>6</sup>

This reality leads to an understanding that western women maintain strong idealism and independence. Killary M Lips, a psychologist and head of the Center for gender studies women's psychology women's studies of Radford University, explained that the use of the term gender began when London scientists replaced the term patriarchal or referred to in another term as sexist, which is an old term, into the term "gender" and its study is called gender discourse. This change in terms is supported by the ambiguous meaning of society,

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<sup>4</sup> Sheilla Rowbotham, *Women in Movement: Feminism and Social Action* (New York: Routledge, 1992, 11).

<sup>5</sup> Arif Syamsuddin, *Orientalis Dan Diabolisme Pemikiran*, 7.

<sup>6</sup> Kamla Bashin and Nighat Said Khan, *Persoalan Pokok Mengenai Feminisme Dan Relevansinya*, Terj. S. Herlina (Jakarta: Gramedia, 1995, 5).

on the assumption that gender differences result from sex differences.<sup>7</sup>

Women's attitudes and relations in Indonesia can be said to be completely different from western women. a reality shaped by the culture, locality and teachings of the predecessors that prioritized natural feminine attitude. In their movement, Indonesian female heroes showed idealism that was not much different from the west, however, in terms of action and attitude, there seems a difference from western activists. For example, in terms of resistance to the dogma of religious leaders, Indonesian female heroes such as Kartini that is known as a figure who studied with Nusantara scholars such as Kiai Soleh Darat. Cut Nyak Dien, Cut Meutia are known as figures inseparable from scholar's doctrine. In fact, Kartini's idealism at the end of her life was eroded by her willingness to polygamy by the Regent of Jepara. Other than Kartini, there are still many women in Indonesia who are not capable of mustering enough courage to express their main ideas or concepts and there are still many women who accept arranged marriages for granted without refusing the slightest on the basis of obedience to their parents. Based on the Komnas Perempuan report on March 8, 2019, complaints of

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<sup>7</sup>In the decades between 1560 and 1648 there was a decline in the status of women in European society. The reforms carried out by the church reformers did little to help the fate of women *Ibid.*, 10.

acts of discrimination against women increased by 14%, which is undoubtedly very saddening because gender education for women in Indonesia is still on a minimal scale.<sup>8</sup>

Another thing to address is the number of women who do double duty as housewives and actors in the public sphere. The opportunity to fight in the legislative arena with a share of 30% for women has not gone optimally. There are still many parties that have not fulfilled the women's quota, even though Article 8 paragraph 1 letter d of the Law states that the condition for political parties to advance in general elections is the inclusion of at least 30% of women's representatives. This reality shows that women are not totally independent in regulating their life as gender is practiced in the west. They are still subject to men intervention to complete domestic or public tasks. One perspective that needs to be explored in addressing the concept of gender in Indonesia is the discourse of women ulama. The female ulema does not strictly refer to women ulama, but also men clerics who are responsive to women's problems and rights. The idea or term for this female ulema was formed in conjunction with the convening of the Indonesian Women Ulama Congress (*KUPI*) for the first time

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<sup>8</sup> Tim Redaksi, "Siaran Pers Dan Lembar Fakta Komnas Perempuan: Catatan Tahunan Kekerasan Terhadap Perempuan 2020," *Siaran Pers Komnas Perempuan*, 6 Maret, 2020, <https://komnasperempuan.go.id/siaran-pers-detail/siaran-pers-dan-lembar-fakta-komnas-perempuan-catatan-tahunan-kekerasan-terhadap-perempuan-2020>.

in Pondok Pesantren Kebon Jambu al-Islamy Cirebon on 25<sup>th</sup> to 27<sup>th</sup> of April 2017.

Through the KUPI, various discourses on women were raised as well as solutions. The event was initiated by Indonesian scholars who not only use the traditional *ansich* paradigm, but also have a dedication to research and academic development. It is headed by Dra. Nyai. Hj. Badriyah Fayumi, L.c, M.A, KH. Husen Muhammad, Leader of the Fahmina Institute as well as mentor and director, K.H. Marzuki Wahid, M.A as mentor, Nyai Dr. Siti Nur Rofi'ah, Bil.Uzm as mentor, Dr. Faqih Abdul Qadir, M.A as chairman of the international seminar committee in the *KUPI*, and Nyai Hj Masriya Amva as the host of the holding of the Indonesian Women Ulama Congress.

There are several fatwas instigated by women ulama in the congress, concerning, among others, sexual violence, child marriage, and destruction of nature. Women ulama have a fatwa that sexual violence is haram, both inside and outside of marriage. Therefore, it is obligatory to take preventive action through family, marriage age of at least 18 years old for women, where this fatwa was realized through text integration and scientific interconnection from the science of hadith, interpretation and history.<sup>9</sup> The KUPI event was not

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<sup>9</sup> Tim Editor, "Fatwa Ulama Perempuan: Syarat Wanita Menikah Minimal Usia 18," *Liputan6*, 28 April, 2017,

only attended by scholars, but also activists formed in non-government organizations, and the Minister of Religion of the Republic of Indonesia, who also attended to inaugurate and support the event. From here, it is evident that the KUPI's fatwas have an influence in the community and for academic development.

From the elaboration above, the author wanted to explore deeper the upheaval of the concept of gender in Indonesia which has a different philosophy with the concept narrated by western scientists. The author will examine views on the concept of gender in Indonesia in the perspective of women ulama. Women ulama became the main subject due to their consistency in assessing, observing as well as evaluating matters concerning gender equality in Indonesia. Women ulama in this study not only refers to women ulama, but also includes ulama responsive to women's issues.

### **Research Methods**

In this article, the researcher used a qualitative method since she wished to describe and analyze the opinion of the initiators of the Indonesian Women's Ulama Congress on the concept of gender in Indonesia, where in a qualitative study subject perspective was emphasized more to see the accuracy of the data. As explained by Moleong quoted by

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<https://www.liputan6.com/news/read/2934619/fatwa-ulama-perempuan-syarat-wanita-menikah-minimal-usia-18>, Accessed on November 2, 2021.

Haris Herdiyansyah, this process meant direction of emphasis on qualitative research in the context of social phenomena by way of interaction between researchers and the object or phenomenon to be studied.<sup>10</sup>

In this study, historical approach was chosen because the researcher wished to look at the emergence of gender theory in Indonesia. To find the root of a problem in religion that puts forward *sanad*, a historical approach is needed. In the terms used by Kuntowijoyo, the historical approach as a guide referred to events in the past with all its culture to serve as an alternative to future events.<sup>11</sup>

Researchers will examine historical data from interviews with women ulama, and data summarized in the work of previous scholars who had recorded the history of Indonesia from time to time. It is hoped that with this historical approach, the concept of gender in Indonesia can be established so as to avoid the expression of emulating or

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<sup>10</sup> Some characteristics of qualitative research include: closely related to the environment which is naturally capable of being an inspiration and source of data and examining social situations. Furthermore, qualitative studies are descriptive and analytic, meaning that the data extracted includes field observations, interview processes and results, that documentation includes subject and object shooting and analyzing documents, all are noted and presented by researchers in the form of sentences not numbers, enrich information through comparison, relation and discovery of fundamental patterns. Haris Herdiansyah, *Metode Penelitian Kualitatif Untuk Ilmu-Ilmu Sosial* (Jakarta: Salemba Humanika, 2010), 7-8.

<sup>11</sup> Dudung Abdurahman, *Metode Penelitian Sejarah* (Ciputat: PT Logos Wacana Ilmu, 1999), 14.

imitating western culture. So far, the common claim is that the attitude of gender-responsive women or men is a form of embodiment of western culture, even though Indonesia itself is rich in characteristic cultural wealth and locality values. The researcher also hoped that in this research, the opinions of Nusantara scholars will emerge describing how the concept of gender is prevalent in discourse debates in Indonesia. The subjects in this study were the initiators of KUPI, including K.H. Husein Muhammad as chairman of the Fahmina Institute, the initiator of the KUPI organization, as well as resource person in KUPI seminars, Dr. Faqih Abdul Qadir, M.A as chairman of the KUPI International seminar committee and Dr. Siti Nur Rofiah, Bil.Uzm as director, resource person and mentor of KUPI.

## **Discussion**

### **Gender in Definitive and Historical Overview**

Gender is an English vocabulary which means "*jenis kelamin*", in the glossary it is referred to as sex & gender. Gender itself is defined as "a trait inherent in men and women who are constructed socially and culturally or socially constructed relationships between women and men that vary and are highly dependent on factors".<sup>12</sup> Gender as known in

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<sup>12</sup> Mufidah CH, *Isu-Isu Gender Kontemporer Dalam Keluarga* (Malang: UIN Maliki Press, 2010), 12.

general by people is used to identify the differences between men and women in terms of biological anatomy (differences in chemical composition, hormones in the body, physical anatomy, reproduction, and other characteristics).<sup>13</sup> On this basis, gender studies emphasize the development of aspects of a person's masculinity or femininity and define men or women from a non-biological point of view.<sup>14</sup>

Furthermore, another concept related to gender is the inherent nature of men or women that is socially and culturally constructed. "Social" means the pattern of human relations with one another, giving rise to the meaning of gender, in other words, gender arises from cultural heritage formed because of habituation. One manifestation of this construction is the assumption that women are gentle, emotional and motherly. While men are considered strong, rational, manly, and mighty. These characteristics are interchangeable properties. That is, there are men who are emotional, gentle, and there are also women who are strong,

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<sup>13</sup> In the glossary, gender is understood as traits inherent in men and women, constructed either socially or culturally and brought about by social formation, socialization, strengthening, and social and cultural construction through religious and state teachings. Sugihastuti and Siti Hariti Satriyani, *Glosarium Seks Dan Gender* (Yogyakarta: Carasvati Books, 2007), 73.

<sup>14</sup> Dyah Ayu Kartika, "An Anti-Feminist Wave In Indonesia's Election," *Newmandala*, 14 April, 2019, <https://www.newmandala.org/an-anti-feminist-wave-in-indonesias-election/>, Accessed on Juli 10, 2019.

rational, and mighty. All are defined in culture and social construction.<sup>15</sup>

The history of gender differences between men and women occurs through a very long process. Therefore, gender differences are caused by many things, including being formed, socialized, strengthened and even constructed socially and culturally through religious and state teachings. The world's feminists have mobilized many movements for equalization.<sup>16</sup> The history informs us that before the revelation of the Qur'an, there were many great civilizations such as Greek, Roman, Indian, Chinese civilization and others that discussed women's problems. Greek society, for example, which is known for the progress of its philosophical thoughts, does not talk much about the rights and obligations of women. Among the elite women were placed in the palace and among lower classes, women suffered a very sad fate,

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<sup>15</sup> Rizki Fachriansyah, "My Body Is Not Mine: Indonesia Without Feminists Group Starts Online Campaign," *TheJakartaPost*, 2019, <https://www.thejakartapost.com/news/2019/04/01/my-body-is-not-mine-indonesia-without-feminists-group-starts-online-campaign.html>, Accessed on Juli 10, 2021.

<sup>16</sup> Mansour Fakhri in his work suggests that the concept of gender is an inherent trait of women or men through social and/or cultural construction. In addition, the term gender refers to the social characteristics and traits associated with men and women. The associated characteristics and traits are based not only on biological differences, but also on social and cultural interpretations of what it means to be male or female. Rahmawati, *Persepsi Remaja Tentang Konsep Maskulin Dan Feminim Dilihat Dari Beberapa Latar Belakangnya. Unpublished Thesis of Department of Educational Psychology and Guidance of UPI Bandung* (Bandung: Unpublished, 2004), 19.

where they were traded, and for those who were married they were completely under the control of their husbands.<sup>17</sup>

In pre-Islamic Arab society, the culture of feeling humiliated when having daughters was prevalent. The reason was that women are a source of humiliation, unproductive creatures, burden of the nation, a source of slander and weakness of their people.<sup>18</sup> Therefore, there is an assumption that the number of women does not need to be large. In fact, a mother was forced to discard her motherly instincts by giving her child to her father to be buried alive in order to escape the humiliation and ridicule of her people, or, raised her (not kill her) but lived with a sense of humiliation.

### **Gender: In the Frame of Locality Value**

Feminism studies entered the scientific treasures starting with an unhappy history because feminism studies

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<sup>17</sup> The gender movement in the west started from the movement of western women from activist circles who fought for equal rights between men and women, then spread to scientists, moving very quickly to penetrate the academic climate in Islamic countries. In Andree Feillard's introduction to the *muqaddimah* by K.H. Husein Muhammad entitled *Fiqh of Women*, Egypt was the first Islamic country to issue a fatwa or women's responsive theory, at the time of Rifa'ah al-Tahtawi (1801-1873). The process of spreading this gender issue through a flagship program called women studies has received international support through CEDAW (*Convention on the Elimination of All Forms of Discrimination Against Women*) ratification. Countries, institutions and organizations around the world continue to support women's movements. Read further in Ali Suki et al, *Global Feminist Politics: Identities in Changing World* (New York: Routledge, 2000).

<sup>18</sup> Yasin Ali, *Huquq Al-Mar'ah Fi Al-Kitabah Al-'Arabiyah Mundzu 'Ashri Al-Nahdlah* (Syiria: Dar al-Thalaah al-Jadidah, 1998), 29-32.

cannot be separated from past stories that reveal the *jahiliyyah* tradition. In general, the pre-Islamic Mecca period is known as the Jahiliyyah period, which was characterized by ignorance in terms of morality and extremes, known as the Barbarian. Phillip K. Hitti described society at this time as a society without a good destiny, without a prophet who protects and without scriptures to be adhered to.<sup>19</sup>

In Indonesia, the word gender for some is still assumed to be any problems that are associated with women. In fact, there are often no word boundaries between gender and sex. Errors in understanding the two terms can lead to multiple interpretations, so that understanding the concept of gender becomes biased. Therefore, in the gender discourse, it is necessary to initiate an in-depth study of religious texts, as well as intertext with various kinds of scholarship.<sup>20</sup> Gender (*al-musawah al-jinsiyah*) and sexuality are two different things. Broadly speaking, the Quran necessitates, although not explicitly, the division of tasks and functions between men and women. The Qur'an explains the obligations of women and who is the breadwinner in the household. Differences between men and women in the Islamic world are referred to as gender differences. Islamic law in classical texts

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<sup>19</sup> Philip K. Hitti, *History of Arabs from Earliest Times to the Present* (London: The Macmillan Press, 1974), 87.

<sup>20</sup> Mansour Faqih, *Analisis Gender Dan Transformasi Sosial* (Yogyakarta: Pustaka Pelajar, 2010), 10.

in the form of fiqh is so far a teaching that can still be compromised with the prevailing religious norms in Indonesia.<sup>21</sup> For example, the phenomenon of men and women in Indonesia both working and earning a living. According to the general opinion, this fact is proof that similar or equal tasks and jobs indicates gender equality.<sup>22</sup>

### **Gender and the History of the Arrival of Women's Ideology in Indonesia**

Discussions about the ideology and movement of Islamic women in Indonesia cannot be separated from gender discourse. The development of the body of knowledge regarding gender in Indonesia is transpiring very liberally. The works of Indonesian thinkers have even risen to the level of foreign thinkers such as Fatima Mernissi and Riffat Hasan. Unfortunately, although the development of ideology is very rapid, in practice the movements are still very slow.<sup>23</sup>

Gender studies in Indonesia began to develop in the 80s, however, gender studies that intersected with religious

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<sup>21</sup> Husein Muhammad, *Fiqih Perempuan: Refleksi Kiai Atas Tafsir Wacana Agama Dan Gender* (Yogyakarta: IRCiSod, 2019), 49.

<sup>22</sup> Husein Muhammad, *Hermeneutika Feminisme Dalam Pemikiran Husein Muhammad* (Semarang: conveyed during the Doctorate Confirmation (Hc) of KH. Husein Muhammad at UIN Walisongo Semarang, 2019), <http://www.hermeneutikafeminisme.com/2016/05/15/hermeneutika-feminisme-dalam-pemikiran-husein-muhammad-kiai-feminis-dari-pondok-pesantren-dar-al-tauhid-cirebon-indonesia/>.

<sup>23</sup> Nani Soewondo, *Kedudukan Wanita Indonesia Dalam Hukum Dan Masyarakat* (Jakarta: Ghalia Indonesia, 1984), 84.

discourse began in the 90s. The emergence of gender discourse at that time was accompanied by the emergence of literature in the form of *tarjamah* which fell into the categorization of feminist studies. Indeed, at first glance many books still tend to be controversial, such as the works of Egyptian scholars such as Riffat Hasan, Huda Sya'rawi, Nawal Syadhali and Hibbah Rauf Izzat,<sup>24</sup> where their thoughts have significantly influenced the gender thinking in Indonesia, until the next period in the 00s where the development of gender issues was rapid and rooted in the body of gender in Indonesia.<sup>25</sup> A number of figures in Indonesia emerged from academic circles, such as Siti Musdah Mulia, Nur Rafi'ah, Nina Nur Mila, KH. Husein Muhammad, Khoirudin Nasution, as well as from activist circles, such as Lies Marcoes, Ratna Megawangi, where they discussed gender issues from various intersections, culture, interpretation, religious texts, psychology, health, and intertextual approaches involving history and religious discourse.

In the typology of gender studies in Indonesia, around 1995, the discourse on gender studies did not focus on the behavior of religious leaders as much as in the previous

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<sup>24</sup> Riffat Hasan, "Teologi Perempuan Dalam Tradisi Islam," *Jurnal Ilmu Dan Kebudayaan Ulumul Quran* V, no. 03 (1994).

<sup>25</sup> Nunuk P Murniati, *Getar Gender; Perempuan Indonesia Dalam Perspektif Agama, Budaya Dan Keluarga, Buku Pertama* (Magelang: Yayasan Indonesia Tera, 2004), 60.

decade which focused on the polygamy of an Islamic boarding school kyai. Gender discourse at this time is more inclined to the defense of human rights and freedom of thought. Until now, gender discourse still revolves around scientists.<sup>26</sup> Gender studies in this era revolves around the creation of humans in a theological approach (creation theology), someone is invited to be given an initiation in the form of knowledge about heaven-hell, Adam and Eve in Muslim and non-Muslim theology. Fatima Mernissi's thoughts also spread in Indonesia, views or interpretations of heaven and hell are the common topic that is interesting to discuss. Such as the claim of understanding that women have inherited sin from Eve as a male seducer, heaven filled with beautiful angels, the image of heaven that is still very materialistic, which is expressed in her work "Women in the Paradise of the Muslims".<sup>27</sup>

### **Gender Genealogy in the West**

Gender vocabulary for western society, especially American society, has been used since the 1960s as a form of radical, conservative, secular and religious struggle with the aim of voicing the existence of women which later gave birth

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<sup>26</sup> Asmaeny Aziz, *Feminisme Profetik* (Yogyakarta: Kreasi Wacana, 2007), 64.

<sup>27</sup> Anthon F. Susanto & H.R Otje Salman, *Teori Hukum, Mengingat, Mengumpulkan Dan Membuka Kembali* (Bandung: Refka Aditama, 2008), 188.

to gender awareness. This era was marked and characterized by demands for freedom and equal rights so that women were equal to men in the social, economic, political and other public spheres.<sup>28</sup> According to Engels, "revolution" is not a guarantee. Equality between men and women is not enough, because women are still disadvantaged by their domestic responsibilities. Women will achieve true justice if the business of managing the household is transformed into a social industry, and the business of raising and educating children becomes a public affair.<sup>29</sup>

The feminist movement was originally a movement of a group of western women activists, which then gradually became an academic wave in universities, including Islamic countries through the "woman studies" program. The women's movement has received "blessing" from the United Nations with the holding of CEDAW (Convention on the Elimination of All Forms of Discrimination Against Women). Countries and institutions as well as organizations in the world continue to support women's movements, although according to Khan this support has a negative effect on the women's movement (read-feminism) because women activists

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<sup>28</sup> Mufidah CH, *Isu-Isu Gender Kontemporer Dalam Keluarga*, 3.

<sup>29</sup> Nani Soewondo, *Kedudukan Wanita Indonesia Dalam Hukum Dan Masyarakat*, 84.

have lost their political point of view (political edge) and also, in some cases,<sup>30</sup> has lost its commitment.<sup>31</sup>

To understand how feminism was born and developed, we have to look at the condition of the West (in this case Europe) in the Middle Ages, when feminist voices began to be heard. During the Middle Ages, the church served as the center of power, and the Pope, as its supreme leader, positioned himself as the center and source of power. Until the 17th century, the church still maintained its hegemonic position, thus, anything that were considered to pose the risk

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<sup>30</sup> However, the feminist movement in the Islamic world actually showed an alarming level of aggressiveness. In the last two decades Pakistani women have become targets of the feminist movement. In 1975 the Pakistani government encouraged women to follow feminist thought, although in 1977, when the process of Islamization and militarization had succeeded in stemming this thought, in 1980, the feminist movement re-emerged in Pakistan significantly. Indonesia also saw similar phenomenon. Gender equality was socialized intensively and systematically throughout the world through the media, mass organizations, NGOs, formal and non-formal educational institutions. The coverage of the feminist movement was very broad, from the international level to the smallest community institution, namely *RT*. In the name of human rights, women activists then tried to influence the government from policy issues to operational technicalities. Their efforts seem to be starting to show results with the ratification of the contents of CEDAW, leading to the enactment of the Law no. 7 of 1984. Then, the Government of Indonesia has passed Law number 23 of 2004 concerning PKDRT (Abolition of Domestic Violence), the Child Protection Law, and they are trying to legalize abortion through amendments to the Health Law. In the politics, feminists were behind the issuance of the Election Law of 2008 regarding the 30-percent quota for women candidates. See further Endang W. Ramli, *Khofifah Indar Parawansa, Mengukur Paradigma, Menembus Tradisi* (Jakarta: Pustaka LP3ES, 2006), xxvii.

<sup>31</sup> Adian Husaini, *Tinjauan Historis Konflik Yahudi, Kristen, Islam* (Yogyakarta: Gema Insani Press, 2004).

of undermining the authority and legitimacy of the church were declared as problems before the Inquisition Court. Consequently, the fate of western women could not escape the abominations of church doctrines that are extreme and incompatible with human nature. In contrast with this opinion, according to Syafiq Hasyim, the feminist movement started in the Middle Ages. Hasyim's opinion was based on Valerie Bryson's opinion in her book *Feminist Political Theory*, which was somewhat different in nuance from the general theoretical assumptions about the emergence of the women's movement in the West. He quoted Bryson saying that as a theoretical construct, the women's movement has been around since the Middle Ages. The argument was that at that time there had been a public debate about women's rights.<sup>32</sup> According to McKay,<sup>33</sup> in the decades between 1560 and 1648, there was a decline in the status of women among European society. The reforms carried out by the church reformers did little to help the fate of women. Spiritual studies were then carried out to renew Saint Paul's concept of women, where women were considered the source of sin and are second-class beings in this world. Although some private opinions and public law relating to the status of women in the west are

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<sup>32</sup> Syafiq Hasyim, *Hal-Hal Tak Terpikirkan Tentang Isu-Isu Keperempuanan Dalam Islam* (Bandung: Mizan, 2001).

<sup>33</sup> Bennet D. Hill and John Buckler McKay, John P, *A History of Western Society, Second Edition* (Boston: Houghton Mifflin Company, 1983).

quite varied, there is solid evidence indicating that women have been regarded as inferior beings.<sup>34</sup>

The bleak history of western women eventually gave birth to women's movements demanding rights and equality with men. The movements produced a number of female figures, including Susan B, Anthony and Elizabeth Cardy Staton, who had their own newspaper named *The Revolution*. Through this newspaper the women wrote their thoughts on issues of divorce, prostitution and the role of the church in subordinating women.<sup>35</sup>

### **The Development of the Concept of Gender in Indonesia**

The concept of gender in Indonesia according to the history described by Chandrawilla and kyai Husein Muhammad has sustained a blend of ideas with religious dogma. The beginning of the founding of the archipelago was decorated by Hindu-Buddhist culture in the first century AD, where along with the emergence of culture religion a number of Hindu-Buddhist kingdoms emerged, such as Majapahit, Kutai and Mataram. Indonesia's cultural diversity is the most obvious differentiator in the upheaval of gender discourse.

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<sup>34</sup> Maududi in his work added, there were two basic church doctrines that made the position of western women in the Middle Ages like an animal. First, the church considered women as mothers of sin that has its roots in evil demons. It was women who plunged men into sin and evil, and lead him to hell. See more in Abul A'la Maududi, *Al-Hijab* (Bandung: Gema Risalah Press, 1995), 23.

<sup>35</sup> *Ibid.*, 25.

Legally, the religions that have emerged in Indonesia are not only Abrahamic in nature, namely Islam and Christianity, but there are also cultural religions that do not adopt a revelation system but discovery, such as Hinduism and Buddhism. Thus, it can be said that the early period of gender in Indonesia was shaped by dogmatic religious teachings that tended to corner women.

In the body of Hindu-Buddhist teachings, women are considered as tools or weapons to turn one away from good deeds. Women are considered as the main cause of immorality. This view is in line with the description of the followers of the Jewish religion who view Eva or "Eve" as a transgressor of "Adam". Women have inherited sins because their ancestors taught negative deeds. Thus, as already mentioned, that in the Torah and Talmud women are judged to be more bitter than death, because they are not perfect, and they are only made of a single rib bone which is only a small part of the male body.

In addition to the religions mentioned above, Islam, as one of the recognized religions in Indonesia, has also provided an overview of women. Basically, there are no verses that implicitly corner women, but various interpretations of a verse make it seem as if this sacred text is not in favor of

women, such as the example of the interpretation of the verse of the Quran Surah An-Nisa' verse 1.<sup>36</sup>

يَا أَيُّهَا النَّاسُ اتَّقُوا رَبَّكُمُ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ وَخَلَقَ مِنْهَا زَوْجَهَا وَبَثَّ  
مِنْهُمَا رِجَالًا كَثِيرًا وَنِسَاءً ۗ وَاتَّقُوا اللَّهَ الَّذِي تَسَاءَلُونَ بِهِ وَالْأَرْحَامَ ۗ إِنَّ اللَّهَ كَانَ عَلَيْكُمْ رَقِيبًا

Meaning: "O humankind! In due reverence for your Lord, keep from disobedience to Him Who created you from a single human self, and from it created its mate, and from the pair of them scattered abroad a multitude of men and women."<sup>37</sup>

In interpreting the verse above, many *mufasssir* have different opinions regarding the word *nafs* in the verse. 6th century scholars such as Jalal al-Din al-Suyuthi or Ibn Kathir understood it as the prophet Adam, while the word *zawjaha* refers to Eve, Adam's wife. Thus, according to that understanding, *zawj* has formed from *nafs*, indicating that women are only a small part of men and because men women are created, considering the view of women being made of crooked ribs. It clashes with the social construct, where before the society women are a group of humans positioned to lead only in the domestic sphere. This domestication has taken root and is believed by some people because it is considered valid and legal due its religious origin.

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<sup>36</sup> Arifah Millati Agustina, Gender Construction in The Perspective of Living Fiqh in Indonesia, *Justicia* Vol 18, No 2 (2021)

<sup>37</sup> Tim Penerjemah Kemenag, *Al-Qur'an Al-Karim* (Semarang: Karya Toha Putra, 2011).

It is undeniable that Indonesia in the early days was laden with the teachings of Hindu-Buddhist religion. While Islam in Indonesia at that time was fostered by the guardians and scholars of the archipelago, the majority of whom were of the Syafi'i school, they were quite creative in presenting fiqh with an archipelago style, such as Abd Rauf as-Singkili with the idea of gender equality, giving birth to the idea of a female king (*sultanah*) in Aceh, which was later followed by the modern cleric Ali Yafi. Sheikh Arsyad al-Banjari who was also very gender responsive, in his book *Sabil al-Muhtadin*, coined the idea of shared property (Javenese: *gono gini*) based on taboo. Therefore, gender discourse in Indonesia is also decorated by the interpretations of Nusantara scholars who view women as equal to men. In fact, in West Sumatra, people use a matrilineal system that favors women in terms of inheritance distribution, where this belief was motivated by the respect for women that was previously taught by Shaykh Khatib al-Minangkabawy. With the teachings of Shaykh Abd Rauf al-Singkily with his *sulthanah* system, Shaykh Arsyad Al Banjari with his *gono-gini* system, and Shaykh Khatib with the matrilineal system which favors the inheritance share to women over men, the establishment of Islamic law in Indonesia in the post-reform era can also be highlighted as a form of respect for women. Not only about marriage or inheritance, many things are discussed in terms of divorce.

Women, according to the interpretation of Nusantara scholars of fiqh texts, have the right to file for divorce in court if they feel they have been treated unfairly in the household.

From the explanation above, gender and the relationship between Islam and local culture can be categorized as follows. *First, tahmil* (appreciative), that Islam preserves a culture that does not conflict with Islamic principles, including a friendly attitude towards women. For example, Islam respects women who work for the benefit of the family. *Second, tahrim* (destructive), that Islam abolishes Arab culture that is not in accordance with Islamic principles and is discriminatory against women. For example, slavery and exploitation of women. *Third, taghyir* (reconstructive), that Islam adopts several Arab cultures with some changes that are good and in accordance with the locality of a region, such as the inheritance system which no longer dictates that men should be entitled to more shares than women, but takes into account the benefit and prioritizes the concept of justice.

### **Opinion of Women Ulama (KUPI) on the Concept of Gender in Indonesia**

In understanding the concept of gender in Indonesia, the initiators of Women Ulama Congress presented a variety of opinions. The gender equality jargon echoed by gender activists and observers in Indonesia seems to be increasing

and massive. Considering the general overview of gender in Indonesia, it seems to be defined as a condition that is closely related to human rights.

Based on interviews with women ulama, the researcher documented several views on gender in Indonesia. KH. Hussein Muhammad argued that there are different perspectives on gender between Indonesia and the west. According to him, women in Indonesia fight for gender equality not to beat men like the western gender whose emergence began with the suppression by religious authority carried out by church officials. Gender in Indonesia has a spirit to equalize fellow creatures of God, namely humans and nature. As the data presented by Gadis Arivia, she clarified that the western concept of gender covers three decades, all of which are fueled by the spirit of eliminating oppression.

In his statement, KH. Hussein Muhammad classified some of his statements about gender in Indonesia.

1. Reformulation of family law in Indonesia is a form of equalization of women's rights over men using the intertext method. For example, marital matters, where in KHI the mentioned marriage age limit for women was 16, and he explained that Islamic historical truth indicates a minimum age of 18 years.
2. The proportional and contextual reading of religious texts is also another point to distinguish the concept of gender

in Indonesia and the west. If the west in the postmodernism school uses biblical ideas that are inclined to the perspective of male power, then in Indonesia, in accordance with the social and cultural conditions of the people, the text is interpreted as local conditions or called the living Quran.

3. Understanding fiqh as an Indonesian legal product must entail a local ijtihad or Indonesian madhhab. According to KH. Husein Muhammad, it is important to pay attention to work assignments and sexual relations, including family responsibilities and maintenance, wife and husband duties, problems with wives working outside the home, working women and sexual relations.
4. Some articles in Islamic family law in Indonesia are still discriminative, such as one known as *fiqh al ahwal al syakhsiiyah*. In the west, this article is better known as personal statute or personal law. This law concerns the stipulations on marriage, divorce, reconciliation and inheritance. Discrimination in the family law is not necessarily the realization of the ideals of the state, but a one-sided interpretation of women.<sup>38</sup>

The second interview was with Mrs. Nur Rafiah, one of the initiators of the KUPI who is active in Islamic Gender

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<sup>38</sup> The results of interview with KH Husein Muhammad, the Chairperson of the Fahmina Institute Foundation Arjawinangun Cirebon, West Java.

Studies.<sup>39</sup> In her description, gender in Indonesia will never be separated from the method of Islamic studies that views true justice for women, which according to her is important in interpreting the texts and the reality of women from the actual experience of women as individuals, as religious people and as citizens. Therefore, it is necessary to integrate the true justice for women in interpreting *nash* and reality. During our conversation she expressed:

“To understand gender in Indonesia, all we had to do is look at the various prevailing religious dogmas, in Islam, interpret verses and hadiths proportionally and look at each other's circumstances. This is nothing but to realize true justice for men and women. Actually, no specific method is needed to understand reality or texts, but only to ensure that whatever method is used must pay attention to the specific conditions of women, both biological and social, which are certainly different from men.”<sup>40</sup>

According to Mrs. Nur Rofiah, gender in Indonesia carries the spirit of justice not because of oppression, but rather for the sake of realizing the common good called true

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<sup>39</sup> Nur Rofiah, *Metode Studi Islam Keadilan Hakiki Bagi Perempuan, The Paper Was Presented in the Women Ulama Congress in Indonesia (KUPI) at Pondok Pesantren Kebon Jambu Al-Islamy Babakan Ciwaringin* (West Java on 25-27 April 2017/ 28-30 Rajab 1438 H), 5-9.

<sup>40</sup> *Ibid.*, 5-9.

justice. Therefore, the method in interpreting any dogma that is not beneficial must be changed, for example, *al abawi* (patriarchy) must be balanced with substantive equality. That is, in attitude, one should take into account the nature of women with special conditions, biologically, for example, such as the condition of their organ functions, and their reproductive period. Moreover, they must also consider social aspects because inequality in relations with men has been historical for centuries.

Mrs. Nur Rofiah also discussed shifts in social values that also affect people's lives in Indonesia. Hedonism poses a significant challenge. Many Indonesian people are oriented to the western lifestyle, thereby eliminating the cultural values of the archipelago. She also emphasized that one should approach the challenge properly and wisely. The millennial era is growing rapidly and winding in accordance with the conditions and needs of today's society. Various challenges become a shared task and responsibility to build a better and more prosperous humanity. She also reminded that the true nature of human beings is the relationship with the Creator, with humans and with nature. This is the mission of human life. Therefore, gender equality must continue to be better and be fought for the benefit and justice. We should provide ample space for the creation of values of equality in today's society. Furthermore, Mrs. Nur Rofiah also pointed up the

importance of recognizing one's culture, because one way to repel western hegemony is to recognize and cultivate a sense of love for one's own country. Mutual respect and tolerance must also be preserved.

Lastly, the researcher interviewed the founding father of *Qira'ah Mubadalah*, KH. Faqihudin Abdul Kodir.<sup>41</sup> In observing gender in Indonesia, perspective is the key. Exploring the hadith and Quran interpretation in-depth is also equally important because Indonesian society is pluralistic, adheres to several cultures, so a thought called "contextualization" is needed. Regarding criticism of Muslim feminist activists who are "reluctant" to use hadith-based arguments because popular and mainstream hadith often demean and insult women, kyai Faqih called for patience in using hadith as an arena of struggle, not only because *salafi* and *wahhabi* circles use hadith to subordinate women but also because hadith has potent advocacy opportunities for gender justice.

According to kyai Faqih, we do not pay enough attention to hadiths which are in fact advocating but less popular. In violence, polygamy issues, for example, there are many hadiths that go beyond the views of the Quran (which oftentimes is considered ambiguous) which expressly

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<sup>41</sup> Interview with Dr. KH. Faqihudin Abdul Qodir during the Launching of Mubadalah Festival, 26-28 April 2019 at Fahmina Institute, Cirebon.

prohibits violence and rejects polygamy. Therefore, according to kyai Faqih, the experience and knowledge of women as *Rijal al-hadith* should be deepened and used as the main reference; likewise, in determining the criteria for hadith narrators, the behavior of the person who narrates the hadith must be examined in his daily life regarding his attitude to women: whether they are a liar to their wife or perpetrators of violence against their wife. Included in the gender upheaval in Indonesia is struggle about gender history. The feminist movement is developing well not only in the West but also in eastern countries.

## **Conclusion**

After completing the study process on gender in Indonesia, the researcher arrived to two conclusions responding to the question the researcher put forward in the formulation of the problem.

*First*, gender in Indonesia is strongly influenced by the dogma of the interpretation of the ulama towards women. Religious and cultural diversity is the key element that distinguishes between the Western and Eastern concepts of gender, in this case is Indonesia.

*Second*, according to women ulama, the concept in Indonesia is driven by the spirit of the state which is manifested in the seriousness of fighting for the marriage law.

In addition, gender in Indonesia constantly engages in dialogue with the Islamic study method that views true justice for women as a principle and views *nash* and the reality of women from the actual experiences of women as individuals, as religious people and as citizens. This discussion on gender in Indonesia is concluded by the view of kyai Faqihudin Abdul Qodir arguing that the culmination of gender history in Indonesia was the legalization of CEDAW, acting as the trigger for the ratification of other government regulations and policies, which then lead to the formation of NGOs, mass organizations or campuses that support gender-oriented policies.

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