

KONGRES ULAMA PEREMPUAN INDONESIA
kupi
Organized By
KEMMA - ALBAT - FEMMAS



CONGRESS OF
**INDONESIAN
WOMEN ULAMA**

**Official Documents
on Process and Outcome**



25-27th April, 2017
28-30th Rajab, 1438

Pondok Pesantren Kebon Jambu Al-Islamiy
Babakan Ciwaringin Cirebon Jawa Barat

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

Congress of Indonesian Women Ulama:
Official Documents on Process and Outcome
25-27th April, 2017/28-30th Rajab 1438
Pondok Pesantren Kebon Jambu al-Islamy
Babakan Ciwaringan Cirebon Jawa Barat

© KUPI 2017

Author : Tim KUPI
Translator : Andy Yentriyani, Betty Itha Omas, Genta, Hanum Tyagita,
Jack Britton, Lisabona Rahman, Safira Pusparani,
and Yanti Amran
Editor : Keith Langham and Faqihuddin Abdul Kodir

Published by:
Kongres Ulama Perempuan Indonesia

First Edition, October 2017

1. Jakarta Office:
Rahima, Jl. H. Shibi No. 70 RT 07 RW 01 Srengseng Sawah, Jagakarsa, Jakarta 12640. Telp. 021-78881272, Faks: 7873210. Website: www.rahima.or.id. Email: rahima2000@cbn.net.id
2. Cirebon Office:
Jl. Swasembada 15 Majasem Karya Mulya Kota Cirebon Jawa Barat 45131 Telp. 0231-8301548.
Website: www.fahmina.or.id. email: fahmina@fahmina.or.id

Perpustakaan Nasional: Katalog dalam Terbitan (KTD)

Congress of Indonesian Women Ulama:
Official Document of Process and Outcome
25-27th April, 2017/28-30th Rajab, 1438

1st Edition, Oktober 2017

202 halaman, 17 x 25 cm
ISBN: 978-602-6938-11-4

1. Agama dan Perempuan

I. Judul

II. KUPI

**CONGRESS OF INDONESIAN
WOMEN ULAMA:
OFFICIAL DOCUMENTS ON PROCESS AND OUTCOME**

**25-27TH APRIL, 2017
28-30TH RAJAB, 1438**

**PONDOK PESANTREN KEBON JAMBU AL-ISLAMY
BABAKAN CIWARINGIN CIREBON JAWA BARAT**

Strengthening values of Islam,
nationalism, and humanity

PREFACE

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ.
الْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ. وَالصَّلَاةُ وَالسَّلَامُ عَلَى سَيِّدِ الْمُرْسَلِينَ وَعَلَى آلِهِ وَصَحْبِهِ أَجْمَعِينَ.
أَمَّا بَعْدُ.

Praise be forever upon Allah SWT (the most sacred and gracious). By His blessing and guidance, Congress of Indonesia Women Ulama, in the following referred to as “KUPI” (*Kongres Ulama Perempuan Indonesia*) as well as the events which were first initiated in 2016 successfully took place under direction of Madame Haj Masriyah Amva between April 25th & 27th 2017 at the *Kebon Jambu Al-Islamy* Islamic Boarding School, in Babakan Ciwaringin, Cirebon. We thank God that everything ran well and smoothly, indeed better than the committee's expectations. The committee was able to feel the presence of God's “guiding hands” working monumentally and gracefully enabling this historical event, the first of its kind not only in Indonesia, but the world, to be held, to gain significance and by his permission bring positive effects to Muslim society, humanity and for Indonesia as a whole.

Praises and greetings are continuously delivered to the Holy Messenger (Muhammad, peace be upon him), the blessed messenger for the entire universe, of justice, moral values and equality among all human beings and who compliments good deeds, thus bringing universal harmony. Due to such a holy mission, *Musawah* –means literally equality- and SAMARA –abbreviation of *sakinah, mawaddah, rahmah* means tranquility, love, and compassion- (Musawah and SAMARA are two kinds of greetings for the prophet Muhammad) frequently recited in Cirebon have become a spiritual energy for the touched souls in order to implement every good value into real life.

The KUPI ran well and received widespread acknowledgment and public support. The citizen's enthusiasm to enroll as participants and observers was very high. More than 1280 individuals were recorded for signing up, many of which are influential personalities in their own community. The attention and support shown by the public, national figures, government as well as local, national, and international media was enormous. While we are very grateful for that we need to express regret for the limitations of the committee respectfully, for not being able to accommodate more than more than 600 full attendees out of a total of just over 1280 applicants.

KUPI was enacted from the spirit and togetherness of individuals, institutions, and communities who are faithful to Islamic values applicable for both men and women; whether publicly or domestically, including those of moderate Indonesia upholding the significance of our nation. Even though this spirit of togetherness has nurtured long, at least in the three institutions fifteen years experience during the process of KUPI's enactment has faced ups and downs in terms of hopes and doubts, also of desire and fear. In the founding days

KUPI's dream appeared ambitious, but thanks to God, it turned out beautifully upon its realization.

In the beginning the variety of the participants' backgrounds, gave the committee reason to fear of the possibility of conflict and division. Generally, the participants can be divided into the Islamic and secular activist group. Not to mention the different organizational background within the Islamic group; some of whom were from remote provincial areas such as small Muslim teaching-associates which provide basic education but, also teachers of Islamic boarding schools, lecturers and researchers from higher educational institutions, as well as leaders of various larger Islamic organizations. The same issue occurs regarding the background of the activist group members that varied intensely. Moreover in combination with current happenings in the social political election issue in the capital of Jakarta many participants are haunted by the idea of; religious radicalism evolving, and some technical issues regarding the lack of decent infrastructure, unsuitable facilities, and lacking of sources of funds among other.

Thank God, all the doubts were over passed through the spirit of togetherness among all committee members and participants. Mutual understanding, help, and trust shown in all of the activities during the congress was the most supportive. KUPI itself has pointed out that it was a congregational medium for all elements of the nation. The seconds of fear seemed halted with wholeheartedly smiles of satisfaction dominating the opening ceremony that was officially conducted by the participants themselves; representatives of the most eastern, western and central parts of Indonesia. They brought along Qur'an and Hadith (sayings of the Prophet) holding it so tightly to strengthen their soul stance. They also brought the *Kitab Kuning* (widely known as the "Yellow Book" which serves as guidance for the wider understanding of Islam among Indonesian Muslims and covers for example the Hadith, Kalam, Fiqh, Islamic history and culture etc., but also reflecting viewpoints about the duty of human beings to care for and protect our natural environment, keeping waters pure and forests green. During the closing ceremony, the participants were once more strengthened by their soul stance through reading the declaration of Indonesia's Womens' Ulama.

In practice, the KUPI has been followed by 519 registered participants all coming from Indonesia with an additional 131 Indonesian and foreign observers. Female ulama members and activists came from 13 countries: Afghanistan, Bangladesh, Malaysia, Saudi Arabia, Pakistan, Nigeria, Kenya, Singapore, Thailand, the Philippines, Australia, the US, and the Netherlands. Such a number of participants (649, congress participants and observers) doesn't include guests and speakers that also came into open forums, such as the international seminar, national seminar, parallel discussion, and event opening and closing. Counting based on submitted applications there were over 1500 individuals from which 600 occupied the total seating capacity, especially during the opening and closing ceremony.

The participants came from all across Indonesia, from the most eastern regions to those of the west. There were 19 participants from Banten, one from

Bengkulu, Yogyakarta counted 49, Jakarta 106, Jambi five, West Java 113, Central Java 57, East Java 75, West Kalimantan four, South Kalimantan eight, South East Kalimantan one, East Kalimantan one, the Riau Islands two, Lampung 16, Aceh 15, West Nusa Tenggara three, East Nusa Tenggara one, Papua five, West Papua two, Riau two, South Celebes 10, South East Celebes three, North Celebes three, West Sumatera 13, South Sumatera one, and North Sumatera five.

From all of KUPI's participants, around 90% are working at Islamic centers such as Islamic boarding schools, Islamic higher institutions, Al'Quran learning institutions, Islamic teaching institutions, or Islamic organizations either as proprietors, leaders, teachers, lecturers, researchers, students or Qur'an readers. Most of them are also working for NGOs, especially as activists for women's empowerment within their own community. The other 10% are the activists, academics, and journalists that don't come from an Islamic socio-educational background. All along and regardless of differences in background, they have been working together directly or indirectly in order to procreate justice in the relations between men and women.

As a form of responsibility for both the organizer and the public, KUPI organizers wrote an official dossier that includes a report over process and result of the KUPI. It is the highlight of a long collective and participatory processes prior to past congresses. This official dossier is a primary reference for all stakeholders to learn about the process and results of the KUPI, and become a starting point for further involvement in its activities, to be a reference to everyone who would like to apply the thinking methodology and movement strategy that's being brought up by the KUPI, and also to become a model for KUPI's further events. This official dossier is also the only single valid reference at times in which incorrect or invalid views are being directed towards the KUPI.

This first KUPI was initiated and held by 3 institutions that share common visions and have long been involved in various partnerships and synergical events; *Rahima*, *Alimat*, and *Fahmina*. *Rahima*, the centre of education and information covering Islam and women's reproductive health, is a non-governmental organization that is focused on women's empowerment under Islamic perspectives. *Rahima*, officially enacted in Jakarta on August 5, 2000, is meant to respond to the needs of information about Islam and gender. In the beginning, *Rahima* focused on critical education and spreading information about women's rights in the boarding school environment. As time past, due to public demand, *Rahima* expanded its' scope towards other communities outside of the Islamic boarding school sphere, such as Islamic public school, teachers at religious schools, Islam religion teacher at public schools, Al'Quran educational institutions, women Muslim organizations, and university students' organizations, as well as non-governmental institutions. One of *Rahima's* most important programs is the *female ulama* regeneration that has been going on for the past 10 years.

Alimat is an Indonesian NGO movement designated in creating equality and justice towards gender roles within family institutions under the Islamic perspective. *Alimat* was enacted on May 12th 2009 in Jakarta by several activists with concern towards women within the family, such as from the *National*

Commission Against Violence on Women (Komnas Perempuan), Fatayat NU (Nahdlatul Ulama), Aisyiyah, Naswiatul Aisyiyah, Lakpesdam NU (Research Body of Nahdlatul Ulama), Pekka (Perempuan Kepala Rumah Tangga), KPI (Koalisi Perempuan Indonesia), PSW UIN (Pusat Studi Wanita Universitas Islam Negeri) Sunan Kalijaga Yogyakarta, PSG IAIN (Pusat Studi Gender Institut Agama Islam Negeri) Pekalongan, and Universitas Pancasila, Rahima, Fahmina, and GPPBM (Gerakan Perempuan untuk Perlindungan Buruh Migran, which is the Women's Movement for the Protection of Migrant Workers). In a struggle to realize its' vision and missions, *Alimat* expanded through the world's Islamic women movements, such as *Musawah* organized by activists from 40 countries. After five years in cooperation with *Pekka*, *Alimat* conducted several meetings, workshops, and training programs with the ulama community in Indonesia about justifiable family law.

On the other hand, *Fahmina*, is an institution that pursues transformative initiatives to change the life of all citizens continuously in the direction of the justified, dignified, humane, democratic, and pluralistic social relations based on Islamic schools critical traditions combined with local wisdom, whether on the structural framework or that of the cultural. This initiative was initiated dominated by the concern over the lacking of such Islamic schools'. Since its' initiation in November 1999 at Arjawinangun Cirebon, and then massively held in 2001, *Fahmina* has ever since been upholding yellow book contextualized teaching, Islamic contemporary teaching, and also citizen assistance. Outstandingly welcomed from the young generation and old Islamic leaders *Fahmina* applied in 2003 to be officially enacted as *Fahmina Institution* and 2007 to be enacted as *Fahmina Islamic Studies Institute (ISIF)*. One of *Fahmina's* important programs is the Islamic and Gender training that calls upon activists, ulama, and also policy makers. This program has been held since 2003 in several regions of Indonesia, and even abroad such as in the Philippines, Malaysia, and Thailand.

The three original institutions and the organizers then chose *Kebon Jambu al-Islamy Pesantren* (Islamic Boarding School) in Babakan Ciwaringin Cirebon, led by a woman ulama, Madame Haj Masriyah Amva as the venue. *Kebon Jambu Pesantren* is the appropriate choice, because it represents the symbol of women's "ulama-hood", has long been partner of the initiating institutions, and is ready to cater the congress' needs through its sources. Moreover, the ulama and students of Islamic schools around Babakan Ciwaringin, various individuals and organizations on regional and national level, private or public, including the national army supported and actively contributed to KUPI.

In the process and active development, several institutions are involved as supporters at specific events, such as the *National Ministry of Religious Affairs, IAIN (Institut Agama Islam Negeri) Syekh Nurjati Cirebon, AMAN (Asian Muslim Action Network) Indonesia, Pekka, Migrant Care, STID (Sekolah Tinggi Ilmu Dakwah) al-Biruni, Forum Pengada Layanan, Komnas Perempuan, Rumah Kitab, and LBH (Lembaga Bantuan Hukum) APIK*. Specifically, AMAN Indonesia has contributed in calling upon several foreign partners. Some individuals also took part providing freewills such as The Vice President of Indonesia, Mr. H. Jusuf

Kalla, Mr. General Brigade National Army Dudung Abdurrahman, Mrs. Gusti Kanjeng Ratu Hemas, Mrs. Netty Heryawan, and Mrs. Nihayatul Wafiroh. Some other institutions such as, BPJS Kesehatan, the Municipal Public Health Office, Public Health Centre Muhammadiyah Cirebon, and Citizen's health Centre Palimanan Cirebon also took part. Some donor institutions from Indonesian partner countries also contributed, either through the aforementioned institutions or directly to the speakers and participants. The special support voluntarily given to the creative team of Gusdurian Network, and media team from Setara Institute which have worked very professionally.

This dossier of the KUPI process and results, even though it has not yet completely recorded the entire congress activity, already attempts to provide a general picture of the KUPI process and goals. It explains that the results of KUPI, in a form of binding promise, stance, and religious perspective as well as recommendation, didn't come spontaneously as the event was going on. They have gone through collective and participatory dialogue and learning. Starting from the concern on the grass root level until discussion on the academic level. The whole congress activity itself, as in the following explained, is a long issue from the beginning up to present. This dossier shows that along the process, KUPI was not only spiritual, cultural, and socially orientated.

During the long process, there were definitely many differences and dynamics. Both the women ulama and the KUPI's committee believe that the potential of men and women, through soul and body, equals the gift of God that should not be degraded by anyone nor in the name of anything. Both male and female ulama should be developed in cooperation and corelation, not power hegemony. The cooperation in spreading faith, create justice, and realize blessing on family level, community, national and international including through the works of transliterating Islamic texts and the involvement in all social political roles of both men and women to create the Nation's ultimate goal as stated in the Constitution of the Republic of Indonesia. Thus, this fundamental faith should be shared by everyone who desires to cooperate with the KUPI implementing the results and recommendations and applying the values in their own institution and community.

This dossier is the official version covering the process and results of its activities, starting from pre-congress programs, congress', side events, up to the KUPI achievements such as the commitment of a female ulama, the result of religious conversation and recommendation, be it the overall or thematic. Compilation, documents, photographs, videos, and clipping as well as media coverage are documented individually and are published separately as supporting documents that complement this dossier. Everything we documented is the result of organizers' voluntary dedication, for those in Jakarta or Cirebon, the active participation of those involved, speakers, attendees and also the donor's kindness (both governmental and non-governmental institutions and individuals as well as international and local corporations).

To all of the parties that have taken part and contributed to the success of KUPI, we express our highest gratitude and appreciation. We sincerely apologize if there was anything unintentionally left out. We pray that all the goodness that

has been infused to the KUPI, and also the morale, financial, social, cultural, and spiritual support from so many parties will become good deeds recorded forever beside God. We also hope that this collective contribution will make the KUPI's footprints and to beneficially function in the history of the female ulama for the sake of Islam, Indonesia and humanity. Amen.

Greetings and blessings, may God be upon you

Pondok Gede, May 20th 2017



Dra. Nyai Hj. Badriyah Fayumi, Lc. MA
Head of Committee of KUPI

CONTENTS

Preface	iii
Contents	ix
I. INTRODUCTION	3
II. ISSUES OF WOMEN AND ULAMA.....	9
A. Women Ulama in the Historical Trajectory of Islam Indonesia.....	9
B. Women Ulama in the History of Islam in Indonesia	11
C. The Concept of Women Ulama Concept.....	15
D. The Perspective of Substantive Justice for Women	17
 <i>Welcoming Speech at KUPI Opening, by the Leader of Pesantren Kebon Jambu, Nyai Hj. Masriyah Amva</i>	 23
III. Series of Events of the Congress of Indonesian Women Ulama.....	29
A. Prayers and Silaturahmi.....	29
B. Kebon Jambu Islamic Boarding School's Anchor	31
C. Opening Activities	33
D. Thematic Dialogue and Religious Consultation.....	35
D. Social, Arts, and Cultural Activities.....	39
 <i>Sholawat (Greetings for the prophet) Musawa</i>	 41
<i>Sholawat (Greetings for the prophet) Samara</i>	42
IV. Results of the Congress of Indonesia Women Ulema	45
A. Pledge of Kebon Jambu on Women Ulama	46
B. Results of Religious Consultation	47
1. <i>The structure of the Results of the Religious Consultation.....</i>	48
2. <i>The Leadership of Religious Consultation</i>	50
 <i>Results of Religious Consultation on Sexual Violence.....</i>	 55
<i>Results of Religious Consultation on Child Marriage.....</i>	91
<i>Results of Religious Consultation on Nature Destruction.....</i>	111

B. Recommendations of the Congress of Indonesian Women Ulama	133
1. General Recommendations	133
2. Thematic Recommendations	136
<i>Closing Remarks, by Minister of Religious Affairs</i>	
<i>(Drs. H. Lukman Hakim Saefuddin) Thematic Recommendations</i>	<i>141</i>
V. Closing.....	145
VI. Appendix	149
<i>Term of References of the KUPI</i>	<i>151</i>
<i>Schedule of Events of the KUPI</i>	<i>156</i>
<i>List of Participants.....</i>	<i>165</i>
<i>List of Observers.....</i>	<i>179</i>
<i>Organizing Committee.....</i>	<i>183</i>
<i>Organizers' Profile</i>	<i>185</i>

INTRODUCTION



Entrance to gate of Pondok Pesantren Kebon Jambu one day before the Congress of Indonesian Women's Ulama/KUPI (24/04/2017)



Nyai Hj. Shinto Nabilah is giving a testimony of being a cleric advocate for female victims of violence at National Seminar on the second day of the Congress/KUPI (26/04/2017)

I. INTRODUCTION

The *Congress of Indonesia Women Ulama* (KUPI) has been finally commenced. It was conducted on April 25-27, 2017 at the *Pondok Pesantren Kebon Jambu al-Islamy* Cirebon. The first of its kind in Indonesia, this Congress was an affirmation of the existence of Indonesian women ulama and the extension of their roles and works in society. KUPI has become a social and cultural media for Indonesian women ulama in building knowledge, to learn from each other and to share experiences, while at the same time strengthening Islamic values, nationhood and humanity.

KUPI serves as a gathering space for women ulama from various educational institutions and organizations, as well as encountering space between women ulama and women empowerment activists, victims of injustice, experts, practitioners, representations of state institutions, and government officials. The encountering space include the physical aspects (most of the participants meet old friends at the KUPI), visions, thoughts, traces of struggle, and the experiences of the participants which are diverse but very clearly shared commonly. KUPI's characteristics which were non-partisan, inclusive, participatory, cross organizational, backgrounds, and generations enabled the encountering space to grow a sense of ownership of the space itself with the results.

Noticing the whole KUPI's processes and series of activities, KUPI's movement was arguably a convergence of the intellectual, cultural, social, and spiritual movements. A series of pre Congress events to the Congress itself and the organizing methods demonstrated the convergence.

The activities prior to the congress included a writing contest on profiles of female ulama, workshops in three regions of Indonesia (in Yogyakarta in October 2016, Padang November 2016 and Makassar February 2017), as well as pre congressional (*halaqah*) discussing materials for the KUPI and the methodology for religious consultation (*musyawarah*, 2-6 April 2017 in Jakarta).

On the first day of the KUPI, on April 25th, 2017, morning until evening, at the IAIN Sheikh Nurjati Cirebon, the International Seminar of Women Ulama was held by presenting speakers from seven Muslim majority countries. It was attended by more than 250 national and international participants. The number of participants exceeded the capacity of available space.

The whole event brought together religious knowledge of female ulama with facts, data, and field experiences of activists (companions of victims, community organizers, service providers) and life experiences of victims of injustice. In all these activities, meetings and the dialectic of texts with context and reality occurred.

On the same day, April 25, 2017, from morning until evening, and before the opening ceremony in the evening, at the Kebon Jambu Islamic Boarding School, there were *Khatam* of al-Qur'an, socialization of reproductive health, in particularly on papsmear and IVA test, and *silaturahmi* of women ulama. A day before the Congress, the 24 April, a mass male-circumcision was conducted for the community around the school. During the three days of the Congress, 25-27 April, also papsmear test and health services were also provided.

During the commencement of KUPI, enormous support from large families of Babakan and the surrounding community was evident. Among other things, the school in Babakan provided accommodation for participants and observers. Prayers and *dhikr* were continuously performed by the school community during the congress.

It all indicated that the KUPI was an activity harmonizing the intellectual movement with social works, cultural activities, and spiritual approaches entrenched and grounded with local values of wisdom. The convergence of intellectual, social, cultural, and spiritual movements was also evident in KUPI's series of events, starting with the opening, national seminars, 9 thematic parallel discussions, religious *musyawarah*, book introduction and cultural rounds until closing.

The KUPI was an implementation of shared vision of the three organizations responsible for the event; their dreams and pioneering works have been started 15 years earlier. KUPI became the culmination point (not the peak) of individual and communal aspirations to strengthen women ulama, in both the existence and the role for Islam, Indonesia, and humanity. The similarities of ideals and values represented by these institutions have metamorphosed into collective characters that continue to influence and direct the whole process of organizing the KUPI. Struggle, sincerity, volunteerism, equality, mutual cooperation, togetherness, and openness were so real in the whole process in organizing the KUPI.

The closer to the day of commencement of the Congress, the collective characters became stronger and more ingrained. Mutuality (*mubaadalah/reciprocity*) approach applied in KUPI's method of interpreting religious texts was implemented concretely in the work of the committees; giving each other spaces, mutual support, understanding, strengthening, appreciation, acceptance, self-control, and mutual tolerance. There wasn't any incident of disagreements, grabbing others' opportunity, or fighting over the stage/spotlight. Even blaming each other did not happen, even though there was a mistake. The collective characters based on the consciousness and patience that always guarded by the souls united by God in the same dream and ideals were what embedded in KUPI. *Subhaanallaah!*

It was indeed the first time KUPI was held. However, KUPI did not make anything entirely "new". This is because women ulama and female clerics in Indonesia are real entities, and they performed a real dedication and contribution in the history of Islam and history of our Indonesian nation. Since the days of the Islamic empires, the colonial era, the period of the movement and the struggle for independence, until the independence era up to the present, the roles of female clerics and male clerics are very real and significant, but with very minimal recognition and not much written in our historiography. The KUPI was present to confirm, affirm, appreciate, and consolidate the ultimate contributions and dedication of women ulama in Indonesia as an indispensable part of the strength of Islam and the nation of Indonesia in building its people, nation and humanity.

The history of the KUPI, the urgency of affirming women ulama in order to strengthen the values of Islam, nationhood, and humanity in the present and future

appearing to be the important reason of KUPI's attraction for the participation of female religious scholars' from various backgrounds, as well as of the interests of observers and researchers, both from within and outside the country.

The active initiative and enthusiasm of women ulama, whose works are concrete, in their participation resulted in providing KUPI a deep-rooted legitimacy. The next legitimacy was the active role and meaningful contribution of all KUPI participants in every forum where various knowledges and experiences were encountered. From international seminars, national dialogues, parallel discussions, to religious deliberations (*musyawarah*), women ulama with activists, experts and academics from various disciplines discussed various themes related to women ulama and contemporary problems faced by the people, society and the nation of Indonesia. These active and constructive roles were possible because the themes discussed provided a new perspective on women ulama, ranging from their existence, roles, challenges, *da'wah* strategies, to the important Islamic study methodology used in addressing various problems on the ground.

Brainstorming, sharing experiences, and productive debates among fellow participants occurred because the entire themes were based on the questions and collective anxieties that are felt and faced by female ulama on a daily basis. In particular, the issue about the existence of women ulama and the three major issues in the Religious Musyawarah, namely child marriage, sexual violence, and natural destruction were discussed earlier in pre-congress *baihtsul masa'il* (formulation of deliberations). The process of selecting and formulating the problem from the beginning adopted participatory methods. The application of participatory methods throughout discussions during the Congress provided strong legitimacy for the themes raised from the KUPI.

Furthermore, the perspective of essential justice and *mubaadalah* (reciprocity) accepted and applied by KUPI participants as a perspective in every discussion and formulation, especially in parallel discussions and religious *musyawarah*, have also become their own scientific legitimacy on the existence of women ulama. What the KUPI produced, in the form of women ulama's pledge, general recommendations and religious *musyawarah* results, was the manifestation of the implementation of this *mubaadalah* and the justice perspective.

In addition to the internal legitimacy derived from the participatory processes and participation, KUPI and its outputs received significant encouraging external legitimacy. The willingness of national leaders to become the advisory board of the KUPI, including the Highest Imam of Masjid Istiqlal, as well as a statement of support from the Vice President, leaders of Islamic mass organizations (Nahdlatul Ulama, Muhammadiyah, Majelis Ulama Indonesia), religious and community influential figures, state officials at the national level (Ministry of Religious Affairs, and Vice Chair of Dewan Perwakilan Daerah Republik Indonesia), provincial to district levels were the evidence of the wide acceptance and appreciation to the commencement of the KUPI, including from male ulama and leaders. The presence of observers, female ulama, and speakers from 11 countries, as well as the special appreciation of the Afghan President toward the KUPI indicated the international recognition. The social legitimacy of other KUPIs was also evident from the media

coverage, which was massive and continuous at national, international and on local media.

The state's positive and immediate concrete responses, especially on the proposed change of minimum age of marriage for women to 18 years [from 16 years] and the establishment of *Ma'had Aly* to produce more women ulama, which was shown by the statement of the Minister of Religious Affairs at the KUPI's closing ceremony, portrayed the legitimacy of strength and influence of KUPI's recommendations and results through Religious *musyawarah*. Continuous initiatives to follow up KUPI by the participants from various regions immediately subsequent to the Congress should also be declared as a real legitimacy of KUPI's existence, perspective, methodology of Islamic studies, and its formulation of the results. All these should be treated with gratefulness, cared for and guarded, because the process and the result of KUPI were jointly owned by women ulama and the Indonesian nation.

In the end, it must be stated that thanks to God's grace and help as well as the sincere dedication and synergistic cooperation from all committees and stakeholders, that the KUPI could be well implemented according to its foreseen purpose. Without turning a blind eye to its limitations, *alhamdulillah*, the planned objectives and outputs of KUPI were achieved, namely, to build a common knowledge of women ulama; to facilitate the encountering space among women ulama in this country and the world and of women ulama together with women empowerment practitioners to conduct critical studies in order to find solutions to problems; and to strengthen the tactical and strategic roles of women ulama in carrying out the *da'wah bil hal* based on the concept of women's empowerment and the strengthening of women's rights in Islam.

It is expected that the official document on the process and the results of the KUPI can serve as theological basis and a solid movement to open the widest space for the integration of women ulama's works into nationhood and humanity. More specifically, this document can provide religious answers to the unrest and public questions about issues that adversely affect women, *dlu'afaa* (weak people) and *mustadl'afiin* (marginalized people); become a religious reference by all parties in their efforts to empower, strengthen, and fulfill the rights of victims on justice and their recovery; inspire the development of a tradition of Islamic thoughts which integrate the perspectives of equality, justice and reciprocal relations of men and women; as well as to become a reference in the reform of laws, policies, and social changes to ensure a just and civilized humanity and the sustainable ecology. *Amiin yaa rabbal 'aalamiin*.

**ISSUES
OF WOMEN AND ULAMA**



Nyai Hj. Masriyah Amva is giving her opening speech at the first day of the Congress (25/04/2017)



It is different from the usual, the Congress was officially opened by representatives from the participants, from East to West end of Indonesia with the sources of knowledge authority of Indonesian women's ulama; namely, Qur'an, Hadith, Islamic classical references, Indonesian Constitution, International Convention, a plant, soil, and water (25/04/2017)

II. ISSUES OF WOMEN AND ULAMA

The history of Islam records that the female ulama ("ulama" being plural of "alim" - describing a studied person) is an integral part of every development within Islamic civilization. Theologically, it begins with the attitude of Prophet Muhammad SAW who respects women and gives way for their freedom. However, the tradition of women ulama within the Islamic world, including Indonesia, is not only influenced by the Prophet SAW's respect for women, but also influenced by the geopolitical, cultural, and assimilation context of Islam with local culture. Islam as practiced in Indonesia is of a direction that is open for women to be active in all spheres, including public service.

In this social and cultural dynamic, the *Congress of Indonesian Women Ulama* (KUPI) was held to affirm the existence of the female ulama and to appreciate their roles and works in realizing Islamic values, national identity and humanity. The first congress was also a fundamental estuary for the meeting of vision, thoughts, and reality, displaying that the female ulama exists and its contributions to religion, national identity, country and humanity are evident. For this vision, *KUPI* needs to affirm the concept of "women ulama" with the perspective of justice serving as the basis. Such a concept and perspective became the foundation of *KUPI*'s expansion of knowledge, both in terms of religious attitudes and opinions, as well as recommendations.

A. Women Ulama in the Historical Trajectory of Islam

From historical literature covering Islamic civilization, the female ulama actually existed since the time of the Prophet Muhammad. They did not only exist but also played an important role in the process of revelation, such as the descending verse 35 of the letter of al-Ahzab which began by the *Ummul Mukminin Ummu Salamah ra.*, who played a role in the dialectics of the texts with reality, such as the arrival of around 60 *sahabiyat* (female companions of the Prophet) who complained to the Prophet about husbands' habit of beating their wives. Then the Prophet denounced the husbands' behavior; and the absorption of the aspirations and the mapping of the condition of women so that they are accommodated in Islamic law, such as the Prophet's answers to the three *sahabiyat* who experienced *istihādlah*. The answers were not the same for each, because the Prophet SAW recognized the state of each individual woman which were not comparable to one another.

At the time of Prophet SAW women played a role in advising the Prophet at important and urgent times, as did *Ummul Mukminin Ummu Salamah ra* during the era of the Hudaibiyah Treaty; playing a role in the process of teaching and disseminating history, religious teachings, and science, as also *Ummul Mukminin Aisha ra*, who is the 4th most companion narrating hadith, and became a reference for male and female companions in religious affairs; playing a role in the formation of society to study directly to the Prophet, such as *Asma 'bint Umar ra* who became spokesperson for *shababiyat* Ansar; hence played a role in criticizing traditions,

phenomena, views, and even policies that potentially harm women, such as a female friend (*shahabiyah*) who criticized those forbidding women to pray in mosques, or shahabiyah Ansar who protested against the *Caliph Umar* that limited dowries under restrictions that are incompatible with *verse 20 of Surat an-Nisa* '.

The existence and roles of the shahabiyat were so real and recognized by all biographers as the best period in the history of Islam. Unfortunately, after the 2nd century of Hijriah/8 AD until the 9th century H / 15 AD, there was a drastic decrease in the role of women in the formation and delivery of knowledge and hadith. The general role of women as teachers and narrators of history however, only a few were recognized by their scholarly account and were able to become *mufti*. The important factor causing the drastic decline of the womens' role in the science of religion is a disparaging view on women, including from male clerics and rulers, with patriarchal traditions more dominant in the dynasties including that of the Abbasid, precisely then as the Islamic scholarship reached its peak.

In the times of the Prophet's companions, the proportion of *shahabiyat* recorded in *ath-Thabaqaat Ibn Sa'd* was 16.5% or more than 1200 persons in *Ibn Sa'ad's* count. At the time of *tabi'in*, the number dropped dramatically to 1.9% (only 90 people) in *Ibn Hibban* were counted. In *tabi'in tabi'* in time, it decreased more. *Ibn Hibban* recorded only 14 women. While *Ibn Hajar* recorded three and *Ibn Sa'ad* 16 women. Since the 2nd century to 5 H, only about 10 women were recognized with each century being a transmitter of religious knowledge. The majority are middle-class and well educated.

Among the few was the name of *Sukainah bint al-Husayn* (735 AD) great-granddaughter of the Prophet. She was a prominent female figure and cleric of her time. Her thoughts were brilliant, her behaviour was beautiful, a great poet, an eminent Arabic poets teacher, such as to *Jarir al-Tamimy* and *Farazdaq* (dated 732 AD). Another great-granddaughter of the Prophet, *Nafisah bint al-Hasan* (d.824) a teacher of hadith for *Imam Shafi'ira* (d. 820). *Imam Ahmad bin Hanbal ra* (d. 855) also studied at *Umm Umar ats-Tsaqafiyah*. While *Al-Hafiz Ibn Mundzir* (932) was also at *Umm Habibah al-Ashbihani* and *Imam al-Qadhi 'Iyadh* (1149) studied at *Khadijah bint Sahnun* and *Shaykh al-Akbar Ibn Arabi* (d.1240). The two women of *Fakhr al-Nisa* and *Qurrah al-Ain* were prominent scholars, such as *Ibn al-Jawzi* (d 1200) and *Ibn Qudamah al-Hanbali* (d. 1233) also studied at *Shuhdah bint al-Abri*.

Beginning in the 6-10th century H (11-15 AD), traces of the women ulama began to be more evident than during the previous century indeed from 13 people in the 5th century to 40 in the 6th century H. In the 8th century H, *Ibn Hajar* recorded 168 female transmitters of religion, both issuers and recipients of diplomas, and he himself studied from 33 female teachers. The ninth century H, *as-Sakhawi* recorded there were about 405 pious women as teachers or transmitters, and he himself studied from 46 women. In the 10th century H, *as-Suyuthi* studied hadith from 33 female teachers. The 11th century H / 16 M to the 13th century H / 19 M, the role of women sharply declined in relation to the overall stagnation in Islamic scholarship and political decline of Muslims.

Beginning in the nineteenth century AD, the call to equalize women in accessing education and criticizing religious discourse which degraded and marginalized

women began to be heard. It was *Rifa'ah al-Thahtawi* from Egypt (1801-1873 AD) who began, and was later welcomed by many scholars, including male clerics such as *Qasim Amin*, *Muhammad Abduh*, and others. This call has been continuously echoing, changing the religious views of some Muslims to be more friendly towards women. It soon spread to various parts of the world, as well as entering the wider areas of thoughts and actions, up to the present.

From the above explanation, we can assert that the role of the women ulama exists and is indeed evident in the history of Islamic civilization but, there were ups and downs throughout the wave of history. However, this is not an indicator of the absence of intelligent women and those with integrity. Therefore, the result of the study of *adz-dzahabi* in *Mizaanul I'tidaal*, the book of *rijaalul hadiits* containing the narrations of hadith which are considered *dla'if*, confirms the capability and credibility of women. He commented on the 4000 narrators whom he claimed were "allegedly lying ". He said, "And I do not see a woman accused of lying and abandoning her hadith."

The decline in the role of women ulama was more due to socio-cultural and political situations not being supportive. At the time of the religious and state authorities held by *Rasulullah SAW*, he really gave actualization space to the *shahabiyat*. The *shahabiyat* also had many initiatives, so that the role of *shahabiyat* could manifest accordingly. On the contrary, when state policy, religious views and traditions did not give space for female clerics, their existence and role declined. Ironically, the history of Islam records at the time of Islamic civilization as reaching its peak in the field of science, female clerics whose names were recognized parallel to male clerics actually declined. It is evident that the role of women ulama cannot be separated from the structural support of state authorities, as well as the cultural support of their communities.

B. Women Ulama in the History of Islam in Indonesia

In the history of Islam in Indonesia the situation was not much different. While there are a number of gold records, there is also a dark side of history during which the potential of female ulama could not be actualized. The history of Islam *Nusantara* (today's Indonesia) recorded some prominent female clerics. Under those was *Sulthanah* who had formal powers and led Muslim kingdoms since the 17th AD. Others were the queens, royal families, and wives, children or close relatives of Islamic leaders or worked independently, with no formal power or influential family. These women ulama, in addition to their caring for their [women] groups, were generally directly involved in the strategic and armed struggle against the Dutch colonialism; actively engaged in the movement to achieve Indonesian independence affirming Islamic values, national identity and humanity, particularly for the progress of women.

In the 17th AD, there was the name of *Sultanah Tajul Alam Safiatuddin Johan Sovereign* (Sultanah of Aceh Darussalam for 34 years, since 1641-1674 AD). This intelligent, legendary Sultanah studied religion from the age of 7 to the famous ulama and scholars, such as *Nur al-Din ar-Raniry*, *Hamzah Fansuri*, *Taqiyyuddin Hasan*, *Muhyiddin Ali*, *Faqih Zainul Abidin*, and others. She mastered the Arabic,

Persian, Spanish and Urdu languages, as well as jurisprudence, literature, history, *mantiq*, philosophy, etc. Her love for science made Aceh Darussalam thrive in the fields of science, literature, and cultural arts. Universities and *dayahs* (Muslim boarding schools) advanced rapidly, including those with different views of those of the Sultanah.

Several books of the great scholars were written at the request of the Sultanah, among others were *Hidaayatul Imaan bi Fadhilil Mana'an* by *Sheikh Nur al-Din ar-Raniry*, *Mir'atut Thullaab fiy Tashiili Ma'rifatil Ahkaam* and 9 other books by *Sheikh Abdurrauf as-Sinkily*, *Risaalah Masaa'il Muhtadiin li Ikhwaanil Mubtadi* by *Sheikh Daud ar-Rumy*. These books were then recommended to the general public to be studied.

Sultanah was also very concerned about the fate of women and developed the *Armada Inong Bale* [female military fleet unit], established diplomatic relations with the *Ottoman Empire*, and faced the Dutch and other forces that threatened the sovereignty of the kingdom of *Aceh Darussalam*. She also became a reference of womens' success in leading the country, thereby opening the path of leadership for the subsequent three sultanah in *Aceh Darussalam*.

There is also *Queen Sinuhun* (1642 AD), wife of the King of the *Sultanate of Palembang Darussalam*, which had a monumental work of "*The Book of the Radiant Light*", which was a written law, a blend of customary- and Islamic law. The book contains five chapters, containing rules on legal- and customary institutions which equate men and women, and protects women. The existence of a heavy penalty for men who seduce women is believed to be the legacy of *Queen Sinuhun*.

To mention is *Fatimah al-Banjary* who lived in the 18th century, the first granddaughter of *Shaykh Muhammad Arsyad al-Banjari* (d. 1710 AD). *Fatimah* mastered various Islamic sciences shared by her grandfather and father, ranging from Arabic, *ushuluddin*, *tafsir*, *hadith*, to *fiqh*. If Banjar's male professor is *Shaykh Arsyad*, then the great female professor is *Fatimah*. There is one Malay-Arab book popular in the Banjar and Malay languages and has become a reference for religion and worship up to the present day, namely *Jamaluddin Settlement* or also known as *Large Settlement* or *Malay Settlement*. This book was first printed in 1897 AD, and has been continuously reprinted since. It is used in the Philippines, Malaysia, Vietnam, Cambodia and Myanmar. According to *Martin van Bruinessen's* research based on the oral speech of *Banjar Society*, this book was written by *Shaykh Fatimah*, who was none other than the niece of *Shaykh Jamaluddin*. This is because there was the tradition that writing a book was task of the male, so that although the original author was female it was ultimately published by a male.

In the 19th century, there was *Queen Aisyah We Tenri Olle*, *Queen Tanete* in South Sulawesi who ruled for 55 years (1855-1910 AD). *Aisha* loved science and mastered literature. Together with her mother, she saved the ancient manuscript *I La Galigo*, a world heritage of epic, written between the 13th and 15th century AD, in the form of poems written in 300,000 lines on palm leaves. This manuscript is longer than the epic *Mahabharata* (160-200 thousand lines). Currently the original manuscript is kept at the *University of Leiden (Netherlands)*. *Aisha* was very concerned about the welfare of her people, and during her reign founded schools for

men and women. She is known for her intelligence and good administrative skills by implementing decentralization, representing a steadfast stance but, flexible matching her personality.

From the *Riau Islands*, there was *King Aisha binti King Solomon* (1870s-1924 AD), the granddaughter of *Raja Ali Haji*, Riau. During her teens she was a prolific writer. She is very critical addressing injustice against women. Her thoughts can be traced through her literary works, namely *Hikayat Samsul Anwar* or *Malikatu Badrul Munir*; *Syair Khadamuddin* (published in 1926); *Syair Religi Tajam Bertimbal*; *Hikayat Syariful Aktar* (published in 1929). *Hikayat Samsul Anwar*, a story depicting a woman availed to free herself from customary suppression to reach knowledge and wisdom of life by passing various challenges as a reflection of the author's life.

Still in the 19th century AD, there was the name of *Tengku Fakinah* (1856-1938 AD), the caregiver of a pesantren (Muslim boarding school) who had vast knowledge of religion. She was from Lam Krak, well known as a great cleric but also war commander and a logistics coordinator for the *Aceh Army* against the Dutch. For 4 years (1914-1918), she went to Mecca for hajj as well as deepening *fiqh* in the Grand Mosque of *Masjidil Haram*. Upon arriving at her hometown, she was greeted royally by students and followers, and then took care of the Muslim boarding school until the end of her life.

Towards the end of the 19th century *Queen Zaleha* (1880-1953 AD), *Prince Antasari's* granddaughter, a warfare fighter and educator of her people. She gathered power of various tribes in Kalimantan against the Dutch, taught literacy and sciences on Islam to Banjar children and counseling for women. After being caught with her mother *Nyai Salmah* in 1906, *Queen Zaleha* was exiled to Bogor and Banjar which was then colonized by the Dutch.

In the period of the Indonesian independence movement, the name *Nyai Siti Walidah* (*Nyai Ahmad Dahlan*, 1872-1946 AD) was gracefully recorded, and enjoyed great influence, especially among the *Muhammadiyah* women. The wife of *Muhammadiyah's* founder and the national hero was a prominent initiator of *Aisyiyah* and *muballighah*. Through "*Sopo Tresno*", *Nyai Walidah* taught religion for women, raised their awareness, invited and brought understanding about the importance of organization and struggle. "*Sopo Tresno*" grew fast and became more influential, so that in 1922 the association was officially established as *Muhammadiyah* Islamic women's organization called *Aisyiyah*. *Nyai Siti Walidah* continued to teach, increase faith, knowledge and skills of all *Aisyiyah* members, established orphanages, schools, hospitals, as well as to create various charitable efforts for the benefit of the people until the end of her life.

A known name from the region of Minang in Sumatera was *Rohana Koedoes* (1884-1972 AD) who since childhood mastered the Dutch, Arabic and Malay languages. Her commitment to women's empowerment is manifested through education, journalism, and economic strengthening. In Koto Gadang, she founded the "*Amai Setia*", a Craft School that taught Islam, manners, literacy, Dutch, various skills and general knowledge to women. The school grew into a savings and credit cooperative, the first of its kind in *Minangkabau*. In *Bukit Tinggi* she founded the "*Rohana School*". Her thoughts, poems, and articles were disseminated through

newspapers which she published already in 1912, "*Sunting Malayu*", and the "*Cahaya Sumatera*" radio news. She was also active in the independence movement.

Still from *Minang*, there was *HR Rasuna Said* (1910-1965 AD), the national hero of Indonesia after whom one of the main thoroughfares in Jakarta is named. She was a political activist but also a leader of movement, education, and journalism. She was active in the organization of *Persatuan Muslim Indonesia* (PERMI) and many other organizations, establishing *Thawalib Puteri* and *Puteri* Schools with "Regret/Menyosal" literacy courses which she initiated. She published and directed the "*Great/RAYA*" newspaper and the magazine "*Menara Puteri*" which led women's groups of the *Laskar Rakyat* [*People's Warriors*]. Her political activities continued until the end of her life. Previously she was imprisoned by the Dutch, and at an advanced age was requested to become a member of the House and then the *Honorary Council of Advisors* to the President.

The female cleric from *Minang* whose name embeds the traces of her clergy is *Rahmah El-Yunusiyah* (1900-1969 AD). At the age of 23, she founded and led the first madrasah for women in Indonesia, *Diniyah Puteri Padang Panjang*, which continues to grow and exist up to the present. *Rahmah's* persistence in the field of education and also her struggle in the independence movement invited the admiration of the Rector of the *University of al-Azhar Cairo* who paid a visit in 1955. Inspired by *Diniyah Puteri*, *al-Azhar* opened *Kulliyyaatul Banaat*, and in 1957 *Rahmah* was awarded the title "*Shaykh*" by the *University of al-Azhar Cairo*. The title of *Shaykh* is a prestigious title given only to very few selected people.

Nyai Khoiriyah Hashim (1906-1983 AD) from *Jombang* in East Java was an indisputable cleric and an expert in management of education and skills. At the age of 27 she began to lead the *Pesantren Tebuireng* (1933-1938). While living in Mecca, she founded the *Madrasah Lil Banaat* in *Makkah al-Mukarramah* in 1942, and she became the teacher. Such an intellectual achievement is not easily to access, including Saudi women themselves. After returning from Mecca (1938-1956) she returned home and founded the *Pondok Putri Seblak Jombang* which to date is still under the auspice of the *Khoiriyah Hasyim Foundation*. Her works and intelligence are recognized among the community of NU, so that she was positioned in the *Syuriah* council of NU and a speaker at various forums in *Bahtsul Masail* of the NU (*Nahdlatul Ulama*)

This represents traces of women ulama in a brief Indonesian history until the early days of independence. There are more women ulama that have not been mentioned here, and a higher number which are not documented. Nevertheless, it is arguable that the traces of history of Indonesian women ulama have been present since the seventeenth century and have not been interrupted, and now more and more women ulama play a role in various fields of life.

Unfortunately, as in the history of Islamic civilization, very little of the great names we mentioned above were written in the history of Indonesia. Let alone the history of the nation, the written history about Islam in Indonesia has not given an honorable place to them. The great name of *Sultanah Safiatuddin* who ruled for 34 years and gave a great merit to Islamic civilization is not recorded in history lessons to be taught in schools. Whereas her legacy exists to date, among others the names

of two great scholars of her time who supported the struggle and policy of *Sultanah* are used to name the leading universities in Aceh, namely *Syah Kuala University* and *Islamic State University ar-Raniry*. Similarly, the relics of *Rahmah el-Yunusiyah*, (her *Diniyah Putri* madrassa) exists to date and has been steadily progressing.

After the independence of Indonesia, Islamic mass organizations began establishing themselves. At the same time, women ulama began to take part in the leadership of the mainstream organizations, in addition to being active in the women's wing organization. For example, in the National Executive Board of Nahdlatul Ulama (PBNU) during the 1950s *Nyai Fatimah*, *Nyai Mahmudah Mawardi*, and *Nyai Khoiriyah Hashim* and between 1962 and 1968 *Prof. Baroroh el-Baried* in the *Central Executive Board of Muhammadiyah*. The presence of women ulama at the leadership position of Islamic mass organizations continues to exist today. Subsequent to the ratification of CEDAW (*Convention on the Elimination of All Forms of Discrimination against Women*) in 1984 and the support for gender mainstreaming policy, along with the increasingly stronger adoption to gender issues by Muslims, the increasing number of women ulama, many private and public Islamic boarding schools and universities of the present, with female and male *santri* and students, have women as the head of institution or rector. Together with men, women ulama occupy leadership positions of various Islamic mass organizations, although the proportion is still significantly lower than that of men.

Noticing the historical trajectory of women in Islamic civilization and Indonesia as briefly mentioned above, during which on one side their existence is present and their contribution real yet, on the other side their existence and role showed ups and downs with many of their names not placed properly in the history of civilization, making it an important and urgent task for the *KUPI* to be held.

Today, Indonesia has witnessed many women ulama actively contributing to affirming Islamic values, nationhood, and humanity. It is time for women ulama to consolidate themselves to strengthen their clerical capacity, meet each other, and then move together to build the civilization of Islam, the nation, and humanity with male clerics, state authorities, and all other elements of civil society.

Thus, the existence of women ulama needs to be further strengthened to foster their roles for Islam, the nation and humanity, and to provide real contribution to the handling of various real-existing problems through the synergy among women themselves and between women ulama and the relevant stakeholders. Women ulama are also expected to revive the spirit of Islam, justice, equality, nationhood, and humanity into the minds and actions of people and society, as well as state law and policy.

C. The Concept of Women Ulama

In terms of language "Women Ulama" is a compound word, constructed from the words ulama and women. The word "ulama" is mentioned throughout the Qur'an and a number of Hadith texts. Linguistically, the word "ulama" is the plural of the word "alim" meaning a knowledgeable or learned person. The term is inclusive and is not limited to specific disciplines or particular genders. Socially, the term

ulama often refers to religious leaders who have an advanced understanding of Islamic roots and conduct themselves nobly providing guidance to people in their daily lives.

The Qur'an mentions the word "alim" (singular form of ulama) 13 times (in passages 9: 105, 13: 9, 32: 6, 33: 92, 34: 3, 35: 38, 39: 46, 59: 22, 62: 8, 18: 64, and 72: 26). All refer to the nature of Allah who is omniscient in all things, both seen and unseen. The word "ulama" itself is mentioned only once in *Surah Fatir* (35: 28). This verse speaks of the basic character of "ulama" who must be of great integrity as they fear only Allah SWT. Another word that comes from the same linguistic roots is "ulul 'ilmi", meaning someone who possesses great knowledge which appears in the *Surah Ali 'Imran* (3:18), regarding the main duty of ulama which is to uphold justice. The Qur'an also mentions several other words that have the same connotation as *ulul 'ilmi*. They are "ulul Abshar" (*QS al-Hashr*, 59: 2), "ulil al-Albab" (*QS Ali Imran*, 3: 191), "Ahl al-Dzikir" (*Surat al-Nahl*, 16: 43), among others.

In the Hadith, the word "ulama" textually refers to the 'heirs' of the *Prophet Muhammad* (*Sunan Abu Dawud*, no. *Hadith*: 3643). Their main task is to guide people on the right path, "ulama" are the opposite to "juhhal", meaning those who are foolish and misguided (*Sahih Bukhari*, no. *Hadith* 100). In both the *Qur'an* and the *Hadiths*, the word "ulama" places more emphasis on the behavior of an individual rather than the type of knowledge they should master.

Departing from the sources of the text above, our position is that "ulama" are people who possess deep knowledge, are fearful of Allah SWT (possess integrity), have noble personalities, and who practice, preach and enforce justice and bring blessings for the entire world. (*rahmatan lil 'alamin*).

The definition provided above has been inspired by the statement of *Habib Abdullah al-Haddad* (d.1132 H / 1720 CE) in *Al-Nashaih Al-Diniyah*, that the knowledge of ulama should lead them to act with noble behavior and carry out good, beneficial deeds (*a'mal shalihah*). The meaning of deep knowledge, referring to the discussion of *ijtihad* by *asy-Syatibi* (798 H / 1388 AD) in *al-Muwafaqat* is the knowledge of religious texts, principles and ideals underpinning religious law (*maqashid asy-yar'iyah*) as well as understanding current social realities (*waqa' al-hayat*).

The word "woman" (which is "perempuan" in Indonesian language) has two meanings, one biological, the other ideological. The biological definition, as defined by the *Great Dictionary of the Indonesian Language*, refers to a person who has a vagina, and can experience menstruation, pregnancy, and childbirth. Meanwhile, in ideological terms, the word "woman" encompasses the perspective, awareness and the movement that is based upon the experiences of women aiming to realize equal gender relations with men, both within the family and society as a whole.

The two meanings above are used to differentiate between the terms female ulama and women ulama. The first term, female ulama, refers to women who have the characteristics of ulama, encompassing both women who possess gender perspective and those who do not. Meanwhile, the term women ulama refers to all ulama, female or male, who possess and incorporate gender perspective in their actions. As a result, women ulama, refers to those who in their work, intellectually

and practically integrate gender perspective with the sources and roots of Islam to respond to the realities of life to create and maintain a just and civil humanity.

The term "Women ulama" implies a continuous process of affirming and ensuring that the work of the ulama with the knowledge they possess, be used to bring about a just and civilized humanity. The meaning of the concept necessitates the involvement of women as subjects as well as beneficiaries in all activities carried out by women ulama. Through the long term process of identification, acknowledgment and appreciation of women ulama from the early days of Islam up until the present day it is a necessity to affirm the existence and legitimacy of women ulama.

Women ulama are people, both women and men, who have deep knowledge, fear of God (integrity), noble personalities, a developed sense of justice and act to bring blessings upon the entire world. Fear of Allah SWT and piety not only apply to men but for women too, not only in public affairs rather, equally in family affairs. Having moral consciousness, enforcing justice, and spreading blessings equally pertain to women as they do to men. So as to create harmonious and equal gender relations between men and women, free of violence and in order to realize the ideals of the Almighty in a just and civilized humanity.

Through this cultural process, a conference, this Congress of Indonesian Women Ulama which is the first of its kind will be held at the *Pondok Pesantren Kebon Jambu Babakan Ciwaringin Cirebon* on the 25-27 April. This congress is being held to acknowledge, legitimize and affirm the work of women ulama in Indonesia, especially those with an awareness and commitment to achieving equal, harmonious gender relations between men and women. This congress is to involve women leaders of Islamic boarding schools (*Pesantren*), supervisors of the *majelis taklim*, female teachers of Islam (*ustadzah*), female preachers (*muballighah*) those who spread Islam (*da'iyah*), activists, academics, experts and observers who are concerned about the issues of Islam and gender equality. The congress will bring these people together from all regions of Indonesia, to study together, make new acquaintances, and exchange experience and knowledge regarding the phenomenon of women ulama.

The concept of the KUPI has been developed as a forum and meeting of female ulama and women ulama to gather and develop solutions to the problems facing Islam, the nation and humanity.

D. The Perspectives of Substantive Justice for Women

One of the principles of Islam serving as main basis is the teaching of *tauhid* (to believe in one God). With this principle, the *KUPI* affirms that the result of religious attitudes and views should inspire faith that "God is merely the Almighty Allah" and rejects all forms of exploitation of humans and nature in no matter the name. Furthermore, this root of *tauhid* necessitates equality between human beings, especially men and women. Their relationships must also be based on the principle of mutuality leading to partnership and cooperation, not domination and hegemony from which violence and oppression develops.

The history of the prophets shows that this monotheistic teaching is directly related to humanizing human, for the submission to those other than Allah always humiliates humanity. The monotheism brought by *Prophet Ibrahim AS* gave birth to rebellion to the power of *King Namrud* whose response resulted in the humiliation of the humanity of his people. He even tried to burn alive the *Prophet Ibrahim AS*, though was not injured at all. The monotheism taught by *Prophet Musa AS* also gave rise to the rebellion to the full power over *Fir'aun*, who humiliated the humanity of his people. He committed mass killings in particularly targeting boys.

The monotheism that the *Prophet Luth AS* brought forth the rebellion against the humiliation of the Sodomites due to their worship for sex that resulted in sexual violence against people of the same sex. Similarly, monotheism brought by Prophet Muhammad SAW gave rise to resistance against the humiliation of human beings due to their worshipping styles, which encouraged to enforce human slavery through war and a debt-bondage system (*riba*). In this struggle, the prophets sided with the structurally weakened group (*mustadl'afiin*) and came face-to-face with *al-malaa'* (the dignitaries of the people), namely the wealthy, the political elites, public figures, customary leaders and even religious figures who were arrogant with their power and conducted blasphemy against humankind (*al-mustakbirin*).

Faith based on the oneness of Allah Almighty encouraged the prophets and their followers to make improvements on an individual level (personal piety) and on a structural level (social piety). Faith not only improves one's relationship with God or with others individually but also promotes the restoration of political, economic, social, cultural, and all other structures. This is the faith that becomes the light of human civilization.

One of the blasphemous acts of humanity which received considerable attention during the time of Prophet Muhammad was the humiliation of women. Arab *Jahiliyah*/uncivilized society adhered to a very strong system of patriarchy (*al-abawi*). This system places men as the primary, central, and sometimes singular authority. While women are marginalized, treated as unimportant, to a large extent even considered non-existent. The Arab community of pre-Islamic era (*Jahili*) at that time indeed expressed doubt that women were human beings, who could worship, would be rewarded, would enter paradise, and were eternal souls which would be held as accountable as for men. This doubt is answered unequivocally in the *Qur'an* that women are human beings (*Surah al-Haataat, 49:13*), who can worship and earn reward (*Surat an-Nahl, 16:97*), can enter paradise (*QS. -Nisaa ' , 4: 124*), and has an eternal soul that is indeed held accountable by Allah (*QS al-An'aam, 6:94*).

In the patriarchal system (*al-abawi*), the humanity of women must be affirmed on the basis of faith. Firstly, women are not male servants, for both are only God's servants (*Surat adz-Dzaariyaat, 51:56*); and women are not under men to be governed or dictated, but are similarly for both maintainers (*khalifah*, literally means vicegerants of God) on earth (*Surat al-Ahzaab, 33:72*) and mutually guard/protect (*auliyaa'*) over others, so that they need to cooperate with one another (*Surah al-Tawbah, 9:71*). Secondly, women do not come from men as if they were second class, because both of them are created from the same material and process (*Surat al-*

Mu'minuun, 23: 12-14) and finally, it is not sex but piety that is the measure of human glory in the sight of Allah (*Surah al-Hujuraat*, 49:13).

This declaration of women's humanity was accompanied by radical changes to the life of women. For example, the prohibition of making women as gifts, pawn or debt guarantees, dowries, and inheritance; the restriction of divorce that may reunite (*thalaq raj'iy*) from infinity to only two times (*Surat an-Nisaa* ', 4: 229) and polygamy from infinity to a maximum of four (*Surat an-Nisaa*, 4: 3) ; the introduction of new values, such as marriage as a strong promise (*miitsaaqan ghaliidhan*, QS an-Nisaa ', 4:21), husband and wife as spouse (*zawaaj*, QS. *ar-Ruum*, 30:21), mutual respectful attitude of partner (*Mu'aasyarah bil-ma'ruuf*, Sura an-Nisaa ', 4:19), and togetherness in solving the problem (*musyaawarah*, Sura al-Baqarah, 2: 233); as well as many others. Islam even asserts that treating men and women equally is part of faith in God (QS. At-Taubah, 9:71) and the good treatment of a husband to his wife as part of the piety of Allah, as the Prophet said:

"Worship you to God in treating your wife(s), because in fact you are proposing her (or them) with the trust of Allah and justifying their vagina with the words of Allah." (Narrated by Bukhari Muslim).

Seeing how repeatedly Islamic teachings humanize woman, *Umar bin Khattab* gave testimony about change of overall views on woman that he and the community experienced of the time: "In the name of Allah, we at the time of ignorance did not take into account that, women at all until words of Allah revealed their names and affirmed that they have parts we should not disturb." (Muslim).

The massive change in the woman's position and role during the history of Islam shows two strategies. First, direct changes of efforts towards the "*Final Goal*". Examples are the total abolition of the tradition to bury female infants alive (QS *an-Nahl*, 16: 58-59), the habit of passing on women as inheritance (QS *an-Nisaa*, 4:19), incest (QS *an-Nisaa* ', 4:23), and forced prostitution (*Surat an-Nuur*, 24:33). Secondly, to change efforts running as a gradual process through the "*Target Between*", meaning with regard to polygamy (*Surat an-Nisaa*, 4: 3), men could initially marry women in unlimited numbers at the same time (1: unlimited), then limited to 4 (1: 4), then 3 (1: 3), then 2 (1:2) then are ordered to monogamy (1:1).

Similarly, inheritance for women (*Surat an-Nisaa*, 4:11), women initially did not receive inheritance but were even inherited themselves (1:0), then they could receive half of men, for example as children (1:2) and also in the same relation of the deceased a child left behind as a grandchild when he died at the time which her inheritance is exactly the same as that of the father (1:1). Similarly, the value of women's testimony (QS. *Al-Baqarah*, 2: 282, *an-Nuur*, 24: 6-9), was initially not calculated at all (1: 0), then accounted as half of men in debt issues (1: 1/2), then exactly the same weight in *li'aan* oath (1: 1).

The Government of Indonesia covers the essential equality of men and women in marriage, inheritance, and testimony as basis of the relevant regulations. In *Law No.1.1974* on Marriage, it is stipulated that in principle a man may only have one wife and a woman may only have one husband (*Article 3 paragraph 1*). Later in the *Compilation of Islamic Law*, the *Presidential Instruction No. 1 of 1991* stated that the heirs could agree to have settlement in the distribution of inheritance, after each

party realized its share (*Article 183*). Then, in *Law No.7 of 1989* renewed by *Law No.3.2006 on Religious Courts*, does not mention the male sex as a prerequisite of candidate for Religious Judges (*Article 13*), so to date women in Indonesia may become Religious Judges, even the Chairperson of the Religious Courts.

Thus, Indonesia views monogamy as an ideal form of marriage, provides opportunities for equal distribution of inheritance between women and men, and applies equal value to judges, witnesses, women and men alike. This affirmation of essential equality, which in the *Qur'an* is introduced through the "*intermediate objective*," is only possible in a democratic country due to the opening of a dialogue space. While the system of the *Khilafah State* as promoted by some Muslim groups today (not the *Khilafah* during the time of *Khulafaur Rashidin*) has a great tendency to treat the "*Goal Between*" as "*Final Goal*" without dialogue so that the result could be on the contrary to the Prophetic Order to fully humanize women. Whereas, essential equality is a prerequisite for the realization of substantive justice for women.

The fundamental difference of "*The Substantive Justice Perspective for Women*" from another perspective is based on attitudes of the biological differences between the sexes, and the fact of inequality of power in the relations between women and men. In the patriarchal system (*al-abawi*), the peculiarities of female organs, functions, and reproductive periods - which make them menstruate, pregnant, give birth, *nifas*, and breastfeeding - serve as a convenient excuse for demeaning women resulting in historic unfair treatment and marginalization of women. The injustices suffered are solely because of their femininity appearing in five forms, namely marginalization, subordination, negative labeling (stereotypes), multiple burdens, as well as violence in verbal, physical, psychological, sexual, economic, and other forms.

Islam, on the contrary, considers that the organs, functions, and reproductive periods of women are noble and thus need to be appreciated, that the injustice of women solely due to her femininity are acts of injustice. The substantive perspective of justice for women affirms that the typical condition of women needs to be given special attention in understanding both religious texts and realities of life. Without such to the peculiarities of the woman, the teachings of religion have great potential to be used only to legitimize acts that actually blame the women victims of the injustice they encountered, hence cause women to be re-victimized.

Islam provides an example of how to place men and women equally and fairly in an essential way. As Muslims, women and men alike share the Five Pillars of Islam, i.e. *shahadah/oath*, 5 times prayer, *zakat*, fasting during *Ramadan*, and *Hajj* for the able. Both are ordered to do good and are forbidden to do evil. However, Islam also pays special attention to the biologically distinctive conditions of women. For example women can abort their prayer obligations during menstruation without having to replace them, and abort the fasting obligations in the month of *Ramadan* by replacing it on another day. Women are also allowed not to fast during *Ramadan* during pregnancy or lactation.

Islam also pays special attention to the social reality of women. For example, the affirmation that God does not condemn, even forgive, a slave woman who has no power to resist prostitution when she wants to keep her holiness (QS. *an-Nuur*,

24:33); consideration of the weak position of women as wives in the case of *dhihaar*, so that men as husbands are required to pay for *kafarat* or fines (QS. *al-Mujaadilah*, 58: 3); the certainty of womens' rights to inheritance within the tradition of male monopoly of inheritance (QS. *an-Nisaa*, 4:11); the certainty of recognition of the value of a woman's testimony that was previously amputated by men (QS. *al-Baqarah*, 2: 282 and *an-Nuur*, 24: 6-9).

The substantive justice perspective for women have five basic principles. Firstly there is the approach regard the process of revelation of Qu'ran, of which was gradual and in phases (*tadriij*) as *hidaayah* (guidance) about the importance of dialogue between religious texts with the reality of life. Wisdom is needed in responding to the diversity of life and its reality by considering people's readiness in social change. The application of Islamic teachings that are "Intermediate Objectives" must be addressed as a temporary matter whilst preparing enabling conditions for achievement of the "Final Goals".

Secondly is to consider the real experiences of women as individuals, Muslims, citizens of Indonesia and of the world in understanding the religious *nash* and the reality of life. In fact, for over 1400 years since the death of the *Prophet Muhammad*, there has been a significant social change, including changes in the role and position of women in all aspects of values in nationhood and humanity.

Thirdly, to place Islamic values inseparable from the values of nationhood and humanity. Islamic teachings are not allowed to justify the inhuman acts and disunity of the nation.

Fourth, pay attention to the need to simultaneously build individual and social (structural) piety.

Fifthly, to ensure that whatever method is used to understand the religious texts and the reality of life must also take into account the distinctive conditions of women, both biologically and socially different from those of men.

By using the perspective of substantive justice for women, every women ulama can carry the prophetic mandate to build and live the tradition of faith that is intertwined with individual piety and structural piety in order to realize the essential justice of Islam for women in various aspects of life, that is belief in *Allah Almighty (Tauhid)*, which also encourages good behavior for women as children, wives, and mothers, and encourages people to apply political, economic, social, cultural, management, and other structures that ensure a humane treatment on women. The application of this perspective can be seen from the way women ulama responds to religious texts and the reality of life in the issue of sexual violence, child marriage, and destruction of nature in the context of relationship imbalances as outlined in the result of Religious consultation (*Musyawah*) conducted during the Congress.

The perspective of substantive justice for women is used not only to be limited to the religious texts and the reality of life associated with women in particular, but also to life in general, in which women are inseparable. For example, in understanding the problems of family, society, state, and nature. The perspective of substantive justice for women becomes an integral part of the perspective of justice

in general. Therefore in principle, this perspective continues to apply justice to men and women in general, without ignoring the just aspect of considering the women's specific biological and social conditions.

Welcoming Speech for KUPI

Grand Leader of Pondok Pesantren Kebon Jambu al-Islamy

Mrs. Nyai Hj. Masriyah Amva

Assalaamu'alaikum warahmatullaahi wa barakaatuh

The honorables, since naming individually would be too long I thank you and everyone mentioned by the *Chairperson of the Leading Committee* as well as those not specifically mentioned, the *Bank Syariah Mandiri*. The attending representative is Ms. Niken of the *Bank Syariah Mandiri* which financed the construction of 40 beautiful bathrooms for this Islamic Boarding School, now utilized for the *KUPI* although, at that time it was not known that the *KUPI* would take place at this location. But, apparently Allah SWT sent *Bank Syariah Mandiri* a message pledging for the success of the *KUPI*. This signifies the hands of Allah SWT working for, deigning and blessing the *KUPI*, Amen. Thank you also to the alumni of the Islamic Boarding School who built a two-story building at *maqbarah* for the disposal of the *KUPI*. Thank you also for the presence of a number of priests who came from far away to pay respect to us under the perspective of a different belief. Thank you also to the women of *Ahmadiyah* and the wife of the patron who I was honored to meet.

As a villager with a modest background I do not feel confident standing here. I remember my Mother and Father, who gave birth to my siblings, girls and girls again. My mother and father once said: it's okay we have daughters as long as they can be beneficial for others in the same way as sons. This sentence always echoed in my ears. I was a kid then but as I grew up, I went to the Islamic Boarding School. I had the dream to become a female cleric. But unfortunately, this dream diminished at the time I was forced to marry while still studying. Still immature but already forced to marry. Apparently Allah is the All-Hearing of my parent's prayers. Today, after a long process, *Alhamdulillah*, perhaps because of this Congress, I am allowed to align myself with the fighters, the Kyai [teachers], the great women who forged and, encouraged me, especially my teacher *KH Husein Muhammad*, enabling me to stand before you today.

For me the *KUPI* is actually like a dream in broad daylight. I have never imagined before in my life that the *KUPI* would take place in Pondok Kebon Jambu. This boarding school was left by its very charismatic Kyai 10 years ago. The Kyai I meant is Kyai Haji Muhammad Amin. He is my inspiration. I always learn from him. He always relied on God. Then why should I rely on men? Then I imitate him relying on God. I also saw him giving his mind, energy, and money to the community. Then, I also began to imitate his behavior. *Alhamdulillah*; Consequently these imitations enabled me to be considered successful by others as an ulama. In fact, I am just a "following ulama."

God is the one who gives way to all this for me. When my husband left me, I always turned to God. I always whispered hopes, desires and prayers. I always relied on Him. I often cried for His powers. Finally, God sent His light down in my life. It is His rays that are beautiful, not me. Those rays are great, not me. It is the rays that illuminate me so that I look as if I were beautiful and great. Without His light, I may be a very lowly person a nobody, yet his light which illuminates me, moves me to learn and to do, enables me to be considered capable, then a woman ulama. Because of His light Indonesia, even the world, sees me. I am a small figure, but His light made me a figure to be proud of, from all corners of the country, towns and villages.

In my outpourings to God when in moments of darkness: "O God, bless me with Your light, so that I may become a woman of light". It's my mantra. I always rely on Him in all matters. Because, this is the only capital I have. When I envy a man who can become a great cleric, whilst I am just a woman, I come to God. Since I do not have a husband, yes I come to God. Nothing else I have except Allah *subhanallaahu wata'aalaa*. "O God, I am jealous Oh Dear Allah, make me a woman more powerful than any man. Make me a woman higher than any man. Make me a woman more noble than any man. O Allah, make me a woman as signs of Your greatness, so they will see Your presence when they see me." This is my outpouring.

So, the people around me know. I am indeed only a woman with limitations, but I want them to see God whenever they see me. I want them to witness the greatness, the mightiness, and the beauty within me, which is truly of God's possession. These are all his lights. So, if anyone praises me, I just smile. You are fooled by the beauty of God's lights that I always ask. It is not that I am beautiful, but His light that is present in me. This is the way of life of *Abu Nawas*, hopefully it can inspire mothers and attendees as well. No words are too late for mothers to learn. Do this science. Be the servants of God. Servants of Allah. Do not be a servant of anyone else, if [we would be], [we] would be duly despised and considered ignorant. Let's become servants of God who serve responsibly and sincerely. So God the Master will raise His servants. For what His servant does is the work of the Master wholly. He is responsible for all that His servants do, those who really worship Him. This is the science I use to avoid being a frustrated woman. This is the science I apply so that we, can be great. Insya Allah.

Ladies, gentlemen, and attendants. *KUPI* is a medium for mutual respect. I always tell everyone that Kebon Jambu is a department store. Anyone can come and buy whatever is here. I hope everyone can find your preference. I honour whoever comes. Ahmadiyah people I respect, Muhammadiyah people I certainly respect, priests I also respect. I am a pluralist creature that respect all creatures of God, because I love God. I often say: "Behold, from the front I am love, from the side I am love, from above I am love, from behind I am love, I am love, a person who love all creatures without looking at their backgrounds". That's the concept of pluralism in my opinion.

I am a gender [justice] figure. What does gender mean to me? Gender is the equality of male and female. Just rely on God. So women do not rely on men. Thus, it no longer happens for each other to degrade and demean. Because our standards are the same, then automatically, men and women are equal. I am also crowned as a feminist figure. People crowned me.

I do not understand myself. I experience Goosebumps. What does feminism mean? Feminism, I think, is a way of thinking that women are perfect beings. Therefore, women do not have to rely on men to live. It is *Haram* to rest on men, on women, or on any creature. Feminist women are women whose lives rely on their Lord. Just as a man who must also rely on Him. Women do not need the presence of men, except as friends and partners to share love. As friends to help each other and encourage each other to do good deeds.

So, mothers and fathers, do not worry since *KUPI* movement is a very friendly movement of men. Do not be afraid that men will be bullied by women. No. We women

still honour men as high as possible as we also honour any creature. If any man thinks we're lowering them, it's *su`udhonn* [prejudice]. Actually, in our move which was already a few months, indeed we are being continuously prejudiced. When we went to a place, we faced prejudice; some thought we wanted to slaughter men, wanted to pollute religion, wanted to demean Islam, wanted to change its laws, and so on. I affirm, we are not a movement like that. *Insyah` Allah*. Even if we demand something, it is for men and others to be aware [of this equality and justice]. Well ... that's gender, feminism, and pluralism. That is a movement for mutual respect among creatures and between men and women. So do not worry. So mothers, we have to respect men. Before moving, we have to respect men. Men should also be respectful to women. I personally love my God, love my religion, also love my friends. I witness myself, my friends, who may be considered this and that, in fact they are people who love their religion very much, glorify God, Allah SWT. They are great, being God's chefs, presenting Islamic tastes chosen by a group of people or many people. They are His chefs for one taste and some tastes. I respect these chefs of Allah who serve Islamic cuisine with various tastes. There's sweet, sweet-picked follow the sweet, who love spicy follow the spicy. The salty happy to come with salty. Well ... these differences are the difference of the God's chefs in order to benefit society, for the common good, to elevate Islam by presenting these different cuisines. Hopefully these differences are not to blame and to be used to insult each other. But to respect each other, because we are a team that is like a football team. One catching the ball, the other one kicking, the other one holding back. The difference of this game is the art of life. This is a human need. So do not be surprised if there are differences. It is a reality and a certainty. If people cannot accept differences, it means they are not smart human beings.

Thank you

Wassalaamu'alaikum Warahmatullaahi Wabarakaatuh

Cirebon, April 25, 2017

*) this is transcript of welcoming speech delivered by Mrs. Hj Masriyah Amva at the opening ceremony of KUPI at Pondok Pesantren Kebon Jambu.

**SERIES OF EVENTS
CONGRESS OF INDONESIAN
WOMEN ULAMA**



Ulama, key figures, government guests, and representatives of overseas observers are giving testimony about the Congress at its opening ceremony (25/04/2017)



A participant is delivering her response at the National Seminar on Women's Ulama on the Second daya of the Congress (26/04/2017)

III. Series of Events of The Congress of Indonesian Women Ulama (KUPI)

The KUPI is not only an event that was held, between the 25th-27th April 2017, at the *Pesantren Kebon Jambu Ciwaringin*. In fact, it was also a series of events complementing each other since mid-2016. The success of the three days of Congress at the Islamic Boarding School are not in spite of the various activities that have been done before. Among these include religious ritual activities, writing contests under the profile of female ulamas, the hearing of community voices through workshops of three Indonesian regions, the *halaqah* (learning circle) methodology of women ulamas, social and cultural service activities, art and cultural performances, including intensive encounters with various Islamic boarding schools and mainstream Islamic organization leaders, both at the national and local levels.

A. Prayers and *Silaturrahim*

The KUPI is a union of faith, mindful understanding, social activism and grassroot community network. On the first morning, Tuesday, 25th of April 2017, the Congress began with the reading and understanding of the Qur'an led by Mrs. Nyai Hj. Afwah Mumtazah along with the huffazh of the Cirebon *Huffazh Al-Qur'an Association*. There are about 200 women huffazh (Qur'an memorizers) who attended the semantic at *Kebon Jambu Al-Islamy Islamic Boarding School*. Mrs. Nyai Hj. Masriyah Amva also affirmed that the KUPI is present to acknowledge their roles as female ulamas. During the Congress, thousands of santri (Islamic boarding school students) inside and outside of the *Babakan Islamic Boarding School* also recited special prayers for Congress' success. At the opening and closing ceremonies, it also began with the recitation of the holy verses of the Qur'an, recitation of salawat and the reading of tawassul prayer by Nyai Hj. Masturoh Hannan, a charismatic female character from *Babakan Ciwaringin Cirebon Islamic Boarding School*.

The enactment of the KUPI cannot be separated from the support given by the strong Indonesian Islamic traditional social network including Islamic boarding schools and large organizations such as the *NU*, *Muhammadiyah*, and *MUI* (*Indonesian Council of Ulama*). Therefore, *silaturrahim* with *pesantren* (*body incorporating Islamic Boarding Schools*) leaders and Islamic organizations have become an inseparable part of the Congress' activities. *Silaturrahim* is done to obtain prayer, blessing, and support both morally and materially for the enactment of KUPI. Both from local Islamic boarding schools in Cirebon, as well as other national Islamic figures in Jakarta and elsewhere.

In this phase of *silaturrahim*, Islamic figures who were visited by the Committee of the KUPI include Nyai Hj. Sinta Nuriyah Wahid (senior female figure of the Islamic boarding school that founded the *Puan Amal Hayati Foundation*, also the First Lady during the KH. Abdurrahman Wahid presidency), Nyai Hj. Aisyah Hamid Baidlowi (female politician and Islamic boarding school figure), Nyai Hj. Nafisah Sahal (supervisor) at *Maslakul Huda Pati Islamic Boarding School*, K.H. Ma'ruf Amin (Rois Aam PBNU and General Chairman of *MUI*), Prof. Dr. KH. Said Aqiel Siraj (Chairman of

PBNU), Prof. Dr. KH. Syafii Ma'arif (senior figure of *Muhammadiyah*), Prof. Dr. KH. Din Syamsuddin (Chairman of *MUI's* Advisory Council and senior figure of *Muhammadiyah*), Dr. Mukti (Secretary General of *Central Board of Muhammadiyah*), KH. Mustofa Bisri (a charismatic NU ulama), and KH. Nasaruddin Umar (*High Imam of Istiqlal Mosque*).

The Cirebon Islamic Boarding School leaders who were visited in accordance to the KUPI include Mrs. Nyai Hj. Raudloh, Nyai Hj. Nihayatul Muhtaj (the supervisors of *Gedongan Cirebon Islamic Boarding School*), KH. Tamam, KH. Asymawi, KH. Zamzami Amin, KH. Marzuki Ahal, KH. Azka Hamam, KH. Nurhadi, KH. Muhaimin As'ad, KH. Syarif Abu Bakar, KH. Affandi Mochtar, KH. Amin Fuad Amin (the supervisors of *Babakan Ciwaringin Cirebon Islamic Boarding School*), KH. Nahduddin Royandi Abbas, KH. Hasanudin Kriyani, KH. Anas Arsyad, KH. Adib Rofiuddin, KH. Wawan Arwani Amin, KH. Faris el-Haq Fuad Hasyim, KH. Ade Naseh (the supervisors of *Buntet Cirebon Islamic Boarding School*), KH. Musthofa Aqil Siradj, KH. Ni'amillah Aqil Siradj, and KH. Muhammad Nawawi (the supervisors of *Kempek Cirebon Islamic Boarding School*), KH. Usamah Mansur (the supervisors of *An-Nasuha Pabedilan Cirebon Islamic Boarding School* and Katib Syuriah of *PWNU West Java*), KH. Abd. Azis Hakim Syaerozie (Chairman of *Tanfidziyah PCNU Cirebon District*), KH. Syakur Yasin (supervisor of *Cadang Pinggan Indramayu Islamic Boarding School*), and KH. Maman Imanulhaq (supervisor of *Al-Mizan Jatiwangi Majalengka Islamic Boarding School*

"I would like to extend my appreciation and congratulations to all the participants of the Congress of Indonesian Women Ulama who today held their first congress, and it has also received a great welcome as it is an effort to improve again—what is already good—the role of female ulamas in Indonesia and also in the world. The role of female ulama actually has a long history since the time of the Prophet, more specifically, women were the first to support the Prophet; his wife, Siti Khadijah, Siti 'Aisyah who was also his wife and provide extraordinary support, therefore many of the hadiths were also narrated by Siti' Aisyah. The auliyaa' ulama, such as Rabi'atul Adawiyah, also gave a great deal of teaching, provided an extraordinary amount of knowledge, and also a Sufi that gave much influence. Also in these modern times, especially in Indonesia, we know many female ulamas who have excellent schools, *madrasahs*, as well as *shaykhs* in Padang Panjang, as well as other ulamas, or Islamic intellectuals nowadays."

H. M. Jusuf Kalla

Vice President of The Republic of Indonesia

In addition to cultural figures, the Comminttee of KUPI also visited and conducted an audience with representatives from government. Among those were Mr. H.M. Jusuf Kalla (Vice President of the Republic of Indonesia), Mr. H. Lukman Hakim Saefuddin (Minister of Religious Affairs of the Republic of Indonesia), Gusti

Kanjeng Ratu Hemas (Vice Chairman of Dewan Perwakilan Daerah RI); Mrs. Yohana Jembise (Minister of Women Empowerment and Child Protection Republic of Indonesia), and Mr. Hanif Dzakiri (Minister of Labor and Employment Affairs of the Republic of Indonesia).

Support and positive statements voiced by the aforementioned figures about the KUPI have made people quick to recognize and accept its presence, and encourage many parties to be willing to participate. Their words of congratulations also made the spirit of the participants and executors more lively to bring the Indonesian Women Ulama Congress activities into a historic momentum. Support, statement, and felicitations at have demanded the participants and implementers to make the KUPI as a movement that can provide tangible benefits for the people of Indonesia.

B. Kebon Jambu Islamic Boarding School's Anchor

The *Womens' Ulama Congress of Indonesia* (KUPI) exists to acknowledge and legitimize the existence of female ulamas in the public eye, as well as amplifying their voices throughout the world. The main reason of choosing *Kebon Jambu al-Islamy Islamic Boarding School* as the Congress location is because it is led and cared for by a female ulama, Mrs. Nyai Hj. Masriyah Amva, an ulama who for a decade has affirmed herself as a preacher of gender justice and the diversity of the Indonesian nation from an Islamic perspective. Moreover, this Islamic Boarding School together with other Islamic Boarding Schools in Babakan specifically, and in Cirebon generally have strong social authority and cultural roots to promote and articulate Islamic, national, and humanitarian values. These values are the motto jointly carried by the KUPI.

The Kebon Jambu al-Islamy Islamic Boarding School was founded by a couple, KH Muhammad and Nyai Hj. Masriyah Amva in 1993. Previously, since 1975, Akang Muh (the nickname of KH Muhammad) was the supervisor of *Kebon Melati Islamic Boarding School*. Akang has laid the foundation of tradition and the learning system at *Kebon Jambu Islamic Boarding School*. Akang is a diligent, sincere, humble, and patient ulama and also a kind tasawuf. Most of the ustadz and ustadzah who are currently teaching at the Islamic Boarding School are Akang's disciples. In 2006, Akang passed away and the leadership of the Islamic Boarding School switched to his wife, Nyai Hj. Masriyah Amva.

Due to our embedded patriarchal society, many challenges with twists and turns have been faced by Mrs. Nyai during the management of the Islamic Boarding School. The number of santri only reached 350s at the time when Akang left, but now, in the hands of Mrs. Nyai, there are already more than 1000 santris, both boys and girls. The level of education is also increasing and has become more diverse. In addition, the building and facilities have also been extended. The most unique characteristic of this Islamic Boarding School is its acceptance of the perspective of gender justice and pluralism in the perspective of Islam.

To carry this, Mrs. Nyai herself has written more than 15 books regarding spiritual contemplation from her daily life experience. Her relation with God, voiced

through the verses of poetry and prayer, which are meanwhile a medium for defining feminism, gender, and pluralism. To quote some of the verses out of her poetry and prayer works;

Do I still yearn for noble men?
When I know that You are The Majestic One?
And very capable of giving me abundant glory with your power?
Do I still yearn for great men?
When I know that You are The Almighty?
And very capable of giving me greatness with your power?
Do I still yearn for rich men?
When I know that You are The Rich One?
And very capable of giving me wealth with your power?
Do I still yearn for mighty men?
When I know that You are The Mighty One?
And very capable of making me a mighty woman?
God.....
If I continue to yearn others besides You
Indeed, I cannot bear millions of disappointments

In the opening ceremony of the Congress, Mrs. Nyai has strongly stated that: "I am a gender justice and pluralism fighter. Men should not be afraid of gender [movement]. Because gender is not meant to diminish men. But to put women equally and become partners who work with men. I also keep demanding women to keep loving and caring for men, as well as asking men to love women ".

In the remarks at the opening ceremony of the Congress, Mrs. Nyai defines that feminism is an idea or attitude in which any woman is forbidden to need a male creature and / or beings other than Allah. While gender equality, she argues, is that women are forbidden to rely on the power of men or the power of any creature, other than Allah SWT. Then, a pluralist, according to Mrs. Nyai, is the one who believes that every creature must love other creatures created by Allah without regards to any background. Because of these attitudes and views, the *Kebon Jambu Islamic Boarding School* often receives visits from various groups, activists, academics and researchers, including Muslims and non-Muslims, both from within and outside the country.

On the one hand, all of this shows the ability of Mrs. Nyai in managing the Islamic Boarding School. It signifies a clear scientific capacity and a strong partisanship of gender equality and justice. On the other hand, she also shows her strong position in the eyes of santri, alumni, the Islamic Boarding School family, activists, and the general public. Because of this position, the KUPI's committee chose *Kebon Jambu al-Islamy Islamic Boarding School* as the place of Congress. As one of the dozens of Islamic Boarding Schools located in Babakan Village Ciwaringin Cirebon, the cultural position of *Kebon Jambu Islamic Boarding School* can not be separated from the authority and legitimacy of *Babakan Islamic Boarding School* in general.

Babakan is an old Islamic Boarding School district in Cirebon, in addition to Buntet, Kempek and Arjawinangun. It was first opened by Kyai Jatira in 1705. But the Islamic Boarding School's learning activity was more evidently and intensively conducted by Kyai Amin Sepuh at the beginning of the twentieth century. Babakan has a cultural position, because of this Kyai Amin Sepuh. His blessing for the Resolution of Jihad, which was echoed by NU in the independence period, October 22, 1945, was most awaited. He also, together with Babakan's children and students, moved to Surabaya to oust the Dutch in the war of 10 November 1945. Due to confrontation and Kyai Amin Sepuh's resistance, *Babakan Islamic Boarding School* was attacked and grounded at the time of the second Dutch aggression, precisely in 1952. Everyone fled, including KH Amin Sepuh.

In 1955, KH Amin Sepuh returned to Babakan to start from scratch, in order to build and develop the *Babakan Islamic Boarding School*. This Islamic Boarding School is called *Raudlatut Tholibin*. In his hands, most key ulama figures in Cirebon and other areas studied in. Including KH. Abdullah Abbas (Buntet), Kang Ayip Muh (Jagasatru Cirebon Clyy), and KH Syukron Mamun (Jakarta). Babakan is one of the Cirebon Islamic Boarding Schools where Islamic values are strongly integrated with national values. The name Cirebon itself, since its founding and until now, became a symbol of the mix of various races, tribes, and religions.

Cirebon is a coastal area that has a port of Muara Jati which in history became a very important embarkation for merchants from all over the world. It became a haven for various cultures, such as Malay, Javanese, Sundanese, Arabic, Chinese and Portuguese. Therefore, it is understandable that the value of pluralism is very prominent in this region as reflected in the main symbol of the Palace of Cirebon, which are the Singa Barong Train and Paksi Naga Liman Train. Paksi means bird, which at that time became the symbol of Islam from Egypt. Naga is a snake that became the symbol of Chinese Buddhism. Liman is an elephant that became a Hindu symbol of India. Cirebon is thus a multicultural city.

Through Cirebon, specifically *Babakan Ciwaringin Cirebon Islamic Boarding School*, more specifically the *Kebon Jambu al-Islamy Islamic Boarding School*, the KUPI would like to remind and emphasize the importance of the Islamic Nusantara style that respects diversity and pluralism which leads to the values of Tawheed, which is a religious understanding and practice that not only reinforces the values of nationality and humanity but also opens up wider space for women to take part in various public, social, economic, political, educational and religious spaces. Something that the *Indonesian Women Ulama Congress* wants to affirm as a historical necessity and a call to faith.

C. Opening Activities

Before the Congress was held on April 25th-27th, various activities were held in accordance to the initial preparations, absorptions, and reinforcements in order for the Congress to be accepted, or at least be understood by the participants present. One of the objectives of the KUPI is to identify and give legitimacy to women ulamas who were foreseen from, by, and for the community. For that, since May 1st, 2016, the KUPI has opened a writing contest of women ulama's profiles. Until the end of

August 2016 the writing submissions were closed. There were 76 manuscripts that entered the Committee table. This considerable amount indicates the social legitimacy and existence of the female ulama. Due to technical writing issues, the Committee only selected a few papers as winners. Namely the writings about Tengku Fakinah Aceh, Nyai Sholihah Wahid Hasyim Jakarta, Rahmah El-Yunusiah Minangkabau, Nyai Hj. Siti Walidah Yogyakarta, Nyai Siti Maryam Sumenep, Nyai Khotimatul Husna Yogyakarta, Nyai Hj. Masyitoh Riau, and Nyai Hj. Mahsunah Jombang. These names at the same time indicate the various activities of the female ulamas, some are engaged in the areas of education or in social organizations, struggled against invaders, involved in politics or otherwise taking part in the community, and there are also those who pursue the majlis ta'lim and early childhood education.

Both of these writings, as well as the others, the extensive discussions among female ulama, include one of the problems in recognizing the existence of women ulamas and to appreciate them in a social psychological constraint of society. Individuals or individual women ulamas themselves are also often not willing to be called women ulamas. This problem has been discussed intensively by the KUPI's committees through pre-Congress workshops from November 2016 to February 2017. There are three fields which represent the regions of Indonesia. For eastern Indonesia, pre-Congress workshops were held in Makassar, on 28th of February-2nd of March 2017, inviting participants from Sulawesi, Papua, Kalimantan, NTB and NTT. For the western region, held in Padang, on 28th-30th of November 2016, by inviting participants from the island of Sumatra, from Aceh to Lampung. While for the central region, held in Yogyakarta, on 19th-21st of November 2017, by inviting the participants from East Java, Central Java and West Java.

There are two issues discussed in the pre-Congress workshops. First, the existence, definition, and role of women ulamas. Secondly, social issues that must be responded by women ulamas. From these meetings emerged the concept of women ulamas, the importance of ulama's visitations and women's empowerment activists, and the need for religious views represented by women ulamas related to humanity and nationality. The nine issues discussed in the Parallel Discussion during the Congress were mentioned earlier in these pre-Congressional meetings. The three issues decided in the KUPI's Religious Consultation (*Musyawaharah*) are the most crucial and have been discussed in these pre-Congress workshops. In addition to the two matters about the existence of women ulamas and the issues that women ulama must respond to, this workshop also explores the possibility of participants and their communities willing to attend the Congress in Cirebon at their own expense. Out of the committee's expectation, it turned out that the participants were willing to attend, even by inviting some members of their own community at their own expense.

Matters concerning the substance of Congress, such as concepts, perspectives, paradigms, methodologies, as well as analysis for crucial issues are followed up in meetings, whether on a small scale by small teams or in activities that invite 50 participants. Among these are the *halaqah* (learning circle) on methodology of *musyawarah* (KUPI's religious consultation), which was held in Jakarta on the 4th-

6th of April 2017. This *halaqah* was conducted to strengthen social analysis, theological arguments, and clarity of key concepts to be rolled out in Congress. The meeting was attended by 49 participants from various regions throughout Indonesia, including Aceh, Padang, Lampung, Banten, Jakarta, West Java, Central Java, Yogyakarta, East Java and Makassar. The sharpening of the *halaqah* result was conducted by a small team of 20 people at *Pesantren Mahasina-Bekasi* on April 19th, 2017.

Although it has been socially supported by various national figures, and has substantially strengthened from all sides, but internal psychological issues are still experiencing difficulties. To declare yourself a "woman ulama" is not easy. On the first day of the Congress meeting, April 25th, 2017, between 13:30 to 16:00, many participants felt unconfident to be called "Indonesian female ulamas". Instead, they proposed another term other than "female ulamas" (such as teacher/*ustadzah* or preacher/*muballighah*). However, at the same time they also felt the need for the presence of female (and women's) ulamas. They actually accept others who are present in Congress, however they do not refer to themselves as "female ulamas". This is a psychological as well as a social problem, since the construction of the "ulama" up to the present is commonly for men.

This problem continues to roll out among participants and organizers in talks outside the classroom. Clear and strong statements from the Chairman of the Steering Committee, Ny. Hj. Badriyah Fayumi, about the "ulama"-ness of a woman on the opening night is to respond to this anxiety. Likewise, the poetic and spiritual statement delivered by the guardian of *Kebon Jambu al-Islamy Islamic Boarding School*, Ibu Nyai Hj. Masriyah Amva. "That I am also nobody. I am a false ulama. But when I rely on God's light, I shine. I am needed by people. Then, people called me an ulama. Indeed I am not an ulama. ", said Mrs. Nyai Masriyah in the opening remarks the KUPI. Spiritual power is needed to strengthen one's existence and position as a women ulama. Perhaps individually, a person is not ready to be called a women ulama, but collectively, as of this Congress, is rightful to be called an ulama who gives religious answers to crucial humanitarian issues.

Thus, these pre-Congress activities, both formal and informal, are not only reinforced ideas about social justice, but also dialogues among the participants' experiences and feelings about their daily journies. The real social gait is the hallmark of Islamic teachings. That is, on the one hand the ulama gait, but on the other, the gait of rituals and intellectuals. Activities during the Congress are also a form of participatory dialogue among the participants regarding the existence of women ulamas and their work in society to affirm the value of Islam, nationality and humanity.

D. Thematic Dialogue and Religious Consulation

The structure of the KUPI's events was designed to facilitate a dynamic dialogue between religious understanding and the reality of women's lives. The diverse backgrounds among the participants of the Congress allow for the exchange of knowledge and experience in such a way as to increase the capacity to share and understand the Islamic values, nationalities and humanity in the present context.

The understanding gained from this mutual learning process becomes an important input for the process of religious deliberation and the formulation of Congressional recommendations.

In her opening sermon, Steering Committee Chairman of the KUPI, Ny. Hj. Badriyah Fayumi laid the foundation for Congress by focusing on female (and women's) ulama and their roles. The presence and contribution of the women ulama is expressly stated as a necessity in the history of Islamic civilization and the national identity of Indonesia. As a proof, there is a long list of names of women ulama and their ulama inheritance since the birth of Islam and since the idea of Indonesia having just started to reverberate in the archipelago. Nevertheless, in line with that, the ebb and flow of recognition and support for the role of women ulama is also a historical fact. Apparently, the role of women ulama, whether strong or not, cannot be separated from the presence or absence of structural support from state controllers and cultural support from the community. This iftitah sermon has instigated the emotions of Congress participants because, ultimately, women ulama gain recognition of their identity and long fold struggle.

The process of dialogue between religious views and the reality of women's lives has begun since the first day of Congress, before the official opening night of the KUPI. Specifically during the international seminar on the State Institute of Islamic Studies (IAIN) *Syekh Nurjati Cirebon* campus which was a cooperation between The KUPI, the IAIN Cirebon and AMAN (Asian Muslim Action Network) Indonesia. The speakers who came to IAIN Cirebon originated from seven countries, namely Afghanistan, Indonesia, Kenya, Malaysia, Nigeria, Pakistan, and Saudi Arabia. In her speech, Steering Committee the Chairman of the KUPI explained that the understanding of global and foreign context is an important and actual reference for the direction and movement of the KUPI in the future. At the same time, the KUPI also hopes that the international community will also record about what is going on in this Congress in Indonesia, including all of its ideas, process, and movements.

This dialogue, which was attended by 298 participants from across Indonesia and 10 countries, took place in two sessions. The first session described the experiences of Muslim women in various parts of the world who are fighting for equality and justice for women. Zainah Anwar (Malaysia) recounts her efforts to build a worldwide movement to promote equality and justice in Muslim families; Siti Ruhaini Dzuhayatin (Indonesia) describes her leadership model in a human rights institution established by the Organization of Islamic Conference; Bushra Qadeem (Pakistan) describes her strategy of empowering female heads of families so that they can become peacemakers in communities facing extremism and violence; and, Hatoon Al-Fassi (Saudi Arabia) shows the tips of Arab women in fighting for their rights in religious institutions as well as through social media.

In the second session, Roya Rahmani (Afghanistan) shared her experience against religious politicization which has an impact on marginalizing the role of women in the peace process; Ulfat Hussein Masibo (Kenya) affirms the importance of family-level empowerment on equality and justice for women in order to build community resilience against extremist movements; Rafatu Abdulhamid (Nigeria) emphasizes the contribution of women ulama in her country in spreading Islamic

teachings that uphold the values of tolerance and peace and against radicalism; and, most recently, Eka Srimulyani (Aceh, Indonesia) illustrates how the cultural context and dynamics of local socio-politics have greatly affected the capacity, influence and authority of Muslim clerics in Aceh from time to time.

The KUPI expects that, through good synergy, the world's female ulamas will further enhance their existence and contribution in apprehending Islam as a blessing to the universe (*rahmatan lil 'aalamiin*). The women ulamas give its own value through care, especially to women, children and those who are *dlu'afaa* and *mustadl'afiin*, and through their real efforts to humanize them and to equate them with other human beings.

The next day, Wednesday, April 26th, 2017, the National Seminar took place at the location of Congress at Kebon Jambu Islamic Boarding School as the first event of KUPI. Under a large tent in the front yard of the Islamic boarding school, KH Husein Muhammad (Chairman of the *Fahmina Foundation, Cirebon*) described the history and role of women ulama in Indonesia; Dr. Nur Rofi'ah (PTIQ, Alimat, and Rahima, Jakarta) describes the method of Islamic study in the perspective of essential justice for women; Siti Aisyiah (Chairman of Aisyiah Central Leadership, Yogyakarta) shared about *da'wah* strategy for women ulamas in affirming the values of nationality and humanity; and Prof. Dr. Machasin (PbNU, Professor of State Islamic University *Sunan Kalijaga* Yogyakarta) expressed his views on the challenges and opportunities faced by women ulama in spreading moderate Islam.

The views expressed on the national seminar stage reflect the frame of mind that underlies the whole process of the Congress and offers a special point of view for women ulamas. The perspective of essential justice for women, developed by Nur Rofi'ah, affirms its persistence in the apostolic mandate to humanize all human beings and is declared an integral part of the long process of Islamic liberation of women from patriarchy (*al-abawi*). The dialogue between religious texts and the reality of women's life is an absolute foothold in this perspective, and the faith embodied in individual piety and structural piety becomes a prerequisite for the achievement of an apostolic mandate to humanize all human beings.

To ground the dialogue between the religious views and the current realities of life that the Indonesian nation is facing, the Congress process continues with a parallel discussion of nine themes at once. These nine themes include women ulama's education and the Islamic boarding school responses to women's "ulama"-ness as well as issues of sexual violence, child marriage, migrant workers, rural development, religious radicalism, conflict, and environmental degradation. Each thematic discussion is managed with organizations that have expertise and work in their fields, such as *Migrant Care*, *PEKKA* (Perempuan Kepala Keluarga, means: Women Heads of Household), *Rumah Kitab*, *AMAN Indonesia*, *Komnas Perempuan*, Service Provider Forum, *STID Al Biruni* and *Fahmina*. For each thematic discussion, there is a drafting team that records the results of the discussion, including recommendations that are brought up during the dialogue process.

The face of Indonesian women ulamas has again gained attention in the evening when the film aired by a woman from Malaysia, Noorhayati Kaprawi, about Nyai Hj Masriyah Amva's profile, a woman ulama and leader of *Kebon Jambu al-Islamy*

Islamic Boarding School. It tells the fact on how the joints of Islam, humanity, justice, and nationality have been embraced everyday ever since Mrs. Nyai lived to manage the Islamic Boarding School and socialize with the people around them.

Equipped with intrinsic fairness perspective for women in the Islamic understanding and the clarity of facts relating to nine of the crucial issues facing the nation, the participants of the Congress are in a ripe condition for conducting a KUPI's religious musyawarah. The musyawarah focused on three themes that have been determined in advance by the KUPI's Committee through a series of pre-Congress consultations process, which were about child marriage, sexual violence, and the destruction of nature in the context of social inequality. The musyawarah process took place in parallel, in three different rooms, and was open to the participants of Congress. The structure of the musyawarah's results apply consistent between the three theme according to the agreement which were built during the halaqah pre-Congress process, which included *tashawwur* (description), *adillah* (religious and legal basis), *istidlaal* (analysis), religious attitudes and views, *tazkiyah* (recommendation), *maraji'* (references), and *maraafiq* (attachment).

For the participants of Congress who chose not to participate in the religious musyawarah, there was an opportunity to attend the launching event of KUPI's book on the journey of 20 Indonesian women ulama. In addition to a book called "*Jejak Perjuangan Keulamaan Perempuan*" (footprints of women ulama's struggle), it also discussed LBH's publication entitled "*Dari Inspirasi Menjadi Harapan: Perempuan Muslim Indonesia and Harapannya kepada Islam yang Pluralis dan Damai*". On this occasion, from the stage located in the front yard of the school, a woman ulama and the supervisor of the Islamic boarding school gave testimony as a survivor of violence who became a protector and leader. The launching event concluded with a presentation of websites and social media developed to socialize ideas rooted in an essential justice perspective for women. Those websites are, mubaadalah.com and mubaadalahnews.com.

Results of the religious musyawarah with the three themes as well as a compilation of recommendations related to the nine issues was then read to the public by a number of representatives of the women ulama congress participants at the closing ceremony of the Congress on April 27th, 2017. In addition to the congress participants and invited guests, the closing ceremony was attended by the Minister of Religious Affairs, Drs. H. Lukman Hakim Saefuddin, and Vice Chairman of DPD RI, Gusti Kanjeng Ratu Hemas. Both of them responded positively to the results of the Congress and, in particular, the Minister of Religion declared his readiness to follow up on some of the recommendations. At the closing ceremony, the Pledge of Kebon Jambu about Indonesian Women Ulama was also recited, which began with the words: "We are wholeheartedly in the belief that women are human beings who have the whole of human potential as men through the mind, body and soul ... The presence of women ulama with their ultimate roles and responsibilities over time is essentially a call to faith and the necessity of history".

D. Social, Arts, and Cultural Activities

As part of the social movement, the KUPI also organizes various social and cultural activities involving various components of society to provide benefits for the community. Among these include social service activities, book and food bazaar services, public policy information services, and cultural art performances. These activities show the daily life style of the KUPI participants on the one hand, and also shows the character of their institutional network on the other side. Social activities during the Congress include mass circumcision, free medical services, and early detection of cervical cancer through papsmear tests.

The mass circumcision was held on Monday 24 April 2017 at *Kebon Jambu Babakan Ciwaringin Cirebon Islamic Boarding School*. The event started with shalawat from *Genjring Santri Putra Kebon Jambu* Group held at the main Musholla of the Islamic Boarding School. This activity, supported by the Public Health Center of Muhammadiyah Cirebon, located in the yard of the Islamic Boarding School, was followed by 21 children from around Babakan Village.

While the detection of cervical cancer through papsmear test was conducted during the Congress activity, 25th-26th April 2017 it was held in cooperation with BPJS Health and Health Office Cirebon. This activity begins with the socialization of the dangers of cervical cancer on the first day which was attended by 250 participants. Socialization took the front yard of the School. The Pap smear was conducted by four medical personnel from *Hasna Medika Palimanan Timur Hospital Cirebon*. Which involved, dr. Desi Ratna Sari, dr. Kartika Sari Dewi, dr. Dede Muslikha, and dr. Asri Maulidyna Aulia. This test was conducted to 66 women during the Congress activity.

During the Congress free health care with an ambulance provided it was this activity being a collaboration between the KUPI and the *Cirebon District Health Office, Ciwaringan Health Center, and PKU Muhammadiyah*. The medical teams working in turns are Sumedi, Yuli Indriasari, Ida Royani, Uswatun Kasanah, Sumiarsih, Roimah, Luwiyati, Kaeriyah, and Supami. During the Congress, this service has been utilized by 52 participants. Including participants from abroad, such as Nigeria, who experienced diarrhea due to unfamiliar food.

The local book bazaar, food bazaar, and local crafts of Cirebon, as well as public policy information displays from Ombudsman RI were also opened during the Congress which involved various people from the society, both coming from among the Islamic boarding school and surrounding communities, as well as universities and government agencies. From the 16 booths that opened at the entrance to the Congress, 4 booths were for books and scientific works, 2 for local batik and craft Cirebon, 4 for KUPI items, 4 for culinary, 2 for public information, filled with BPJS Health and Ombudsman of the Republic of Indonesia. The Ombudsman Stand was mostly visited due to the large amount of participants requesting information services and public complaints. A total of 393 people who came and received information about the work of the Ombudsman. Through a public event, such as the KUPI, the Ombudsman hopes that the public will soon know their role and dare to report the issue of public policy.

During the congress, art and cultural performances on the main stage were also entertained. This stage is filled with artists from various *Babakan Ciwaringin Islamic Boarding School*, especially from *Kebon Jambu*, *Assalafiy*, *Mu'allimin*, and *Bapenpori Islamic Boarding School*. The staged songs are shalawat, Islamic pop songs, Zapin dance, Indang dance, Saman dance, Alfiyah's recitation with music, angklung music, and poetry reading. The groups that performed, among them include Haniah 13, Sangkan 13, New Zahra. All these groups are creations of the *Babakan Islamic Boarding School*. One of the spiritual and cultural songs that absorbed the messages of Congress is shalawat *musawah* (means equality) and shalawat SAMARA (sakinah/serenity, mawaddah/love, rahmah/affection).

Musawah is the equality between men and women, which is a perspective that is carried strongly by the KUPI. While samara is the main keyword or grid of the ideal family that every Muslim expected, in accordance with the suggestion of the Qur'an (ar-Ruum, 30:21). Both of these shalawat were composed by Faqihuddin Abdul Kodir, Vice Chairman of the KUPI' Committee. During this congress, shalawat *musawah* has been sung by the *Sheikh Nurjati Cirebon FITK IAIN* Choir Group during the opening of the International Seminar, *ISIF Cirebon* Choir Group during the opening of *KUPI*, and by the *Haniya* Group 13 at the closing of the *Congress*.

The social, artistic, and cultural activities during this Congress shows that the KUPI roots in the traditions of the Indonesian Muslim community. In realizing the values of humanity, the *Congress* will always stand on and depart from the tradition of Islam and national values. The KUPI is aware those religious values and humanity will always be present in the cultural dimension of society. Therefore, KUPI regards the culture of the Muslim community of Indonesia as a container for the affirmation of legitimacy, existence, role, and gait of women ulamas. Moderate Islam, or *wasathiyah*, rooted in the culture of the archipelago, and whose advancement is the foundation of KUPI in presenting religious decisions, attitudes, and views on issues developed in society.

The whole series of events, as elaborated above, has given a clear picture on the various dimensions of the KUPI, which has covered the spiritual, social, intellectual, cultural, economic and political aspects on the one hand. On the other, the KUPI wishes to affirm those dimensions as part of the scope of women ulamas understanding. This dimension is also at once a field of gait that should be run by women ulamas. The definition of "ulama" that scopes a variety of dimensions is departed from the real experience of Indonesian women ulama and scholars, including those present at this Congress in *Kebon Jambu al-Islamy Islamic School*, *Babakan Ciwaringin*, Cirebon West Java.

SHALAWAT MUSAWA

(For the Justice of Men and Women Relations)

By: Faqihuddin Abdul Kodir

والآل والأصحاب من قد وحد

Wal aali wal ash-haabi man qa
wahhada
*And the Families, the Companions,
and whoever (believes) He is the
Almighty*

صل وسلم دائما على احمد

Shalli wa sallim daa'iman 'ala ahmada
*O Allah, bless and give salvation to the
Prophet Muhammad forever*

فبث منهما رجالا ونساء

Fa bats-tsa minhumaa rijaalaw wan-
nisa
*Then He created humanity from both
(male and female)*

هو خلقهما من نفس واحدة

Huwa khalaqahumaa min nafsiw
wahidah
*Allah has created both (male and female)
from one self*

إلا بجهدنا رجالا ونساء

Illa bi juhдинаa rijaalaw wan-nisaa
*Without all our hard work, men and
women*

إنه لن نعش حياة طيبة

Innahuu lan na'ish hayaatan thoyyiba
*Truly, we can never gain a life of
prosperity,*

إلا بعدلنا رجالا ونساء

Illa bi 'adlinaa rijaalaw wan-nisaa
*Without justice for all of us, men and
women*

إنه لن نشهد حياة عادلة

Innahu lan nash-had hayaatan 'aadilah
Truly, we can never get a fair life.

SHALAWAT SAMARA

(For a *Sakinah, Mawaddah, dan Rahmah* Family)
(A Family Filled in Serenity, Love dan Affection)

By: Faqihuddin Abdul Kodir

سَيِّدِنَا وَمَوْلَانَا مُحَمَّدٍ

Sayyidinaa wa mawlaanaa muhammadin
To the Prophet Muhammad SAW

دَائِمَةً بِدَوَامِ مُلْكِ اللَّهِ

Daimatan bi dawami mulkillaahi
And throughout His reign

مِنَ الرَّجُلِ وَالْمَرْأَةِ عَلَى السَّوَاءِ

Min ar-rajuli wal mar'ah 'alaa as-sawaa
From both sides of the men and women

وَحَمْلُ رَحْمَةٍ مَوَدَّةٍ بَيْنَهُمَا

Wa hamlu rahmah mawaddah
baynahumaa
And embody love for and by both

صَبْرٍ وَفَاءٍ تَفَاهُْمٍ وَمُعَاوَنَةٍ

Sobrin wafaa tafaahumin wa mu'awanah
*Patience, sincerity, mutual understanding
and helping each other*

دَرَّةٍ مَفَاسِدٍ مِنْ كُلِّ بَاقِيَةٍ

Dar'u mafasidin min kullin baaqiyah
*And keep all the harm away from all of
them*

أَوْ تَسْرِيحٍ بِإِحْسَانٍ فِي افْتِرَاقٍ

Aw tasriihun bi ihsaanin fiftirooqi
If not, it's better to be well parted

هِدَايَةٍ مِنَ النَّبِيِّ لِلظَّمَّانِ

Hidaayatun minann-Nabi lidz-dzom'aani
*And the guidance of the Prophet for those
who desire*

اللَّهُمَّ صَلِّ وَسَلِّمْ عَلَيَّ

Allahumma Solli wa Sallim 'alaa
O Allah, bestow the shalawat and salaam

عَدَدَمَا فِي عِلْمِ اللَّهِ صَلَاةً

'Adada maa fi 'ilmillaahi solaatan
A number of the knowledge of Allah

إِنَّ النِّكَاحَ بَادِيٌّ عَلَى الرِّضَا

Inna an-nikaaha badi'un 'alaa ar-ridoo
*The marriage must be preceded with a
willingness*

أَهْدَافُهُ نَيْلُ سَكِينَةٍ لَهُمَا

Ahdaafuhuu naylu sakinah lahumaa
The goal is to achieve peace for both

أَسَاسُهُ عَلَى إِيمَانٍ وَمُبَادَلَةٍ

Asasuhu 'ala imaan wa mubadalah
The foundation is faith and reciprocity

جَلْبُ مَصَالِحٍ لِأَفْرَادِ عَائِلَةٍ

Jalbu masoolih li afraadi 'aailah
*Also present all the benefits for the whole
family*

فَإِمْسَاكُ بِمَعْرُوفٍ فِي اتِّفَاقٍ

Fa imsaakun bi ma'ruufin fittifaaqi
*If you continue to be a pair, do it with full
kindness*

خُذْ هَذِهِ تَعَالِيمُ الْقُرْآنِ

Khudz haadzih ta'aalimul Qur'aani
*Take it, as these are the teachings of the
Qur'an*

R E S U L T S
OF THE CONGRESS OF INDONESIAN
WOMEN ULAMA



High enthusiasm shown by the participants of the National Seminar on Women's Ulama in the second day of the Congress (26/04/2017)



Moderator and Speakers of the National Seminar. From the left, Nasional. *Dari kiri:* Dr. Hj. Neng Dara Affiah, KH Husein Muhammad, Dr. Hj. Nur Rofi'ah, Prof. Dr. H. Machasin, dan Hj. Siti Aisyah (26/04/2017)

IV. RESULTS OF THE CONGRESS OF INDONESIAN WOMEN ULAMA (KUPI)

The results of this Congress are statements of religious basic attitudes, religious views, and recommendations of KUPI concerning the issues discussed during the Congress. These results are achieved after a long process of a whole series of KUPI's activities that were collective and participatory in their nature since its pre-congress activities as described previously. Issues discussed, addressed, and decided in the Congress were developed from the real-life experiences faced by women on daily basis. These issues were initially put forward in the form of questions relating to various forms of persistent injustice affecting women and social life in general. Injustice that leads to the marginalization of the existence of women as human beings equal to men, and the annihilation of their capacity to carry out Islamic mission and take social responsibility in the life of society, religion, nation and state.

These questions, in the KUPI analysis, are a collective anxiety that are felt by various elements of society and has been discussed widely more than fifteen years ago. In particular, the issue of the existence of women ulama and the three themes of religious *musyawarah* (sexual violence, child marriage, and natural destruction) were elaborated and discussed in pre-Congress workshops and *halaqah*, namely the three pre-Congress workshops in Yogyakarta, Padang, and Makasar, and a Halaqah on Methodology of Religious *Musyawarah* in Jakarta. At the time of the Congress, these three issues were discussed in parallel discussions on the second day before being brought to the Religious *Musyawarah* on the third day, April 27, 2017.

Therefore, the results of this Congress, through its collective and participatory process, are expected to build a solid theological foundation to open the widest possible space for the actualization of women ulama as an integral works on nationhood and humanity. More specifically, the results are expected to give religious answers to the unrest and public questions on various matters, especially those that have adverse effects on women, *dlu'afaa* and *mustadl'afiin*; become a religious reference for all parties in their efforts to strengthen and fulfil the victims' rights to justice and recovery; inspire the development of a tradition of Islamic thoughts that integrates the perspectives of equality, justice and reciprocity in the relations of men and women; as well as being a reference in law reform efforts and policy changes in order to ensure a just and civilized humanity and the sustainability of the nature.

The official results of KUPI consist of three things: the pledge of women ulama, religious attitudes and views issued by KUPI Religious *Musyawarah*, and recommendations, both general and thematic, from KUPI's parallel discussions. For KUPI in particular, these three KUPI results will be the initial reference in preparing future programs and activities.

a. Pledge of Kebon Jambu on Women Ulama

The meeting of Halaqah on Methodology of Religious *Musyawarah* in Jakarta, 4-6 April 2017, drafted a statement on the existence, roles, and actualization of women ulama. It was drafted by a small team and read out before the 49 Halaqah participants at the end of the event. The Halaqah meeting agreed to call this draft "The Pledge of Women Ulama" and asked to be disseminated to all KUPI participants as a request for approval to be read at the end of the Congress. On the proposal of various participants and to acknowledge the historical momentum of the location of this first Congress, this pledge was changed by its name into "Kebon Jambu's Pledge of Women Ulama".

The Pledge of Kebon Jambu on Women Ulama

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

أَشْهَدُ أَنْ لَا إِلَهَ إِلَّا اللَّهُ وَأَشْهَدُ أَنَّ مُحَمَّدًا رَسُولُ اللَّهِ

With our wholehearted faith, we hereby declare that:

A woman is a human being who has all potentials of humanity similar to a man through the use of reason and mind, as well as body and soul. All of these are the graces of Allah that have been bestowed upon human beings and may not be reduced by anyone in the name of anything.

Along the history of Islam since the time of Rasulullah, women ulamas have existed and have performed real roles in forming the civilization of Islam, yet their existence and roles have been marginalized by one-sided history that has been developed for centuries. The existence of the women ulamas with their roles and responsibilities of all time in essence is the call of faith and history's determination.

Female ulamas along with male ulamas are the heirs of the Prophet who carry tawhid missions, to liberate human beings from the servitude to those other than Allah, to perform good deeds (*amar ma'ruf*) and forbid the evil (*nahi munkar*), to consider all humans as human, and to improve righteous moral conduct (*akhlak mulia*) for the sake of bringing grace to the universe.

As other ulamas, the women ulamas are responsible for conducting the prophetic mission to eradicate injustice on fellow human beings on any grounds including religion, race, nationality, political orientation and gender. As the carriers of the above responsibilities, the women ulamas have the rights to interpret Islamic texts, to produce and disseminate relevant religious views.

As part of the Indonesian nation, the women ulamas have the rights and responsibilities to realize the aspirations of being a nation and a state as stated in the Constitution of the Republic of Indonesia in the life of the individuals, families, societies and the state.

**Pondok Pesantren Kebon Jambu al-Islamy
Babakan Ciwaringin Cirebon
Thursday, 27 April 2017 (30 Sya'ban 1438 H)**

At the closing ceremony of KUPI, April 27, 2017, in front of more than 1000 participants, observers, and invited guests, this pledge was read by three participants, namely Ibu Nyai Hj. Umdatul Choirat from Tambakberas Jombang, Ibu Nyai Hj. Mariatul Asiah from Banjarmasin, and Ibu Nyai Hj. Raudlatul Miftah from Madura.

B. Results of Religious Consultation

Religious Musyawarah of KUPI is a series of Congress activities in form of religious forums that are formed specifically to discuss crucial issues proposed by the community in order to obtain answers as religious attitudes and religious views of women ulama. The crucial issues in question are the troubling issue as they are related to various forms of persistent injustice affecting women in their private and social life at large. These attitudes and decisions are important because religious understanding that preserves injustice and inequality is ingrained in the society, although the mission of Islam is precisely to transform human life from inequality to justice, and from mistreatment to welfare. At the same time, the musyawarah is also important for bringing together the spirit of religious texts with an analysis of the realm of women's and of the affected peoples. In this forum, therefore, people who are competent in Islamic studies are present along with people who understand the analysis and/or experience the issue directly.

In practice and experience of KUPI, religious *musyawarah* was processed in a participatory, open, responsive, and dialectical way. Participatory means the deliberation involved parties from various backgrounds, including those affected by *mafsadah* of the issues to be discussed and decided upon. Open means religious attitudes and outcomes of deliberations were discussed through a process that was open to diverse views of various parties and could be accountable to the wider community. Responsive means that deliberations were present to respond to real problems occurred in society and containing aspects of injustice resulting from unequal social relations. Dialectical means that it was processed by way of dialogue between text and context, between universal principles and local wisdom, and between long-term and short-term interests.

There are many questions that people ask about the issues faced by women on the ground. The issues were then pursued into nine themes discussed in parallel discussion of KUPI (April 26, 2017). Of these nine issues, the participants' most talked about and most crucial are three issues, namely sexual violence, child marriage, and natural destruction. These three issues were then discussed and decided in the KUPI religious musyawarah on 27 April 2017. Beyond this event, these three issues are persistently discussed at the grassroots level and delivered to various individuals and religious social institutions. Actually there is another emerging issue that is widely addressed and crucial, namely radicalism in Indonesia. However, due to limited time and resources of the Congress, KUPI Religious musyawarah could only take up three issues.

1. The structure of the Results of the Religious Consultation

In the pre-congress Halaqah on Methodology held in Jakarta, April 4-6, 2017, it was stipulated that the writing of religious consultation results of the KUPI should follow a systematic framework covering the *tashawwur* (problem description), *adillah* (legal basis), *istidlaal* (analysis of the fundamentals of the decision), religious attitudes and views, *tazkiyah* (recommendations), *marajji'* (references), and *maraafiq* (appendix). Bellow is a brief explanation of the framework.

a. Description

The description (*tashawwur*) is an explanation of problem or issue to be comprehensively discussed and decided. The explanation contains description of the facts on the ground in a context as problems in various aspects, such as forms, patterns, data, impacts, victims' voice, cultural structures, laws, or certain religious understandings living in society. *Tashawwur* in principle illustrates the problem, not the analysis, and is written in a concise manner: short, dense, and clear or simple and sharp. Elements in *tashawwur* that can be considered according to the needs, such as definitions, facts, research results, scientific findings, authoritative institution data, forms of the problems, negative impacts, national and international legal norms, both the problem and the foundation and certain religious understanding that perpetuate the problem. *Tashawwur* ends with a question sentence.

b. Sources

The sources (*adillah*) of religious views used as the basis for the decision-making in a religious *musyawarah* are:

- 1) Texts of al-Qur'an;
- 2) Texts of Hadith;
- 3) Opinions of Religious Schoolars (*Aqwaalul 'Ulama*);
- 4) The Constitution of the Republic of Indonesia;

c. Analysis

The analysis (*istidlaal*) is a process of analysis employing arguments derived from the Qur'an and Hadith to look at the discussed and decided by considering opinions of Muslim scholars (*Aqwaalul 'Ulama*) and the Indonesian Constitution in formulating *mashlahat* and *mafsadat* in the result of *Musyawarah* (the religious decision or view or attitude). *Istidlaal* can use *qawa'id ushuliyah* (methodological maxims of Islamic jurisprudence) and *fihiyyah* (maxims of Islamic jurisprudence), *maqashid syari'ah* (goals of syari'ah), universal principles of Islam, such as humanity, justice, equality, interdependence, goodness, *maslahat*, nationhood, and constructive thinking for solutions by considering essential justice for women and men.

d. Religious Attitudes and Religious Views

This is the main formulation of result from the *musyawarah*, which may include legal attitudes and/or general Islamic views that address the issues raised in accordance with the needs of the community.

e. Recommendations

Tazkiyah (recommendation) is a formulation to be addressed to stakeholders as a follow-up of the agreed consensual decision. *Tazkiyah* (recommendation) is addressed to individuals, families, private or government-owned institutions, groups, organizations, and religious people, community organizations (CSOs) and communities, corporations, and the states, which roughly include the following:

- 1) Individuals to take concrete attitudes and actions on injustice in matters discussed, whether related to human relations, or between man and nature on the basis of faith to Allah Almighty;
- 2) The family to create a conducive family climate for the realization of equality and justice for women and men, build a tradition of mutual respect, appreciation and cooperation between women and men from the early age, and avoid exploitative attitudes that can be both the cause and the impact of problems that was asked for the religious views;
- 3) Private and government-owned institutions to educate and not to exploit individually or institutionally;
- 4) Religious groups (figures, institutions, and religious communities) to build religious understanding and traditions that have the impetus to realize the benefit/*maslahat*, and the power to resist and resolve of *mafsadat* related to the issues discussed;
- 5) Societal organizations and community to be aware of traditions and cultures that generate social inequality, and seek to reinterpret in a fair perspective while trying to realize a new tradition or culture that guarantees essential justice for all the weak or weakened groups, especially women and for the nature;
- 6) The corporations to consider the special conditions of women related to their organs, functions, and reproductive cycle in establishing a just working culture, ensuring its actions do not justify all means by ignoring the impact of *mafsadat* on individual, family, society, and state, and avoiding ways of doing business through exploiting the people and nature;
- 7) States to implement existing policies that have the impetus to solve problems, revoke policies that have been proven to be part of the problem, and issue new policies essentially needed to resolve the problems fairly.

f. References

Maraaji' (references) contains a list of sources that are used as references in decision-making process in the *musyawarah*. Simply by writing the author's

name, the title of the book, the publisher, the city of publication, the year of publication, and the page, according to the procedure of writing a bibliography in scientific writing.

g. Attachments

The attachments (*marafiqh*) contains direct quotes from the Qur'an, the Hadith, and the *aqwalul 'ulama* and the Indonesian Constitution used in *adillah* and *istidlal* which are considered too long if they are placed in the section of *Adillah* or *istidlal*.

2. The Leadership of Religious Consultation

At the hearings of the Indonesian Women Ulama Congress, dated 27 April 2017, Religious Consultation (Musaywarah) were commenced for the three issues discussed. The names of leaders of the *Musyawarah* are as follows:

- i. Religious Musyawarah on Sexual Violence, located on the second floor of the Pesantren Mosque, with the leadership of the discussion as follows:

Chair person: Dr. Nyai Hj. Neng Dara Affiah, M. Hum

Vice Chair person: Nyai Ninik Rahayu, SH, MH.

Secretary: Dr. Nyai Neng Hannah

Mushahhah: KH. Drs. Husein Muhammad, Lc

Drafting Team: KH. Imam Nakhoi, M. Ag, Samsidar,

Dr. Kusmana, Nyai. Hj. Yati Priyati, MA, Evi Siti Zahroh, Faith Soleh Hidayat, S. Ag.

- ii. Religious Musyawarah on Child Marriage, located on the second floor of Maqbarah building, with the leadership of the Discussion as follows:

Chairperson: Dr. Nyai Hj. Maria Ulfah Anshor, M. Hum

Vice chairperson: Nyai Hj. Afwah Mumtazah, M.Ag.

Secretary: Nor Ismah, MA

Mushahhah: Nyai Hj. Badriyah Fayumi, Lc, MA

Drafting team: KH. Mukti Ali, Lc, Yulianti Mutmainnah, M.Hum, Rita Pranawati, MA, Nyai Khotimatul Husna, Nyai Hj. Habibah Junaedi, Dr. KH. Wawan Gunawan Abdul Wahid, Lc, Prof. Dr. Nyai Hj. Istibsyarah, MA.

- iii. Religious Musyawrah on the Natural Destruction, located on the first floor of Masjid Pesantren, with the leadership of the discussion as follows:

Chairperson: Nyai Umdah El Baroroh, MA

Vice chairperson: Ir. Nani Zulmirnani, M. Sc.

Secretary: Muyassarotul Hafidzoh, M.Ag.

Mushahhah: KH. Marzuki Wahid, MA.

Drafting team: Nyai Alai Nadjib, MA, Ulfatun Hasanah, S. Ud.,
Maimunah, M. Kesos, Euis Daryati, Lc. MA.

**THE TEXT OF THE RESULTS
OF RELIGIOUS CONSULTATION
ON SEXUAL VIOLENCE**



International Seminar on Women's Ulama in the first day of the Congress (25/04/2017).
From the left: Eka Srimulyani (Indonesia), Roya Rahmani (Afghanistan), Ruby Khalifah (Indonesia), Ulfat Hussein Masibu (Kenya), dan Rafatu Abdul Hamid (Nigeria)



An observer from the Philippines is delivering her response at the Religious Discussion on natural eradication on the third day of the Congress (27/04/2017)

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

RESULTS OF THE RELIGIOUS CONSULTATION CONGRESS OF INDONESIAN WOMEN ULAMA No. 01/MK-KUPI-1/IV/2017 REGARDING SEXUAL VIOLENCE

A. DESCRIPTION

From 2001-2011, on average every two hours three women became the victims of sexual violence. This means that every day 35 women experienced sexual violence (Komnas Perempuan 2012). Across Indonesia one out of three females between the age of 15 and 64 have experienced violence during their life and two out of eleven women who are currently married or who have been married have experienced physical or sexual violence committed by their partner. In addition to this around one from every four women has experienced physical or sexual violence committed by someone other than their partner (BPS- SPHPN, 2016).

Data shows that in 2016 rape was the most common form of sexual violence committed in the domestic sphere in Indonesia with 1.389 cases reported. There were an additional 1.266 cases of sexual assault. This same data shows that 135 cases of marital rape were reported. The majority of perpetrators (2.017 people) of sexual violence carried out in the domestic sphere were boyfriends of the victims. From the additional 3.092 cases of violence against women occurring in the community sphere that were reported, 74% or 2.290 cases constituted sexual violence. There were another 409 reported cases of physical violence (16%) and other forms of violence made up 10% of the cases of violence committed in the community sphere. This 10% constituted of 83 cases (3%) of psychological violence, 90 cases of violence against migrant workers (3%) and 139 cases (4%) of trafficking. The most common form of violence occurring in the community sphere was rape with 1.036 cases, sexual assault followed with 883 cases (Komnas Perempuan 2017).

Violence is an expression of dominance in unequal power relationships, both inside the household and external to it. Violence is not an act of spontaneous, unintended wrongdoing (khilaf) by the perpetrator. Violence against women -as well as violence against minority groups, disabled people, and children- always departs from a point of view that considers that women deserve to receive acts of violence because of their own faults which do not conform with the wishes of the perpetrator. This perpetrator could be their partner, or a person who feels they have authority over the victim. Sexual violence is a most brutal expression of oppression, the aims of sexual violence are to subdue, conquer or demonstrate dominance and power over the victim.

In Indonesia 15 forms of sexual violence have been documented from 1998-2013 including: rape, sexual intimidation (including threats or attempted rape), sexual harassment, sexual exploitation, the trafficking of women for sexual

purposes, forced prostitution, sexual slavery, inhumane punishments (that are sexually nuanced), traditional practices that are sexually nuanced or discriminate against women, forced contraception, forced sterilization and others (Komnas Perempuan, 2013)

Sexual violence that is experienced by women and girls has negative impacts on its victims both physically and mentally. These include negative impacts to: (1) health, both physical such as sustaining injuries, becoming pregnant, suffering miscarriages, death of children, and death of the victim himself (either by committing suicide because of frustration and depression and in some cases being killed by the perpetrator), psychological; such as depression, fear and trauma; and sexual: such as contracting sexual transmitted infections and being forced into prostitution. (2) Education: Losing the opportunity to continue schooling; (3) economy: losing employment and losing sources of income; (4) social: being shunned by the surrounding community, being stigmatized and kicked out of home; (5) criminalizing the victim of rape being treated as the perpetrator of a criminal offense.

In cases of rape, many victims are often considered to have 'invited' or conditioned the sexual violence they suffer. The widespread view that the victim has caused the rape often resulted in victims being blamed. When the victim cannot demonstrate proof of violence committed against them, the charge of rape is often diverted and instead considered mutual intercourse. This leads to criminalizing the victim as they are accused of having committed defamation. Otherwise the victims are accused of having engaged in consensual extramarital sex or *zina*. There are even cases in which rape victims are married to the perpetrator, expelled from school, shunned by society, evicted from their communities and told to repent because they are considered to have sinned.

Indonesia already has a number of rules that are in place that aim to fight against sexual violence and violence against women in general. However, the way in which law enforcement handle cases often means that there are difficulties in fulfilling the rights of victims. This is especially true if the victim and the perpetrator are married to one another because there is a widely held view that exists -because of cultural and religious views- that a husband has the right to his wife's body. Other causes include law enforcement failing to apply objective and fair analysis in positioning the victim. The result of this is that victims of sexual violence experience repeated discrimination from the time they experience the violence to the handling and processing of their complaints.

The data from organizations that provide services to victims of sexual violence demonstrates that 85% of female victims of violence who access service providing organizations experience discrimination. This includes the reports from victims not being believed or reports not being followed up. Other forms of discrimination include the burdening the victim in regards to the burden of proof in the case. There is no system to guarantee the security of the victim and ensure that no further acts of violence against women and children occur. There is limited access to safe houses, and to psychological services. The limitations in infrastructure and services resulted in victims of sexual violence often to be shunned by the community.

Questions.

1. What is the Islamic law on sexual violence?
2. Is rape the same as *zina* in 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 fulfill their obligation? Does Islam contain the concept of increasing punishment for these offenders?

B. SOURCES

1) Law on Sexual Violence

a. The text of the Quran

- 1) The status of humans (male and female) as noble beings (QS. *al-Israa'*, 17:70)

وَلَقَدْ كَرَّمْنَا بَنِي آدَمَ وَحَمَلْنَاهُمْ فِي الْبَرِّ وَالْبَحْرِ وَرَزَقْنَاهُمْ مِنَ الطَّيِّبَاتِ وَفَضَّلْنَاهُمْ عَلَى كَثِيرٍ مِمَّنْ خَلَقْنَا تَفْضِيلًا (الإسراء، ٧٠).

“And We have certainly honored the children of Adam and carried them on the land and sea and provided for them of the good things and preferred them over much of what We have created, with [definite] preference.”

- 2) The prohibition of harming the dignity of women and the command to treat them in a dignified way (QS. *an-Nisaa'*, 4: 19):

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا يَحِلُّ لَكُمْ أَنْ تَرِثُوا النِّسَاءَ كَرِهًا وَلَا تَعْضُلُوهُنَّ لِتَذْهَبُوا بِبَعْضِ مَا آتَيْتُمُوهُنَّ إِلَّا أَنْ يَأْتِيَنَّ بِفَاحِشَةٍ مُّبَيَّنَةٍ وَعَاشِرُوهُنَّ بِالْمَعْرُوفِ فَإِنْ كَرِهْتُمُوهُنَّ فَعَسَى أَنْ تَكْرَهُوا شَيْئًا وَيَجْعَلَ اللَّهُ فِيهِ خَيْرًا كَثِيرًا (النساء، 19).

“O you who have believed, it is not lawful for you to inherit women by compulsion. And do not make difficulties for them in order to take [back] part of what you gave them unless they commit a clear immorality. And live with them in kindness. For if you dislike them - perhaps you dislike a thing and Allah makes therein much good.”

- 3) The command for men and women to look after each other (QS. *at-Taubah*, 9:71):

وَالْمُؤْمِنُونَ وَالْمُؤْمِنَاتُ بَعْضُهُمْ أَوْلِيَاءُ بَعْضٍ يَأْمُرُونَ بِالْمَعْرُوفِ وَيَنْهَوْنَ عَنِ الْمُنْكَرِ
وَيُقِيمُونَ الصَّلَاةَ وَيُؤْتُونَ الزَّكَاةَ وَيُطِيعُونَ اللَّهَ وَرَسُولَهُ أُولَئِكَ سَيَرْحَمُهُمُ اللَّهُ إِنَّ اللَّهَ عَزِيزٌ
حَكِيمٌ (التوبة، 71).

“The Believers, men and women, are protectors one of another: they enjoin what is just, and forbid what is evil: they observe regular prayers, practice regular charity, and obey Allah and His Messenger. On them will Allah pour His mercy: for Allah is Exalted in power, Wise.”

- 4) The prohibition on accusing women of committing *zina* without proof (QS. *an-Nuur*, 24:4-5):

وَالَّذِينَ يَرْمُونَ الْمُحْصَنَاتِ ثُمَّ لَمْ يَأْتُوا بِأَرْبَعَةِ شُهَدَاءَ فَاجْلِدُوهُمْ ثَمَانِينَ جَلْدَةً وَلَا تَقْبَلُوا
لَهُمْ شَهَادَةً أَبَدًا وَأُولَئِكَ هُمُ الْفَاسِقُونَ إِلَّا الَّذِينَ تَابُوا مِنْ بَعْدِ ذَلِكَ وَأَصْلَحُوا فَإِنَّ اللَّهَ
غَفُورٌ رَحِيمٌ (النور، 4-5).

“And those who launch a charge against chaste women, and produce not four witnesses (to support their allegations),-flog them with eighty stripes; and reject their evidence ever after: for such men are wicked transgressors, Unless they repent thereafter and mend (their conduct); for Allah is Oft-Forgiving, Most Merciful.”

- 5) Prohibition of harming innocent people(QS. *al-Ahzaab*, 33:58):

وَالَّذِينَ يُؤْذُونَ الْمُؤْمِنِينَ وَالْمُؤْمِنَاتِ بَغَيْرِ مَا اكْتَسَبُوا فَقَدِ احْتَمَلُوا بُهْتَانًا وَإِثْمًا مُبِينًا
(الأحزاب، 58).

“And those who annoy believing men and women undeservedly, bear (on themselves) a calumny and a glaring sin.”

- 6) The prohibition of bringing misfortune upon people who are faithful (QS. *al-Buruuj*, 85:10):

إِنَّ الَّذِينَ فَتَنُوا الْمُؤْمِنِينَ وَالْمُؤْمِنَاتِ ثُمَّ لَمْ يَتُوبُوا فَلَهُمْ عَذَابُ جَهَنَّمَ وَهُمْ عَذَابُ الْحَرِيقِ
(البروج، 10).

“Those who persecute (or draw into temptation) the Believers, men and women, and do not turn in repentance, will have the Penalty of Hell: They will have the Penalty of the Burning Fire.”

- 7) Prohibition of forcing women to prostitute themselves, even if they are slaves(QS. *an-Nuur*, 24:33):

وَلَا تُكْرِهُوا فَتَيَاتِكُمْ عَلَى الْبِغَاءِ إِنْ أَرَدْنَ نَحْصًا لِيَتَّبِعُوا عَرَضَ الْحَيَاةِ الدُّنْيَا وَمَنْ يُكْرِهِنَّ فَإِنَّ اللَّهَ مِنْ بَعْدِ إِكْرَاهِهِنَّ غَفُورٌ رَحِيمٌ (النور، 33).

“But force not your maids to prostitution when they desire chastity, in order that ye may make a gain in the goods of this life. But if anyone compels them, yet, after such compulsion, is Allah, Oft-Forgiving, Most Merciful (to them).”

b. The text of the Hadiths

1) The command to guard the dignity of humanity:

عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي بَكْرَةَ عَنْ أَبِيهِ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: فَإِنَّ دِمَاءَكُمْ وَأَمْوَالَكُمْ وَأَعْرَاضَكُمْ بَيْنَكُمْ حَرَامٌ كَحُرْمَةِ يَوْمِكُمْ هَذَا فِي شَهْرِكُمْ هَذَا فِي بَلَدِكُمْ هَذَا لِيُبَلِّغَ الشَّاهِدُ الْغَائِبَ (رواه البخاري في صحيحه، رقم الحديث: 67).

Narrated 'Abdur Rahman bin Abi Bakra's father from the Prophet PBUH: "Verily! Your blood, property and honor are sacred to one another (i.e. Muslims) like the sanctity of this day of yours, in this month of yours and in this city of yours. It is incumbent upon those who are present to inform those who are absent because those who are absent might comprehend (what I have said) better than the present audience. (Bukhari, *Shahih*, no. Hadits: 67).

2) The prohibition on trafficking women, even if they are slaves:

عَنْ أَبِي مَسْعُودٍ الْأَنْصَارِيِّ رَضِيَ اللَّهُ عَنْهُ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ نَهَى عَنْ ثَمَنِ الْكَلْبِ وَمَهْرِ الْبَغِيِّ وَخُلُوفِ الْكَاهِنِ (رواه البخاري، رقم الحديث: 2277).

(مهر البغي) ما تأخذه الزانية على زناها وقد كانوا في الجاهلية يكرهون إماءهم على الزنا والاكْتِسَابَ بِهِ فَأَنْكَرَ الْإِسْلَامُ ذَلِكَ وَنَهَى عَنْهُ قَالَ اللَّهُ تَعَالَى {وَلَا تَكْرِهُوا فَتَيَاتِكُمْ عَلَى الْبِغَاءِ إِنْ أَرَدْنَ نَحْصًا لِيَتَّبِعُوا عَرَضَ الْحَيَاةِ الدُّنْيَا}. النور 33. فتَيَاتِكُمْ إِمَائِكُمْ. تحصنا تعففا.

Narrated Abu Mas`ud Al-Ansari: “Allah's Messenger (ﷺ) regarded illegal the price of a dog, the earnings of a prostitute, and the charges taken by a soothsayer”. (Collection of Bukhari, *Shahih*, no. Hadits: 2277)

(The meaning of *mahrul baghyi* is money taken in return for adultery. In the *jahiliyyah* period many of the slave women forced by their masters to seek profit through adultery. Islam strictly forbids this.)

3) The types of marriage that are forbidden by Islam because they are abusive

عَنْ عُرْوَةَ أَنَّ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا أَخْبَرَتْهُ أَنَّ النِّكَاحَ فِي الجَاهِلِيَّةِ كَانَ عَلَى أَرْبَعَةِ أَنْحَاءٍ: فَنِكَاحٌ مِنْهَا نِكَاحُ النَّاسِ الْيَوْمِ، يَخْطُبُ الرَّجُلُ إِلَى الرَّجُلِ وَلَيْتَهُ أَوْ ابْنَتَهُ وَيَصْدُقُهَا ثُمَّ يَنْكِحُهَا وَنِكَاحُ آخَرَ، كَانَ الرَّجُلُ يَقُولُ لِامْرَأَتِهِ إِذَا طَهَّرْتَ مِنْ طَمْنِهَا: أَرْسِلِي إِلَى فُلَانٍ فَاسْتَبْضِعِي مِنْهُ وَيَعْتَرِهَا زَوْجَهَا وَلَا يَمْسُهَا حَتَّى يَتَبَيَّنَ حَمْلُهَا مِنْ ذَلِكَ الرَّجُلِ الَّذِي تَسْتَبْضِعُ مِنْهُ، فَإِذَا تَبَيَّنَ حَمْلُهَا أَصَابَهَا زَوْجُهَا إِذَا أَحَبَّ، وَإِنَّمَا يَفْعَلُ ذَلِكَ رَغْبَةً فِي نَجَابَةِ الْوَلَدِ، فَكَانَ هَذَا النِّكَاحُ يُسَمَّى نِكَاحَ الْإِسْتِبْضَاعِ وَنِكَاحِ آخَرَ، يَجْتَمِعُ الرَّهْطُ دُونَ الْعَشْرَةِ فَيَدْخُلُونَ عَلَى الْمَرْأَةِ كُلُّهُمْ فَيُصَيَّبُونَهَا، فَإِذَا حَمَلَتْ وَوَضَعَتْ وَمَرَّ لَيْالٍ - بَعْدَ أَنْ تَضَعَ حَمْلَهَا - أَرْسَلَتْ إِلَيْهِمْ، فَلَمْ يَسْتَطِعْ رَجُلٌ مِنْهُمْ أَنْ يَمْتَنِعَ حَتَّى يَجْتَمِعُوا عِنْدَهَا، فَتَقُولُ لَهُمْ: قَدْ عَرَفْتُمْ الَّذِي كَانَ مِنْ أَمْرِكُمْ وَقَدْ وُلِدْتُ فَهُوَ ابْنُكَ يَا فُلَانُ، فَتُسَمِّي مَنْ أَحَبَّتْ بِاسْمِهِ، فَيُلْحَقُ بِهِ وَلَدُهَا لَا يَسْتَطِيعُ أَنْ يَمْتَنِعَ مِنْهُ الرَّجُلُ وَنِكَاحٌ رَابِعٌ يَجْتَمِعُ النَّاسُ الْكَثِيرُ فَيَدْخُلُونَ عَلَى الْمَرْأَةِ لَا تَمْتَنِعُ مِنْ جَاءِهَا، وَهِنَّ الْبَغَايَا يَنْصِبْنَ عَلَى أَبْوَابِهِنَّ الرِّيَاطِ وَتَكُونُ عِلْمًا، فَمَنْ أَرَادَهُنَّ دَخَلَ عَلَيْهِنَّ، فَإِذَا حَمَلَتْ إِحْدَاهُنَّ وَوَضَعَتْ جَمَعُوا لَهَا وَدَعَوْا لَهَا الْقَافَةَ، ثُمَّ أَلْحَقُوا وَلَدَهَا بِالَّذِي يَرُونَ، فَالْتَأَطَ بِهِ وَدَعِيَ ابْنَهُ لَا يَمْتَنِعُ مِنْ ذَلِكَ فَلَمَّا بَعَثَ اللَّهُ مُحَمَّدًا - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - بِالْحَقِّ هَدَمَ نِكَاحَ الجَاهِلِيَّةِ كُلَّهُ إِلَّا نِكَاحَ النَّاسِ الْيَوْمِ. (رَوَاهُ البُخَارِيُّ فِي صَحِيحِهِ، رَقْمُ الْحَدِيثِ: 5182).

"Aishah, the wife of the Prophet (ﷺ) told him that there were four types of marriage during Pre-Islamic period of Ignorance. One type was similar to that of the present day i.e. a man used to ask somebody else for the hand of a girl under his guardianship or for his daughter's hand, and give her Mahr and then marry her. The second type was that a man would say to his wife after she had become clean from her period. "Send for so-and-so and have sexual intercourse with him." Her husband would then keep away from her and would never sleep with her till she got pregnant from the other man with whom she was sleeping. When her pregnancy became evident, he husband

would sleep with her if he wished. Her husband did so (i.e. let his wife sleep with some other man) so that he might have a child of noble breed. Such marriage was called as Al-Istibda'. Another type of marriage was that a group of less than ten men would assemble and enter upon a woman, and all of them would have sexual relation with her. If she became pregnant and delivered a child and some days had passed after delivery, she would sent for all of them and none of them would refuse to come, and when they all gathered before her, she would say to them, "You (all) know what you have done, and now I have given birth to a child. So, it is your child so-and-so!" naming whoever she liked, and her child would follow him and he could not refuse to take him. The fourth type of marriage was that many people would enter upon a lady and she would never refuse anyone who came to her. Those were the prostitutes who used to fix flags at their doors as sign, and he who would wished, could have sexual intercourse with them. If anyone of them got pregnant and delivered a child, then all those men would be gathered for her and they would call the Qa'if (persons skilled in recognizing the likeness of a child to his father) to them and would let the child follow the man (whom they recognized as his father) and she would let him adhere to him and be called his son. The man would not refuse all that. But when Muhammad (ﷺ) was sent with the Truth, he abolished all the types of marriages observed in pre-Islamic period of Ignorance except the type of marriage the people recognize today..." (Collection of Bukhari, *Shahiih*, no. hadits 5182).

c. Opinions of the Ulama

1. The command to guard the freedom of all people. Imam Syafi'i: Islam commands to guard the sovereignty of humans over themselves: My child, Allah has created you in a state of freedom so become free as he has created..." (al-Umm, j.1, page. 14)
2. The command to protect human rights. Wahbah az- Zuhaili: Islam makes a strong effort to protect human rights, within Islamic countries and also within countries that are at war. In real terms, Islam respects the nobility of humankind and the notions of freedom, justice, brotherhood, helping one another, and equality between all humans. (al-Fiqhul Islaamiy wa Adillatuhu, j. 8, Page. 6416).
3. The command to have sexual relations with ones wife in a proper way. Wahbah Az- Zuhaili: 'Included in the concept of mu'aasyarah bil ma'ruuf is to not inflict pain, to fulfil their rights, and to treat them well. This is something most advised based on Allah's command to consort with them in kindness, and also based on the word of the Prophet SAW who said: "The best of you are those who are best to their families, and I am the best of you to my family."... Included within the concept of mu'aasyarah bil ma'ruuf is to not engage in sexual intercourse that is not proper, if ones wife is unwell, sexual intercourse may not be engaged in

- as it will be dangerous for the woman (al-Fiqhul Islaamiy wa Adillatuhu, j. 9, page. 6598).
4. The prohibition to take away a person's human dignity. Wahbah Az-Zuhaili: Islam prohibits the degradation of human respect and dignity, both for Muslims and non-Muslims, including in times of war and against enemies. The honor of humankind is a natural right for every human being which is protected by Islam and viewed as a principle of law as well as a foundation of living together. Thus, it is not allowed to take away a person's dignity or honor or allowed for blood to spill, including for both Muslims and non-Muslims. The aim of punishment in Islam is reparation and to prevent re-occurrence of a crime, not retribution and insult. It is not permitted in sharia to mock, insult, or defile a humans honor, thus mutilation is not permitted against anybody, either living or dead, even if that person is an enemy, even during a time of war. It is forbidden to punish through starving, inflicting thirst, or robbing someone. This is because Allah has honored all of mankind. The Prophet SWT himself said that a person's blood, property and self-worth are most honored. (al-Fiqhul Islaamiy wa Adillatuhu, j. 8, page. 6208).
 5. The prohibition on forced marriages. Al-Qurthubi: Sahnun has said that the ulama Malikiyah states that forced marriages are not legitimate. "...Sahnun said that Malikiyah agreed that marriages for men and for women which use force are invalidated by law. They contend forced marriage may not become the legal grounds for anything as it is not legitimate. (al-Jaami'u li-Ahkaamil Qur'aan, j.16, page. 202).
 6. The requirement to respect women at every stage of life. Majma' al-Fiqhil Islaamiy ad-Dauliy: Call for respect for women in all stages and spheres of life, reject violence that continues to occur in a number of settings, including domestic violence, sexual exploitation, distribution of pornographic images, prostitution, trafficking of women, and other forms of sexual exploitation that are still seen in various communities which act to degrade women and deny them their rights. All of these things are unjust and have no relationship with Islam whatsoever. (Qaraaraat wa Taushiyyaat Majma'il Fiqhil Islaamiy ad-Dauliy, Tahun 1405-1430 H, 1-185, page. 218).
 7. The prohibition of exploiting women in the media. Majma' al-Fiqhil Islaamiy ad-Dauliy: There must be a provision of information services to strengthen the positive role of women and reject all the forms of exploitation of women in the media, and reject all appeals that worsen moralistic values that have the potential to demean or downgrade the nobility and glory of women. (Qaraaraat wa Taushiyyaat Majma'il Fiqhil Islaamiy ad-Dauliy, Tahun 1405-1430 H, 1-185, page. 218).
 8. The command to ensure all women – as they are a vulnerable group in society – do not become victims in any conflict. Majma' al-Fiqhil Islaamiy ad-Dauliy: All efforts should be exerted to alleviate the burden and the

suffering of women and vulnerable communities, especially the faithful women who always tend to become victims in armed conflict and imperialism. (Qaraaraat wa Taushiyyaat Majma'il Fiqhil Islaamiy ad-Dauliy, Tahun 1405-1430 H, 1-185, page. 218).

8) Sources regarding the question: Is rape the same as zina?

a. The text of the Quran

- 1) Victims of rape may not be punished (QS. *an-Nuur*, 24:33):

وَلَيْسَتَعَفِيفِ الَّذِينَ لَا يَجِدُونَ نِكَاحًا حَتَّى يُعْزِيَهُمُ اللَّهُ مِنْ فَضْلِهِ وَالَّذِينَ يَبْتَغُونَ الْكِتَابَ مِمَّا مَلَكَتْ أَيْمَانُكُمْ فَكَايِبُوهُمْ إِنْ عَلِمْتُمْ فِيهِمْ خَيْرًا وَأَتَوْهُمْ مِنْ مَالِ اللَّهِ الَّذِي آتَاكُمْ وَلَا تُكْرِهُوا فَتَيَاتِكُمْ عَلَى الْبِغَاءِ إِنْ أَرَدْنَ تَحَصُّنًا لِيَبْتِغُوا عَرَضَ الْحَيَاةِ الدُّنْيَا وَمَنْ يُكْرِهِنَّ فَإِنَّ اللَّهَ مِنْ بَعْدِ إِكْرَاهِهِنَّ غَفُورٌ رَحِيمٌ (النور، 33).

"Let those who find not the wherewithal for marriage keep themselves chaste, until Allah gives them means out of His grace. And if any of your slaves ask for a deed in writing (to enable them to earn their freedom for a certain sum), give them such a deed if ye know any good in them: yea, give them something yourselves out of the means which Allah has given to you. But force not your maids to prostitution when they desire chastity, in order that ye may make a gain in the goods of this life. But if anyone compels them, yet, after such compulsion, is Allah, Oft-Forgiving, Most Merciful (to them)"

- 2) The quality of a females witness is the same as that of a males (QS. *an-Nuur*, 24:6-9):

وَالَّذِينَ يَرْمُونَ أَزْوَاجَهُمْ وَلَمْ يَكُنْ لَهُمْ شُهَدَاءُ إِلَّا أَنْفُسُهُمْ فَشَهَادَةُ أَحَدِهِمْ أَرْبَعُ شَهَادَاتٍ بِاللَّهِ إِنَّهُ لَمِنَ الصَّادِقِينَ وَالْخَامِسَةُ أَنَّ لَعْنَتَ اللَّهِ عَلَيْهِ إِنْ كَانَ مِنَ الْكَاذِبِينَ وَيَدْرَأُ عَنْهَا الْعَذَابَ أَنْ تَشْهَدَ أَرْبَعَ شَهَادَاتٍ بِاللَّهِ إِنَّهُ لَمِنَ الْكَاذِبِينَ وَالْخَامِسَةَ أَنَّ غَضَبَ اللَّهِ عَلَيْهَا إِنْ كَانَ مِنَ الصَّادِقِينَ (النور، 9-6).

"And for those who launch a charge against their spouses, and have (in support) no evidence but their own,- their solitary evidence (can be received) if they bear witness four times (with an oath) by Allah that they are solemnly telling the truth; And the fifth (oath) (should be) that they solemnly invoke the curse of Allah on themselves if they tell a lie. But it would avert the punishment from the wife, if she bears witness four times (with an oath) By

Allah, that (her husband) is telling a lie; And the fifth (oath) should be that she solemnly invokes the wrath of Allah on herself if (her accuser) is telling the truth.”

- 3) There are heavy punishments for perpetrators of destruction, rape is a form of destruction (QS. *al-Maa'idah*, 5:33-34):

إِنَّمَا جَزَاءُ الَّذِينَ يُحَارِبُونَ اللَّهَ وَرَسُولَهُ وَيَسْعَوْنَ فِي الْأَرْضِ فَسَادًا أَنْ يُقَتَّلُوا أَوْ يُصَلَّبُوا أَوْ تُقَطَّعَ أَيْدِيهِمْ وَأَرْجُلُهُمْ مِنْ خِلَافٍ أَوْ يُنْفَوْا مِنَ الْأَرْضِ ذَلِكَ لَهُمْ خِزْيٌ فِي الدُّنْيَا وَهُمْ فِي الْآخِرَةِ عَذَابٌ عَظِيمٌ إِلَّا الَّذِينَ تَابُوا مِنْ قَبْلِ أَنْ تَقْدِرُوا عَلَيْهِمْ فَاعْلَمُوا أَنَّ اللَّهَ عَفُورٌ رَحِيمٌ (المائدة، 33-34).

“The punishment of those who wage war against Allah and His Messenger, and strive with might and main for mischief through the land is: execution, or crucifixion, or the cutting off of hands and feet from opposite sides, or exile from the land: that is their disgrace in this world, and a heavy punishment is theirs in the Hereafter; Except for those who repent before they fall into your power: in that case, know that Allah is Oft-forgiving, Most Merciful.”

b. The text of the Hadiths

- 1) The perpetrators of rape must be punished heavily, the victim freed, and women can be accepted as witnesses:

عَنْ عَلْقَمَةَ بِنِ وَاثِلِ الْكِنْدِيِّ، عَنْ أَبِيهِ، أَنَّ امْرَأَةً خَرَجَتْ عَلَى عَهْدِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ تُرِيدُ الصَّلَاةَ، فَتَلَقَّاهَا رَجُلٌ فَتَجَلَّلَهَا، فَقَضَى حَاجَتَهُ مِنْهَا، فَصَاحَتْ، فَاِنْطَلَقَ، وَمَرَّ عَلَيْهَا رَجُلٌ، فَقَالَتْ: إِنَّ ذَاكَ الرَّجُلَ فَعَلَ بِي كَذَا وَكَذَا، وَمَرَّتْ بِعِصَابَةٍ مِنَ الْمُهَاجِرِينَ، فَقَالَتْ: إِنَّ ذَاكَ الرَّجُلَ فَعَلَ بِي كَذَا وَكَذَا، فَاِنْطَلَقُوا، فَأَخَذُوا الرَّجُلَ الَّذِي ظَنَنْتُ أَنَّهُ وَقَعَ عَلَيْهَا وَأَتَوْهَا، فَقَالَتْ: نَعَمْ هُوَ هَذَا، فَأَتَا بِهِ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، فَلَمَّا أَمَرَ بِهِ لِيُرْجَمَ قَامَ صَاحِبُهَا الَّذِي وَقَعَ عَلَيْهَا، فَقَالَ: يَا رَسُولَ اللَّهِ، أَنَا صَاحِبُهَا، فَقَالَ لَهَا: اذْهَبِي فَقَدْ غَفَرَ اللَّهُ لِكَ، وَقَالَ لِلرَّجُلِ قَوْلًا حَسَنًا، وَقَالَ لِلرَّجُلِ الَّذِي وَقَعَ عَلَيْهَا: ارْجُمُوهُ، وَقَالَ: لَقَدْ تَابَ تَوْبَةً لَوْ تَابَهَا أَهْلُ الْمَدِينَةِ لَقَبِلَ مِنْهُمْ. (رواه الترمذي في سننه، رقم الحديث: 1525 وابن داود في سننه، رقم الحديث: 4381).

Narrated Wa'il ibn Hujr: When a woman went out in the time of the Prophet (ﷺ) for prayer, a man attacked her and overpowered (raped) her. She shouted and he went off, and when a man came by, she said: That (man) did such and such to me. And when a company of the Emigrants came by, she said: That man did such and such to me. They went and seized the man whom they thought had had intercourse with her and brought him to her. She said: Yes, this is he. Then they brought him to the Messenger of Allah (ﷺ). When he (the Prophet) was about to pass sentence, the man who (actually) had assaulted her stood up and said: Messenger of Allah, I am the man who did it to her. He (the Prophet) said to her: Go away, for Allah has forgiven you. But he told the man some good words (AbuDawud said: meaning the man who was seized), and of the man who had intercourse with her, he said: Stone him to death. He also said: He has repented to such an extent that if the people of Medina had repented similarly, it would have been accepted from them. Abu Dawud said: Asbat bin Nasr has also transmitted it from Simak. (Collection of Tirmidhi, no. Hadits: 1525 and Sunan Abi Dawud 4379).

- 2) The requirement to listen to the witness of women and victims and the prohibition of victims being criminalized.

عَنِ النَّزَالِ بْنِ سَبْرَةَ قَالَ: إِنَّا لَبِمَكَّةَ إِذْ نَحْنُ بِامْرَأَةٍ اجْتَمَعَ عَلَيْهَا النَّاسُ حَتَّى كَادَ أَنْ يَفْتُلُوهَا وَهُمْ يَقُولُونَ زَنْتَ زَنْتَ فَأَتَى بِهَا عُمَرُ بْنُ الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ وَهِيَ حُبْلَى وَجَاءَ مَعَهَا قَوْمُهَا فَأَتَنُوا عَلَيْهَا حَيْرًا فَقَالَ عُمَرُ أَحْبِرِينِي عَنْ أَمْرِكِ. قَالَتْ: يَا أَمِيرَ الْمُؤْمِنِينَ كُنْتُ امْرَأَةً أُصِيبُ مِنْ هَذَا اللَّيْلِ فَصَلَّيْتُ ذَاتَ لَيْلَةٍ ثُمَّ نِمْتُ فُجِئْتُ وَرَجُلٌ بَيْنَ رِجْلَيْ فَقَدَفَ فِيَّ مِثْلَ الشِّهَابِ ثُمَّ دَهَبَ. فَقَالَ عُمَرُ رَضِيَ اللَّهُ عَنْهُ: لَوْ قَتَلَ هَذِهِ مَنْ بَيْنَ الْجَبَلَيْنِ أَوْ قَالَ الْأَخْشَبَيْنِ - شَكَ أَبُو حَالِدٍ - لَعَذَّبَهُمُ اللَّهُ فَحَلَّى سَبِيلَهَا وَكَتَبَ إِلَى الْأَفَاقِ: أَنْ لَا تَقْتُلُوا أَحَدًا إِلَّا بِإِذْنِي. (أخرجه ابن أبي شيبة والبيهقي. وقال الألباني في الإرواء: وهذا إسناد صحيح على شرط البخاري، رقم الحديث: 2362).

Dar Nazzal bin Sabrah, stated: At this time we were in Mekah. Suddenly we met a woman who was about to be killed by the community. They were shouting "this woman has committed zina, she has committed zina!". This woman was then brought before Umar bin Khattab RA, pregnant. At the same time a group of civilians (who was close with this woman) praised the woman explaining that she was a fine woman. Umar RA then asked the woman to tell her story. The woman began to tell her story "Oh Amirul Mu'minin, I am a woman who befell misfortune on that night. I prayed and then slept and suddenly there was a man

straddling me, he spewed forth what was like a cloud into me and then left". Hearing this story Umar said, "If the communities between these two mountains kill this woman, Allah will punish them all". Umar RA then freed this woman and wrote a letter to all nations that stated that noone was allowed to carry out executions with his permission" (Collection of Ibn Abi Syaibah and al-Baihaqi, in Irwa al-Ghalil, it is described as *shahih hadith*, no. Hadits: 2362).

c. Opinions of the Ulama:

- 1) Prohibition on punishing victims of rape and the requirement to provide them with compensation. Imam Malik in al-Muwatha: Abdul Malik bin Marwan decided that women forced into committing *zina* would receive compensation and that the victim must not be punished while the perpetrator must be punished. (Muwatha' Imam Malik, no. Hadits: 1418).
- 2) Prohibition on making threats to ones safety in public. Wahbah Az-Zuhaili: The law on aggravated robbery (*hiraabah*): (1) disturbing people, frightening them with weapons, in either quiet or busy places, in dwellings or on transportation with the goal to spill blood or destroy ones dignity, or take a person's wealth or the like (2) what often happens on the street, in homes, vehicles, , trains, ships, either using weapons or not, all of this is haram, and are some of the biggest of crimes, because with these crimes there is a creation of fear, fear that arbitrarily takes away people's right to life, honor and property, the punishment for these crimes is the heaviest punishment. (Mausuu'atul Fiqhil Islamiy, j. 5, page. 166).

9) Punishment for government authorities as perpetrators of sexual violence and the concept of increased punishment.

a. The text of the Quran

- 1) The requirement for authorities to act fairly and objectively. (QS. *an-Nahl*, 16:90-91):

إِنَّ اللَّهَ يَأْمُرُ بِالْعَدْلِ وَالْإِحْسَانِ وَإِيتَاءِ ذِي الْقُرْبَىٰ وَيَنْهَىٰ عَنِ الْفَحْشَاءِ وَالْمُنْكَرِ وَالْبَغْيِ
يَعْظُمُكُمْ لَعَلَّكُمْ تَذَكَّرُونَ وَأَوْفُوا بِعَهْدِ اللَّهِ إِذَا عَاهَدْتُمْ وَلَا تَنْقُضُوا الْأَيْمَانَ بَعْدَ تَوْكِيدِهَا
وَقَدْ جَعَلْتُمُ اللَّهَ عَلَيْكُمْ كَفِيلًا إِنَّ اللَّهَ يَعْلَمُ مَا تَفْعَلُونَ (النحل، 90-91).

"Allah commands justice, the doing of good, and liberality to kith and kin, and He forbids all shameful deeds, and injustice and rebellion: He instructs you, that ye may receive admonition."

- 2) The command for authorities to carry out their mandate and act justly in enforcing the law (QS. *an-Nisaa`*, 4: 58):

إِنَّ اللَّهَ يُأْمُرُكُمْ أَنْ تُؤَدُّوا الْأَمَانَاتِ إِلَىٰ أَهْلِهَا وَإِذَا حَكَمْتُمْ بَيْنَ النَّاسِ أَنْ تَحْكُمُوا بِالْعَدْلِ إِنَّ اللَّهَ نِعِمَّا يَعِظُكُمْ بِهِ إِنَّ اللَّهَ كَانَ سَمِيعًا بَصِيرًا (النساء، 58).

“Allah doth command you to render back your Trusts to those to whom they are due; And when ye judge between people that ye judge with justice: Verily how excellent is the teaching which He giveth you! For Allah is He Who heareth and seeth all things..”

- 3) The prohibition on coming close to or committing *zina* (QS. *al-Israa*,17:32):

وَلَا تَقْرُبُوا الزِّنَا إِنَّهُ كَانَ فَاحِشَةً وَسَاءَ سَبِيلًا (الإسراء، 32).

“Nor come nigh to adultery: for it is a shameful (deed) and an evil, opening the road (to other evils).”

- 4) Extra punishment for leaders if they violate the rules (QS. *al-Ahzaab*, 33:30):

يَا نِسَاءَ النَّبِيِّ مَنْ يَأْتِ مِنْكُنَّ بِفَاحِشَةٍ مُّبَيِّنَةٍ يُضَاعَفْ لَهَا الْعَذَابُ ضِعْفَيْنِ وَكَانَ ذَلِكَ عَلَى اللَّهِ يَسِيرًا (الأحزاب، 30).

“O Consorts of the Prophet! If any of you were guilty of evident unseemly conduct, the Punishment would be doubled to her, and that is easy for Allah.

b. The text of the Hadiths

- 1) That leaders are prohibited to create difficulties for their communities:

عَنْ عَبْدِ الرَّحْمَنِ بْنِ شِمَاسَةَ، قَالَ: أَتَيْتُ عَائِشَةَ أَسْأَلُهَا عَنْ شَيْءٍ، فَقَالَتْ: أُحْبِرُكَ مَا سَمِعْتُ مِنْ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، يَقُولُ فِي بَيْتِي هَذَا: «اللَّهُمَّ، مَنْ وَلِيَ مِنْ أَمْرِ أُمَّتِي شَيْئًا فَشَقَّ عَلَيْهِمْ، فَاشْتَقُّ عَلَيْهِ، وَمَنْ وَلِيَ مِنْ أَمْرِ أُمَّتِي شَيْئًا فَرَفَقَ بِهِمْ، فَارْفُقْ بِهِ» (رواه مسلم في صحيحه، رقم الحديث: 4826).

It has been reported on the authority of Abd al-Rahman b. Shumasa who said:

I came to A'isha to inquire something from her. She said: Behold! The treatment that was meted out to my brother, Muhammad b. Abu Bakr, does not prevent me from telling you what I heard from the Messenger of Allah

(ﷺ). He said in this house of mine: O God, who (happens to) acquire some kind of control over the affairs of my people and is hard upon them-be Thou hard upon him, and who (happens to) acquire some kind of control over the affairs of my people and is kind to them-be Thou kind to him. (Collection of Muslim, *Shahiih*, no. Hadits: 4826).

- 2) The course from Allah SWT on leaders who create difficulties for their communities:

عَنْ أَبِي مُوسَى قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: " إِنَّ هَذَا الْأَمْرَ فِي فُرَيْشٍ مَا دَامُوا إِذَا اسْتُرْجِمُوا رَحْمُوا، وَإِذَا حَكَّمُوا عَدَلُوا، وَإِذَا فَسَمُوا أَفْسَطُوا، فَمَنْ لَمْ يَفْعَلْ ذَلِكَ مِنْهُمْ فَعَلَيْهِ لَعْنَةُ اللَّهِ وَالْمَلَائِكَةِ وَالنَّاسِ أَجْمَعِينَ لَا يُقْبَلُ مِنْهُ صَرْفٌ وَلَا عَدْلٌ". (رواه أحمد في مسنده، رقم الحديث: 19850).

Abu Musa reported that, The Prophet SAW said: This leadership is with the Quraisy tribe as long as they act with compassion and decide on matters fairly, and are equal when sharing. For whoever does not act like this, a course from Allah SWT, the angels and human civilization will be placed on them. This cannot be redeemed. (Collection of Ahmad, in His Musnad, no. hadits 19850).

- 3) The threat to leaders who do not care about members of their community:

عن عمرو بن مَرْة قال: إِبْنِي سَمِعْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: «مَا مِنْ إِمَامٍ يُعَلِّقُ بَابَهُ ذُونَ ذَوِي الْحَاجَةِ، وَالْحَلَّةِ، وَالْمَسْكِنَةِ إِلَّا أَعْلَقَ اللَّهُ أَبْوَابَ السَّمَاءِ ذُونَ حَلَّتِهِ، وَحَاجَّتِهِ، وَمَسْكِنَتِهِ». (رواه الترمذي في سننه، رقم الحديث: 1382).

Abul-Hasan narrated that 'Amr bin Murrah said to Mu'awiyah: "I heard the saying: 'No Imam closes his door on one in need, (ﷺ) Messenger of Allah dire straits and poverty, except that Allah closes the gates of the Heavens ' from his dire straits, his needs, and his poverty'. (Collection of Tirmidhi, The Sunan, no. hadits 1382)

c. Opinions of the Ulama

- 1) The prohibition of taking away a person's freedom and the requirement of the State to act as a guarantor. Wahbah az-Zuhaili: Freedom is a natural right for all humans. Freedom is something of most value, of most importance which is sanctified and its manifestation must be strived for. Umar bin Khattab said to one of his governors, Amr bin Ash, 'since when did you enslave humans, even though they have been born free from their mothers' stomachs. It is compulsory for the state to

- guarantee the freedoms of its citizens –including the freedom of religion, civil freedoms, freedom of religion- within the limits of the legal system and syari'ah (al-Fiqhul Islaamiy wa Adillatuhu, j. 8, page. 330).
- 2) Punishment for despotic leaders. It was stated by Wahbah Az-Zuhaili, referring to the words of Allah SWT that; whoever acts despotically will experience a grave torture: the Prophet SAW said that A servant of Allah that has been given responsibility to act as a shepherd for the community but dies whilst being a despot to the people will have heaven denied to him by Allah SWT (Fiqhul Islaamiy wa Adillatuhu, j.5, page. 297).
 - 3) The ethics of a judge as stated by Wahbah Az- Zuhaili. The principles that are fundamental in Islam and must always be present in the conscience of a judge are (1) affection, (2) justice, (3) protecting the nobility of humankind, (4) fostering benefits for society and the individual (5) protecting the rights of individuals in society, (6) balance between crime and punishment, (8) give mercy to perpetrators who are still suspected in many cases(9) do not sentence a *huduud* if there is still doubt (*al-Fiqhul Islaamiy wa Adillatuhu*, j.7, page. 5314)

d. Constitution of the Republic of Indonesia

- 1) Article 28A: "Every person shall have the right to live and to defend his/her life and existence."
- 2) Article 28B Paragraph (2): "(2) Every child shall have the right to live, to grow and to develop, and shall have the right to protection from violence and discrimination.."
- 3) Article 28C Paragraph (1): " 1) Every person shall have the right to develop him/herself through the fulfillment of his/her basic needs, the right to get education and to benefit from Science and technology, arts and culture, for the purpose of improving the quality of his/her life and for the welfare of the human race."
- 4) Article 28D Paragraph (1): "(1) Every person shall have the right of recognition, guarantees, protection and certainty before a just law, and of equal treatment before the law."
- 5) Article 28G Paragraph (1): "Every person shall have the right to protection of his/herself, family, honour, dignity, and property, and shall have the right to feel secure against and receive protection from the threat of fear to do or not do something that is a human right". Paragraph (2): "Every person shall have the right to be free from torture or inhumane and degrading treatment, and shall have the right to obtain political asylum from another country."
- 6) Article 28H Paragraph (2): "Every person shall have the right to receive facilitation and special treatment to have the same opportunity and benefit in order to achieve equality and fairness."
- 7) Article 28I Paragraph (1): "The rights to life, freedom from torture, freedom of thought and conscience, freedom of religion, freedom from

enslavement, recognition as a person before the law, and the right not to be tried under a law with retrospective effect are all human rights that cannot be limited under any circumstances. Paragraph (2) Every person shall have the right to be free from discriminating treatment based upon any grounds whatsoever and shall have the right to protection from such discriminating treatment. Paragraph (4) The protection, advancement, upholding and fulfillment of human rights are the responsibility of the state, especially the government.

- 8) Article 28J Paragraph (1): “(1) Every person shall have the duty to respect the human rights of others in the orderly life of the community, nation and state.

C. ANALYSIS

1. What is the Islamic law regarding sexual violence?

Sexual violence in its various forms including; rape, sexual abuse, sexual exploitation, sexual slavery, sexual intimidation, human trafficking for sexual purposes, forced prostitution, forced contraception and forced sterilization, all constitute despotic acts as they treat women and girls as sexual objects and takes away their authority over their own bodies. The perpetrators of sexual violence consciously exploit their victim's vulnerability for their own gain without caring about the negative effects the acts have on the victims. These negative effects take on many forms and victims often experience multiple effects or layered suffering with the result they need a considerable amount of time to recover from their ordeals.

Sexual violence in the form of rape may only physically take place for a short amount of time but the after effects are long lasting. The difference between male and females reproductive organs and their functions result in the male as the perpetrator and female as the victim to experience extremely different things when rape takes place. Males who want the sexual intercourse to occur, force the act and control it. Meanwhile, the female victims who do not consent to or want the intercourse to take place can often experience serious physical and psychological harm. One example of the long lasting effects that rape can have on the victim is pregnancy, whereby if a child is conceived the victim must go through a pregnancy, child birth and then raise the child.

Violence against women can be verbal, this is also the case with sexual violence. One such form of verbal sexual violence is false accusations of *zina* being directed at a woman. Women are stigmatized as being a source of *fitnah* (temptation) for men. Women are viewed to be 'seducers' which often means that rape victims are considered as being in the wrong or worthy of blame as they have seduced or tempted the perpetrator into committing the rape. Males as the perpetrators of rape are rarely questioned about endangering females because of their inability to contain sexual urges. Acting to blame another party for one's own failure –especially if this party has not been proven to have committed a wrongdoing; violates the prohibition set out by Allah SWT to not cause harm to innocent people. (QS. *al-Ahzaab*, 33:58).

Acts of sexual violence occur in a context of power imbalance, they are committed by strong parties who are seek to reap economic benefits by forcing vulnerable females into 'serving' the sexual desire of the rapist. It is clear that actions such as this contradict Allah's SWT strict prohibition of forcing women to prostitute themselves (QS. *an-Nuur*, 24:33, *Shahiih Bukhaari*, no. Hadits 2277). Acts of sexual violence that result in threats to security and act to bring disaster to communities are strictly forbidden by Allah SWT (QS. *al-Buruuj*, 85:10).

Islam strictly forbids the marriage practices that were common in the Jahiliyah period which sexually exploited women (*Faishal bin 'Abdul 'Aziz, Bustaanul Ahbar Mukhtashar Nailil Authaar*, j.2, page. 236). A number of ulama have forbidden the practice of forced marriages because the practice can result in forced sexual intercourse (al-Qurthubi, *al-Jaami'ul Ahkaamil Qur'aan*, j. 16, page. 202). A number of other ulama have even emphasized that a wife may refuse to have sexual intercourse with their husband if the sexual intercourse has the potential to cause damage to the wife, (Zainuddin al-Malibari, *Fathul Mu'iiin*, page. 543-544), endanger her, or disturb her ability to fulfill her other responsibilities (Wahbah az-Zuhaili, *al-Fiqhul Islaamiy wa Adillatuhu*, j. 9, page. 6851).

In QS. *an-Nisaa'*, 4:19, Allah SWT firmly states that it is forbidden to inherit women and girls against their will and forbids creating difficulties for them or treating them with harshness by taking away any of the wealth that has been given to them by their husbands. The prohibition in this verse uses the phrase '*laa yahillu*' which carries the meaning 'something that is not halal'. The phrase is then followed by *nahy*. *Nahy* in the principles of Islamic jurisprudence (*fiqh*) has the basic meaning to make something *haram* (الأصل في النهي للتحريم). Interestingly, Allah SWT follows these words with a command to treat females well (وعاشروهن بالمعروف). This command is confirmed by the words '*shighat*' (form) *amr* (command), in *fiqh*, *amr* carries the meaning 'fundamental obligation' (الأصل في الأمر للوجوب).

From analyzing the language of this verse it can be deduced that Allah SWT has deemed it haram for women to be treated like objects that can be inherited. Allah SWT has decreed it is necessary to treat women with dignity and respect. This verse further confirms that Islam positions women as dignified human beings that must be treated as such. This is a clear declaration from Islam regarding the fundamental principles of interacting with females.

After this declaration Allah SWT then clarified how treating women and girls in non-humane ways is forbidden. For example, QS. *an-Nuur*, 24:33 forbids forcing women (even slaves) to prostitute themselves; QS. *an-Nuur*, 24:23-24, prohibits accusing women of having committed *zina* without proof and threatens those who do with a curse from Allah SWT. QS. *al-Buruuj*, 85:10, prohibits spreading false, cruel accusations against women (*zina*) and threatens those who do spread such accusations with the hot fires of hell.

The prohibition of acting inhumanely towards women and girls is strengthened by many hadiths of the Prophet SAW. These hadiths portray

various cases that befell the *sahabiyat* (female companions of the Prophet SAW) in which the *sahabiyat* were treated inhumanely, forced into marriages, sexual harassed and became victims of domestic violence, rape as well as murder. Often, the Prophet SAW in dealing with the aforementioned types of cases demonstrated his defense of women by believing their testimonies and by exempting the victims from punishment. This is an example of acting *ma'ruf* towards women.

Acts of sexual violence and when the state neglects its responsibilities to prevent and handle sexual violence are also contradictory to the Constitution of the Republic of Indonesia that states: Article 28G Paragraph (2) "Every person shall have the right to be free from torture or inhumane and degrading treatment, and shall have the right to obtain political asylum from another country," Article 28B Paragraph (2): "Every child shall have the right to live, to grow and to develop, and shall have the right to protection from violence and discrimination," Article 28 I Paragraph (1): "The rights to life, freedom from torture, freedom of thought and conscience, freedom of religion, freedom from enslavement, recognition as a person before the law, and the right not to be tried under a law with retrospective effect are all human rights that cannot be limited under any circumstances".

These fundamental rights in Islam are known as the 5 Principles of Syari'ah (*al-Kulliyat al-Khams*), which covers the protection of; religion (*hifdhud diin*), spirit (*hifdhun nafs*), conscience (*hifdhul 'aql*), to have children and nobility (*hifdhun nasl wal 'irdl*), and wealth (*hifdhul maal*). All forms of sexual violence violate these basic principles of Syariaah, especially the protection of soul and descent.

Acts of sexual violence contravene:

- a. The confirmation that humans are glorified by Allah SWT(QS. *al-Israa'*, 17:70). Because of this confirmation, humans must act with nobility and together guard the dignity and respect of one another (*Shahih Muslim*, no. Hadiths 67);
- b. The basic principles of the teachings of Islam to help one another and to protect; dignity, freedom, justice and companionship, and the principle that all people are equal (Wahbah Az-Zuhaili, *al-Fiqhul Islaamy wa Adillatuhu*, j. 8, page. 6416). Islam forbids the degradation of respect for human dignity and nobility -for both Muslims and non-Muslims- including in situations of conflict and towards enemies. (Wahbah Az-Zuhaili, *al-Fiqhul Islaamy wa Adillatuhu*, j. 8, page. 6208);
- c. The confirmation from Allah SWT that all men and women are 'awliya'(protectors) of each other(QS. *at-Taubah*, 9:71), thus the two must guard their own freedoms and the freedoms of one another (Imam asy-Syafi'i, *al-Umm*, j. 1, page. 14);
- d. The command of Allah SWT for all men to act humanely (*mu'asyarah bil ma'ruf*) towards women (QS. *at-Taubah* 9:71). One principle of *ma'ruf* is to

fulfil the rights of one's wife and to not inflict suffering on her. (Wahbah Az-Zuhaili, *al-Fiqhul Islaamy wa Adillatuhu*, j. 9, page. 6598);

- e. The neglect of the state in preventing and handling sexual violence contradicts the Constitution of the Republic of Indonesia which establishes that the state must protect the human rights of all citizens.

2. Is rape the same as *zina* in the aspects of definition, punishment and required proof in Islamic Law?

Rape and *zina* are both related to sexual relations and are both forbidden by Islam. The difference in males and females reproductive organs results in sexual relations having different implications for males and females respectively (both in the case of *zina* and rape). Men do not take away a 'biological footprint' from *zina* or rape but the impacts of rape or *zina* for women can be long lasting (lifelong if a child is conceived). The view that if a woman falls pregnant then she has definitely enjoyed the sexual intercourse is not true. Pregnancy occurs because the sperm of a male and egg cell of a female meet, either inside or outside the bond of marriage, pregnancy does not occur because of enjoyment.

Although rape and *zina* can both cause long term effects for women and are both forbidden by religion, the two have fundamental differences. The main element of *zina* is that it occurs outside of marriage. The main elements of rape is that it is non consensual and there is a victim that is forced. This results in the position of males as the rapists being different from the position of females as the victims of rape. Males in the case of rape carry out two prohibited acts at the same time; *zina* and forcing another party to engage in *zina*. Females as the victims of rape who have been forced have not carried out any prohibited act whatsoever. The victims of rape cannot be considered the same as people who have carried out *zina* voluntarily.

The element of force in rape is not easy to prove as rape generally occurs in hidden places. Added to this, the failure of a witness to obtain proof for their testimony can also cause people to be not willing to become witnesses as they can be punished for defamation (in a number of countries this is included in the category *qadzaf*, or a false accusation of *zina*). This situation is worsened by the unequal power relationship between men and women in society where women are often viewed as sources of temptation (and considered to be seducers), so that there is a big tendency in society to blame the female victims of rape. The development of technology, such as DNA testing can only prove whose sperm is inside the body of a victim, it cannot prove that there was an element of force present in the sexual intercourse. This is also the case with a police issued medical examination. The examination can only demonstrate that there are injuries present but not that the injuries were definitely caused by rape as injuries can also be sustained during consensual sexual relations. DNA testing and police medical examinations are thus only viewed as supporting evidence.

Specific conditions that are both biologically and socially constructed causes women victims of violence to be re-victimized for the 'good name of a family' or family honor. For example as often occurs when a rape victim is forced to marry their rapist. This has the effect that the victim is repeatedly forced into sexual relations with the perpetrator. In a number of countries the neglect of this unique condition causes female victims of rape to be caned 80 times. Caning occurs because the victims are not able to provide enough witnesses to the rape to the effect they are considered to have carried out a false accusation of *zina* against the rapist.

If rape victims become pregnant -in this unequal social context that prevails- the pregnancy is often considered evidence that the women has engaged in *zina* with the result she is caned 100 times. If the women is married, the victim of rape can be sentenced to be stoned to death (in countries that enforce this punishment). Meanwhile the rapists can easily escape punishment because there are such difficulties in proving their guilt. The rapist therefore is unlikely to repent as they feel safe to repeat the same evil actions again without risk of consequence. It need not be said that punishing female rape victims with such harsh punishments whilst the rapists go free, constitutes a despotic act that is cruel and unjust.

Equating victims of rape to people that engage in *zina* voluntarily contravenes the example set by Allah SWT who did not punish, but rather pardoned women who were forced into *zina* (QS. *an-Nuur*, 24:33). Rapists have carried out acts of cruelty that are an element of *hiraabah*, an evilness for which the punishment is heavier than the punishment for *zina* (QS. *al-Maa'idah*, 5:33-34). Crimes of *hiraabah* (violent robbery) are some of the most severe crimes because they cause fear, take away people's right to life, tear apart respect for humanity and rob wealth arbitrarily (Wahbah Az-Zuhaili, *al-Fiqhul Islaamiy wa Adillatuhu*, j. 5, page. 166). The perpetrators of rape thus must be given punishments heavier than the punishment for *zina*, though a punishment less severe than *hiraabah*. Adversely, victims of rape, although they have engaged in sexual relations outside of marriage, because they have been forced are free from any punishment and must be given compensation.

The tyranny that befalls victims of rape also occurs because the value of a female's witness is socially constructed as being worth half a male's witness, or in the case of criminal trials, being worthless. The result is, rape victims cannot become witnesses to the crimes that have befallen them. This is despite the fact the Quran has already established that the value placed on a witness testimony is the same for males and females. This is established through the case of *li'aan*- where a husband who accuses his wife of *zina* without proof can swear an oath five times as proof off her *zina*, at the same time the wife may also swear an oath five times to cancel the accusation of the husband (QS. *an-Nuur*, 24:6-9). Unfortunately, although the case of *li'aan* is also related to adultery, the equal value of a man's and woman's witness is only applied in the case of *li'aan* alone.

Ignoring the testimony of a rape victim is also in contradiction to what has been demonstrated by the Prophet SAW as told in the Tirmidhi collection

of *hadith*. In one *hadith* a story is told of a woman who is raped when she leaves her house to *shalat*. On her way home the woman is helped by a group of *muhajirin* who chased the perpetrator. After hearing the narrative from the woman, the Prophet SAW then sentenced the rapist to the heaviest possible punishment whilst freeing the victim from any punishment for *zina*, stating: “Go home, for Allah has forgiven you.” (*Sunan Tirmidhi, no. Hadits 4381*).

Listening to and believing the witness testimony of victims was also practiced by the second Khalifah, Umar bin al-Khattab. One day in Mekah, he met with a woman who was about to be murdered by members of the community who were shouting that she had committed *zina*. The woman was brought before Umar, pregnant. The woman was asked to explain what had happened. The woman explained to the Khalifah that one night, she was asleep when suddenly a man was straddling her, and spilled something like a cloud (sperm) into her. Umar said that if the community killed her then Allah will condemn them all. Then, the *sahaba* Umar forbid all leaders in all nations applying the death penalty without his approval (*al-Albani, al-Irwa’ul Ghaliil, no. hadits 2362*).

A number of *ulama* have stated that rape victims are not only free from any punishment, but they must also be given compensation (*Malik, al-Muwatha’, no. Hadits 1418*). This compensation must be given from the perpetrator to the victim, and of course the compensation must be given without need for the rape victim to marry the rapist. A marriage in this situation would cause the rape victim even more trauma because they will experience the same traumatic event with the perpetrator repeatedly. The threat of sexual violence is also a disturbance of security that is forbidden by Islam, the perpetrator of which will be punished in this life and the afterlife (*Ibnu Qudamah, al-Mughniy, juz 8, page. 98*).

With this spirit of Islam, it should be that the witness statement of a victim becomes the main source of evidence in cases of rape, reinforced by other forms of evidence. If not, the evidence besides a victim’s witness statement, is often easy to be disregarded, especially in the unequal social system that prevails. If a victim’s witness statement is not accepted the rapist will go free without punishment and not being deterred. The victims of rape experience physical and psychological violence, bearing the prolonged shame and reoccurring trauma. Providing assistance to rape victims and preventing perpetrators from re-offending is mandatory in Islam. One of these forms of assistance is by accepting victim witness statements as key evidence in the case of rape.

3. What is the view of Islam towards state authorities and other parties who have a responsibility to protect victims of sexual violence but do not fulfill their responsibility and in some cases even act as perpetrators of sexual violence?

Victims of sexual violence often experience multiple negative impacts, both mental and physical. They need a long period of time to accept the reality

of what has happened and to recover. Aside from the victims who directly experience the sexual violence, the families and surrounding environments such as schools and communities also need time to respond to these events. To protect 'the good name' of a family, or a family's honor, families often force the rapist to marry the rape victim. Schools also often expel victims of rape who fall pregnant, also to 'protect' the good name' of the school. These schools do not wish to allow pregnant students to continue their education as they fear it may be an example for other students to engage in extramarital sex.

The handling of sexual violence cases is increasingly complicated if any of the following conditions occur; (1) the victim is still a child (below the age of 18), (2) the victim becomes pregnant, (3) the rapist is a family relation to the victim (e.g. father, uncle, cousin etc.), (4) the rapist is an influential person (e.g. religious leader, government official or community figure). Female victims who are raped by influential perpetrators face serious obstacles in gaining the trust of the community. There is a tendency for society to have greater trust in a 'role model' or prominent figure than in the statement of a victim who is not an influential person.

The degree of belief or trust in the rape victim defines the attitude and actions of the government officials and law enforcement officers who handle the case. In general the victim only becomes confident to report the case after they are capable of overcoming the initial shock and trauma of the incident and this often takes a long time. Added to this is the victims need to reassure themselves that reporting the case is the best path to take, this also takes time. When reporting the case, the victims are often considered late and because of the time elapsed before the crime is reported, the seriousness of their reports are questioned. There are also difficulties in gathering evidence to support the victims claim. If the perpetrator is an influential person then terror and threats from the perpetrator often mean that the effort to seek justice becomes even more difficult.

The specific conditions for female rape victims, both social and biological, means that the state must pay special attention to protecting them. This is in line with the Constitution of the Republic of Indonesia Article 28 H that states: "Every person shall have the right to receive facilitation and special treatment to have the same opportunity and benefit in order to achieve equality and fairness".

All Muslims are commanded to be behave well and justly, (QS. *an-Nahl*, 16:90). Those who have a specific mandate to organize the affairs of multiple people are specifically commanded to decide on cases of law justly QS. *an-Nisaa'*, 4:58). The justice from these figures has an influence on many people, especially those who seek justice or groups who are treated unjustly in society like victims of sexual violence.

Islam contains many messages for people in positions of authority to not make a person's affairs difficult. This includes the message from the Prophet SAW which forbids leaders from making difficulties for their communities (*Shahiih Muslim*, no. hadits 4826), ignoring the affairs of their communities, (*Sunan Tirmidhi*, no. hadits 1807 and *Shahiih Ibnu Hibban*, no. Hadits 344), and

the threat that those who do will have difficulties created for them in the afterlife (*Sunan Tirmidhi*, no. Hadits 1382).

A number of ulama have also stated that the state has a responsibility to guard the freedoms of all citizens and ensure these freedoms are not taken away by other parties (Wahbah Az-Zuhaili, *al-Fiqhul Islaamy wa Adillatuhu*, j. 8, page. 330). State authorities are strongly forbidden from carrying out despotic or cruel actions against the people (Wahbah Az-Zuhaili, *Mausuu'ah al-Fiqhil Islaamiy*, j. 5, page. 297). In their position as decision makers, judges must follow the principles of: affection, justice, protection of the dignity of humankind, balance between crime and punishment, giving mercy to suspects whose guilt is not proven, and bringing benefit for all in society. (Wahbah Az-Zuhaili, *al-Fiqhul Islaamiy wa Adillatuhu*, j. 7, page. 5314). This is in line with the Constitution of the Republic of Indonesia Article 28 D which states: (1) Every person shall have the right of recognition, guarantees, protection and certainty before a just law, and of equal treatment before the law.

State authorities who have an obligation to protect the community but rather commit acts of sexual violence have carried out multiple violations of prohibitions including: the prohibition of approaching *zina* (QS. *al-Israa*, 17:32), not carry out their responsibility as a protector in their function as an *ulil amri*, and becoming a perpetrator of violence whom endangers the community. In a context like this punishment may be increased for perpetrators to become stricter than if the perpetrator was a general citizen.

The concept of increasing degrees of punishment is found in the Quran. In one context it relates to the threats of punishment for the wives of the Prophet SAW. If they carried out cruel acts they were to receive a punishment that was twice as severe as the punishment that was to be applied to a member of the general community (QS. *al-Ahzaab*, 33:30). Although generally speaking throughout the course of their lives, none of the wives of the Prophet SAW committed any such violations of people's rights, these women, as role models in society had an obligation to guard themselves twice as much as standard citizens. Such is true with state authorities who have been given a mandate to protect the citizens of the nation from all forms of cruelty including sexual violence.

Increased punishments may occur in Islam for several reasons. The ulama Imam asy-Syafi'i, Imam Malik, and Imam Ahmad all agree about the multiplication of *diya* (*fine paid in compensation for a crime*), but they have different opinions about the element of witness statements. According to Syafi'iyah and Hanabilah, increased punishments are given when a killing occurs on the *haram* land of Mekah, a killing is carried out against a blood relative, a killing is deliberate, or semi- deliberate, and when a killing is done at the time of the *haj* (*al-Mausuu'ah al-Fiqhiyyah al-Kuwaitiyyah*, j. 13, page. 67). This demonstrates that the concept of increased punishments is known in Islamic Law.

D. RELIGIOUS ATTITUDES AND VIEWS

With referring to the sources of law above along with the analysis that has been put forward, the deliberation decided on the following official stance:

- a. The law regarding sexual violence in any of its forms, as stated in the *Tashawur* and *Istidlal*, is that sexual violence is *haram*. This applies for sexual violence committed both inside and outside the bond of marriage.
 - 1) Sexual violence -that occurs either within a marriage or outside of it- is contrary to the following teachings of Islam:
 - a) The confirmation from Allah SWT that humans are beings that are honored by Allah SWT and that because of this, people must act honorably by mutually guarding their respect and dignity as humans.
 - b) The basic principle of the teaching of Islam to protect the honor, freedom, justice, companionship, and the equality of humans as well as the prohibition of detracting from the respect and nobility of humankind, for both Muslims and non-Muslims, including in contexts of peace and conflict, for both friend and enemy.
 - c) The confirmation from Allah SWT that men and women are *awliya'* (protectors) and that both must protect and guard their own freedoms and the freedoms of others.
 - d) The specific command from Allah SWT to married couples to treat each other in a way that is proper (*mu'aasyarah bil-ma'ruf*). One act that is proper or *ma'ruf* is not acting in an egotistical way in matters of sexuality including not forcing sexual relations with one's partner.
 - e) The enforcement of human rights, including female human rights, that are guaranteed in Islam, including: 1) the right to life (*haqq wa hurriyatun nafsi wal hayaah*), 2) the right to reproduce and the right to a family (*haqq wa hurriyatun nasl wat tanaasul, wan nasb wal usrah*) and 3) the right to respect and dignity (*haqq wa hurriyatul 'irdl wal karaamah al-insaaniyyah*).
 - 2) The state neglecting to act to prevent or handle sexual violence is contrary to the following articles of the Constitution of the Republic of Indonesia:
 - a) Article 28A: "Every person shall have the right to live and to defend his/her life and existence."
 - b) Article 28B Paragraph (2): Every child shall have the right to live, to grow and to develop, and shall have the right to protection from violence and discrimination.."
 - c) Article 28C Paragraph (1): " 1) Every person shall have the right to develop him/herself through the fulfillment of his/her basic needs, the right to get education and to benefit from Science and technology, arts and culture, for the purpose of improving the quality of his/her life and for the welfare of the human race."

- d) Article 28D Paragraph (1): “(1) Every person shall have the right of recognition, guarantees, protection and certainty before a just law, and of equal treatment before the law.”
 - e) Article 28G Ayat (1): “Every person shall have the right to protection of his/herself, family, honor, dignity, and property, and shall have the right to feel secure against and receive protection from the threat of fear to do or not do something that is a human right” .Ayat (2): “Every person shall have the right to be free from torture or inhumane and degrading treatment, and shall have the right to obtain political asylum from another country.”
 - f) Article 28H Paragraph (2): “Every person shall have the right to receive facilitation and special treatment to have the same opportunity and benefit in order to achieve equality and fairness.”
 - g) Article 28I Paragraph (1): “The rights to life, freedom from torture, freedom of thought and conscience, freedom of religion, freedom from enslavement, recognition as a person before the law, and the right not to be tried under a law with retrospective effect are all human rights that cannot be limited under any circumstances. Paragraph (2) Every person shall have the right to be free from discriminating treatment based upon any grounds whatsoever and shall have the right to protection from such discriminating treatment. Paragraph (4) The protection, advancement, upholding and fulfillment of human rights are the responsibility of the state, especially the government.
 - h) Article 28J Paragraph (1): “(1) Every person shall have the duty to respect the human rights of others in the orderly life of the community, nation and state.
- b. Rape is not the same as *zina*, seen from the aspects of: definition, punishment, and required proof to prosecute.

1) The differences between rape and *zina* by definition:

Rape and *zina* are two acts that are both forbidden by Islam and can both cause long term negative impacts for the female involved. However, there are fundamental differences that separate the two acts. The main element of *zina* is that it occurs outside of marriage, thus there can be no *zina* between a husband and wife. The main element in rape is force, meaning that there is a party that forces the sexual intercourse (the rapist) and a party who is forced into sexual intercourse (the victim of rape). This definition means that rape can occur within a marriage. In *zina*, the element of consent and awareness is present, the act is engaged in voluntarily. In rape there is an element of force (that is not necessarily physical) and an element of non-consent (that is not always verbalized). There is also an inherent exploitation of power relations present in rape.

This results in the position of males as the perpetrators of rape being inherently different from that of females as the victims of rape. Males in the act of rape carry out two violations at once; *zina* and forcing another party

to engage in *zina*. Victims of rape, because they have been forced into the act, cannot be equated with parties who engage in *zina* voluntarily, what's more be compared with a person who forces another into *zina*. The victims of rape have not carried out any violation but have become the victims of a violation.

2) The difference between rape and *zina* from the aspect of punishment.

- a) In *zina*, both parties are given the same legal sanctions in accordance with the law that applies within the Republic of Indonesia. However, in cases of rape, punishment is only handed down to the perpetrator and there is no punishment or sanction for the victim. The punishment for the perpetrators of rape must be heavier than the punishment for *zina* but less severe than the punishment for robbery that is followed by rape or murder (Hiraabah). The punishment for the crime must be an accumulation of punishments for the force used and the *zina* committed. The punishment must also be in line with the values of justice, and the laws that prevail in the Republic of Indonesia. Victims of rape may not be handed down any punishment but rather must be given access to recovery (physical and physiological) and compensation for the crimes that have befallen them.
- b) If agreed to by the female party involved, the perpetrators of *zina* may be married. A victim of rape however, cannot be married to the perpetrator of that rape. A marriage would serve to cause repeated trauma for the victim as well as causing other negative impacts for the victim.
- c) A woman or girl that has been raped still remains holy and sin free. The only party that has committed a sin is the rapist. In sight of this, it is forbidden for rape victims to be punished, stigmatized, shunned or have their human dignity degraded in any way.

3) The difference between rape and *zina* from the aspect of evidence required.

The evidence required in the case of rape is different from that of the evidence required for *zina*. Proof of *zina* can occur through an admission from the perpetrator of their guilt, or through four witnesses who directly observed the act of the penis entering the vagina in the sexual intercourse. The main evidence needed in cases of rape, - as demonstrated by the Prophet SAW and Sahabat Umar bin Khattab in handling cases of rape during their time- is the witness statement of the victim. This main evidence can be strengthened by other evidence such as evidence of injury, pleas for help and other supporting evidence. It is not the burden of the victim to gather this supporting evidence but rather the responsibility of law enforcement officials or the responsibility of the perpetrator in the case of a reversed burden of proof.

- c. The view of Islam towards state authorities and other parties who have a responsibility to protect victims of sexual violence but do not fulfill their responsibility and in some cases even act as perpetrators of sexual violence:
- 1) Islam's view is that the state has a responsibility to guarantee the fulfillment 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 fulfillment 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.
 - 2) In the case that the state or other parties whom have a responsibility to protect, in fact become perpetrators of violence - including perpetrators of sexual violence- , Islam views that the sins and the punishment for these perpetrators become more severe (*taghliidhu al-'uquubah*). This is because these parties have carried out multi layered violations, the violation of sexual violence itself and then the neglect to fulfill 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.

E. RECCOMENDATIONS

1. For families:

- a. Educate all members of the family about the values of equality, provide them with information about sexual violence and womens rights so that they can prevent becoming either victims or perpetrators of sexual violence.
- b. Assist family members that become victims of sexual violence to gain access to justice and fulfill their rights through law enforcement.
- c. Do not blame or join in punishing a victim for the 'good name' or honor of a family.

2. For the community:

- a. Do not carry out sexual violence and do not allow sexual violence to take place. Do not act cruelly towards victims of sexual violence, including by: blaming, ostracizing, punishing, shunning, stigmatizing or banishing them.
- b. Prevent the repeat of sexual violence and assist victims to gain access to their rights to truth, justice, protection, guarantee of non repetition, recovery and reparations.

3. For ulama or religious figures:

- a. Act in solidarity with the victims of sexual violence by not allowing criminalization, stigmatization, shunning or banishment of the victim to occur.
- b. Socialize the religious views and stance of the women's ulama during community prayers.
- c. Promote and spread religious interpretations and religious literature that is in line with the concept of gender equality and justice.

4. For the government:

- a. The government along with the legislature should act rapidly to enact a policy that provides for the fulfillment of victims rights and works to prevent sexual violence (Elimination of Sexual Violence Bill).
- b. Ensure that services for victims of sexual violence are provided without discrimination and in a way that is effective. To the maximum.
- c. The government should provide officers and staff that are comprehensively trained and possess human rights and gender perspective.

5. For law enforcement officers and staff of organizations that provide services for victims of sexual violence:

- a. Implement the breakthroughs or legal frameworks that exist in law to assist victims of sexual violence.
- b. Ensure that staff whom handle cases of sexual violence possess understanding and have developed perspectives about gender equality.

6. For corporations:

- a. Enforce codes of conduct to prevent sexual violence occurring in the work environment.
- b. Create and enforce mechanisms for the reporting and handling of sexual violence if it occurs in the work environment.

7. For community organizations and institutions in the community.

- a. Do not carry out vigilante justice
- b. Support victims, educate the community about the prevention and elimination of sexual violence
- c. Advocate the importance of protecting victims. Build and implement community based *support systems* for victims of sexual violence

F. REFERENCES

1. *Al-Qur'an al-Karim*.
2. *Shahiih al-Bukhaariy*. Abu Abdullah Muhammad bin Ismail bin Ibrahim bin al-Mughirah bin Bardizbah al-Bukhari. Cairo, Mesir: Jam'iyat al-Maknaz al-Islami, Cairo, Mesir. 2000.

3. *Shahiih Muslim*. Abul Husain Muslim bin al-Hajjaj al-Qusyairi an-Naisaburi. Cairo, Mesir: Jam'iyat al-Maknaz al-Islami. 2000.
4. *al-Muawatha'*. Abu Abdillah Malik bin Anas bin Malik bin Abi Amir bin Amr bin al-Haris bin Ghaiman bin Jutsail. Cairo Mesir: Jam'iyat al-Maknaz al-Islami. 2000.
5. *Sunan at-Tirmidzi*. Muhammad bin 'Isa bin Saurah bin Musa as-Sulami at-Tirmidhi. Cairo, Mesir: Jam'iyat al-Maknaz al-Islami. 2000.
6. *Sunan Abuu Dawud*. Abu Dawud Sulaiman bin al-Asy'as bin Ishak bin Basyir bin Syidad bin Amar al-Azdi as-Sijistani. Cairo, Mesir: Jam'iyat al-Maknaz al-Islami. 2000.
7. *Sunan Ibnu Maajah*. Abu Abdillah Muhammad bin Yazid Ar-Rabi' Al-Qazwinî Al-Hâfidz. Cairo, Mesir: Jam'iyat al-Maknaz al-Islami. 2000.
8. *Musnad Ahmad*. Ahmad bin Hanbal. Cairo, Mesir: Jam'iyat al-Maknaz al-Islami. 2000.
9. *Irwa'ul Ghaliil fi Takhriij Ahaadits Manaarus Sabiil*. Nasiruddin al-Albani. Beirut: al-Maktab al-Islami. 1985.
10. *Al-Mausuu'ah al-Fiqhiyyah al-Kuwaitiyyah*. Kuwait: Wizarat al-Awqaf wasy-Syu'un al-Islamiyah. 1983.
11. *al-Jaami' li Ahkaamil Qur'aan*. Muhammad bin Ahmad bin Abi Bakr Al-Qurthubi, ed. Abdullah at-Turki. Beirut: Mu'assasah ar-Risalah. 2006.
12. *al-Umm*. Muhammad bin Idris asy-Syafi'i, ed. Rif'at Fawzi Abdul Mutallib. Cairo, Mesir: Dar al-Wafa. 2001.
13. *Bustaanul Ahbaar Mukhtashar Nailil Authaar*. Faishal bin 'Abdul 'Aziz al-Mubarak. Riyadl, Saudi. 1998.
14. *al-Mughniy libni Qudaamah*. Muwaffiqud Din ibnu Qadamah, ed. Abdullah bin Abdul Muhsin at-Turki dan Abdul Fatah al-Haluw. T.t.: Dar Alam al-Kutub. 1997.
15. *Shahiih Ibnu Hibbaan*. Ibn Hibban, ed. Ahmad Syakir. Cairo, Mesir: Dar al-Ma'arif. 1952.
16. *al-Fiqhul Islaamiy wa Adillatuhu*. Wahbah az-Zuhaili. Damaskus, Syiria: Dar al-Fikr al-Islami. 1989.
17. *Fathul Mu'iin*. Zainuddin Al-Malibari. Surabaya: Matba'ah Toha Putra. T.th.
18. *Peta Kekerasan, Pengalaman Perempuan Indonesia*. Komnas Perempuan. Jakarta: 2002.
19. *Seri Dokumen Kunci: Laporan Pelapor Khusus PBB Mengenai Kekerasan terhadap Perempuan, Perdagangan Perempuan, Migrasi Perempuan: Penyebab dan Akibatnya*. Komnas Perempuan. Jakarta: 2011.
20. "Perkosaan dan Kekuasaan". *Jurnal Perempuan*, Volume 71. Jakarta: 2011.
21. *Seri Dokumen Kunci 8, Pemerkosaan, Perbudakan Seksual, dan Bentuk-bentuk Lain Kekerasan Seksual (Laporan Komisi Penerimaan, Kebenaran, dan Rekonsiliasi (CAVR) Timor Leste)*. Komnas Perempuan. Jakarta: 2014.
22. "RUU Penghapusan Kekerasan Seksual." *Jurnal Perempuan*, Volume 89. Jakarta: 2016.

G. ATTACHMENTS

1. الفقه الإسلامي وأدلته للزحيلي (ج8، ص 6416): والخلاصة: أن الإسلام يحرص على حماية حقوق الإنسان سواء في دار الإسلام أم في دارالحرب، ويحترم في الواقع مفاهيم الكرامة الإنسانية والحرية والعدالة والإخاء والتعاون والمساواة بين كل الناس، فتتعاون الدولة الإسلامية مع غيرها عند الدخول في علاقات تجارية ونحوها مع البلدان الأخرى، أو أثناء الإقامة بدار الحرب، أو وقت الاحتكاك بالشعوب أثناء الفتوح، أو عند اجتياز الحربيين لبلادنا وتمتعهم بالأمان فيها.
2. الفقه الإسلامي وأدلته للزحيلي (ج9، ص 6598): المعاشرة بالمعروف من كف الأذى وإيفاء الحقوق وحسن المعاملة: وهو أمر مندوب إليه، لقوله تعالى: ((وعاشروهن بالمعروف)) [النساء، 19] ولقوله صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «خيركم خيركم لأهله، وأنا خيركم لأهلي». وقوله: «استوصوا بالنساء خيراً». والمرأة أيضاً مندوبة إلى المعاشرة الجميلة مع زوجها بالإحسان، واللفظ في الكلام، والقول المعروف الذي يطيب به نفس الزوج. ومن العشرة بالمعروف: بذل الحق من غير مطل، لقوله صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «مَطْلُ الْغَنِيِّ ظَلَمٌ». ومن العشرة الطيبة: ألا يجمع بين امرأتين في مسكن إلا برضاها؛ لأنه ليس من العشرة بالمعروف، ولأنه يؤدي إلى الخصومة. ومنها ألا يظأ إحداها بحضرة الأخرى؛ لأنه دناءة وسوء عشرة. ومنها ألا يستمتع بها إلا بالمعروف، فإن كانت نِضُو الخلق (هزيلة) ولم تحتمل الوطء، لم يجز وطؤها لما فيه من الإضرار.
3. الفقه الإسلامي وأدلته للزحيلي (ج8، ص 6208): حماية الكرامة الإنسانية: الكرامة حق طبيعي لكل إنسان، رعاها الإسلام، واعتبرها مبدأ الحكم وأساس المعاملة، فلا يجوز إهدار كرامة أحد، أو إباحة دمه وشرفه، سواء أكان محسناً أم مسيئاً، مسلماً أم غير مسلم؛ لأن العقاب إصلاح وزجر، لا تنكيل وإهانة، ولا يحل شرعاً السب والاستهزاء والشتم وقذف الأعراس، كما لا يجوز التمثيل بأحد حال الحياة أو بعد الموت، ولو من الأعداء أثناء الحرب أو بعد انتهائها. ويحرم التجويع والإظماء والنهب والسلب. وما أروع إعلان القرآن لمبدأ الكرامة الإنسانية في قوله تعالى: ((ولقد كرّمنا بني آدم)) [الإسراء، 70] وقال رسول الإسلام صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «إن دماءكم وأموالكم وأعراضكم حرام عليكم».

4. الجامع لأحكام القرآن (ج16، ص202): وأما نكاح المكره؛ فقال سحنون: أجمع أصحابنا على إبطال نكاح المكره والمكرهه، وقالوا: لا يجوز المقام عليه، لأنه لم ينعقد. قال محمد بن سحنون: وأجاز أهل العراق نكاح المكره، وقالوا: لو أكره على أن ينكح امرأة بعشرة آلاف درهم، وصدّاق مثلها ألف درهم، أن النكاح جائز وتلزمه الألف ويبطل الفضل. قال محمد: فكما أبطلوا الزائد على الألف فكذلك يلزمهم إبطال النكاح بالإكراه. وقولهم خلاف السنة الثابتة في حديث خنساء بنت خدام الأنصارية، ولأمره صلى الله عليه وسلم بالاستثمار في أبضاعهن، وقد تقدم، فلا معنى لقولهم.

5. قرارات وتوصيات مجمع الفقه الإسلامي الدولي (ص218): منها: الدعوة إلى احترام المرأة في جميع المجالات ، ورفض العنف الذي مازالت تعاني منه في بعض البيئات ، ومنه العنف المنزلي والاستغلال الجنسي والتصوير الإباحي والدعارة والاتجار بالمرأة والمضايقات الجنسية ، مما هو ملاحظ في كثير من المجتمعات التي تمتهن المرأة، وكرامتها ، وتتنكر لحقوقها الشرعية ، وهي أمور منكرة دخيلة لا علاقة للإسلام بها. ومنها: قيام الوسائل الإعلامية بتعزيز الدور الإيجابي للمرأة ورفض جميع أشكال استغلال المرأة في وسائل الإعلام والإعلان والدعاية المسيئة للقيم والفضائل مما يشكل تحقيرا لشخصيتها وامتھانا لكرامتها. ومنها: ينبغي بذل جميع الجهود لتخفيف آلام النساء والمجموعات الضعيفة، وبصفة خاصة النساء المسلمات اللائي مازلن ضحايا النزاعات المسلحة والاحتلال الأجنبي والفقر وضحايا الضغوط الاقتصادية الأجنبية.

6. فتح المعين بشرح قرّة العين بمهمات الدين (ص: 543-544): ويحصل النشوز بمنع الزوجة الزوج من تمتع ولو بنحو لمس أو بموضع عينه لا إن منعت عنه لعذر كبير آله بحيث لا تحتمله ومرض بها يضر معه الوطء وقرح في فرجها وكنحو حيض..... فرع: لها منع التمتع لقبض الصداق الحال أصالة قبل الوطء بالغة مختارة إذ لها الامتناع حينئذ فلا يحصل النشوز. ولا تسقط النفقة بذلك فإن منعت لقبض الصداق المؤجل أو بعد الوطء طائفة فتسقط. فلو منعت لذلك بعد وطئها مكرهة أو صغيرة ولو بتسليم الولي فلا. ولو ادعى وطأها بتمكينها وطلب تسليمها إليه فأنكرته وامتنتع من التسليم صدقت.

٧. الفقه الإسلامي وأدلته للزحيلي (ج9، ص 6851): وعلى الزوجة طاعة زوجها إذا دعاها إلى الفراش، ولو كانت على التنور أو على ظهر قتب، كما رواه أحمد وغيره، ما لم يشغلها عن الفرائض، أو يضرها؛ لأن الضرر ونحوه ليس من المعاشرة بالمعروف.

٨. موطأ مالك رواية محمد بن الحسن الشيباني (ص: 245): أَحْبَبْنَا مَالِكُ، حَدَّثَنَا ابْنُ شَهَابٍ، أَنَّ عَبْدَ الْمَلِكِ بْنَ مَرْوَانَ، قَضَى فِي امْرَأَةٍ أُصِيبَتْ مُسْتَكْرَهَةً بِصَدَاقِهَا عَلَى مَنْ فَعَلَ ذَلِكَ. قَالَ مُحَمَّدٌ: إِذَا اسْتُكْرِهَتِ الْمَرْأَةُ فَلَا حَدَّ عَلَيْهَا، وَعَلَى مَنْ اسْتَكْرَهَهَا الْحُدُّ، فَإِذَا وَجِبَ عَلَيْهِ الْحُدُّ بَطَلَ الصَّدَاقُ، وَلَا يَجِبُ الْحُدُّ وَالصَّدَاقُ فِي جِمَاعٍ وَاحِدٍ، فَإِنْ دُرِيَ عَنْهُ الْحُدُّ بِشُبُهَةٍ وَجِبَ عَلَيْهِ الصَّدَاقُ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ، وَإِبْرَاهِيمَ التَّحِيصِيِّ، وَالْعَامَّةَ مِنْ فُقَهَائِنَا.

٩. الموطأ للإمام مالك، رقم الحديث: (١٢١٨): حَدَّثَنِي مَالِكُ عَنِ ابْنِ شَهَابٍ أَنَّ عَبْدَ الْمَلِكِ بْنَ مَرْوَانَ قَضَى فِي امْرَأَةٍ أُصِيبَتْ مُسْتَكْرَهَةً بِصَدَاقِهَا عَلَى مَنْ فَعَلَ ذَلِكَ بِهَا قَالَ يَحْيَى سَمِعْتُ مَالِكًا يَقُولُ الْأَمْرُ عِنْدَنَا فِي الرَّجُلِ يَعْتَصِبُ الْمَرْأَةَ بَكْرًا كَانَتْ أَوْ ثَيِّبًا أَنَّهَا إِنْ كَانَتْ حُرَّةً فَعَلَيْهِ صَدَاقٌ مِثْلَهَا وَإِنْ كَانَتْ أَمَةً فَعَلَيْهِ مَا نَقَصَ مِنْ تَمَنِّيَّهَا وَالْعُقُوبَةُ فِي ذَلِكَ عَلَى الْمُعْتَصِبِ وَلَا عُقُوبَةٌ عَلَى الْمُعْتَصِبَةِ فِي ذَلِكَ كُلِّهِ وَإِنْ كَانَ الْمُعْتَصِبُ عَبْدًا فَذَلِكَ عَلَى سَيِّدِهِ إِلَّا أَنْ يَشَاءَ أَنْ يُسَلِّمَهُ.

10. الفقه الإسلامي وأدلته للزحيلي (ج5، ص 166): حكم قطع الطريق: الحراية: هي التعرض للناس وتهديدهم بالسلاح في الصحراء أو البنيان، في البيوت أو وسائل النقل، من أجل سفك دمايتهم، أو انتهاك أعراضهم، أو غصب أموالهم ونحو ذلك. ويدخل في حكم الحراية كل ما يقع من ذلك في الطرق والمنازل، والسيارات والقطارات، والسفن والطائرات، سواء كان تهديداً بالسلاح، أو زرعاً للمتفجرات، أو نسفاً للمباني، أو حرقاً بالنار، أو أخذاً لرهائن. وكل ذلك محرم، ومن أعظم الجرائم؛ لما فيه من ترويع الناس، والاعتداء على أنفسهم وأعراضهم وأموالهم بغير حق. ولهذا كانت عقوبتها من أقسى العقوبات.

11. الفقه الإسلامي وأدلته للزحيلي (ج8، ص 330): الحرية ملازمة للكرامة الإنسانية، فهي حق طبيعي لكل إنسان، وهي أعلى وأتمن شيء يقدره ويحرص عليه، قال عمر بن الخطاب لواليه عمرو بن العاص: «متى تعبدتم الناس وقد ولدتهم أمهاتهم أحراراً» وعلى

الحاكم توفير الحريات بمختلف مظاهرها الدينية والفكرية والسياسية والمدنية في حدود النظام والشريعة. وأعلن القرآن حرية العقيدة وحرية الفكر وحرية القول.

12. الفقه الإسلامي وأدلته للزحيلي (ج7، ص314): وهذه المبادئ التي تنطلق منها أنواع العقاب في الشريعة تلازم وجدان القاضي وضميره وشعوره وأصوله في القضاء، وهي الرحمة والعدالة وحماية الكرامة الإنسانية، ورعاية المصالح العامة والخاصة أو حقوق المجتمع والشخص معاً، والمساواة بين الجريمة والعقوبة، وعدم الحرص على توقيع العقوبة في ظل مبدأ الستر حيث لا مجاهرة ولا إعلان بالفسق، والعفو عن المتهم في حالات كثيرة، ودرء الحد بالشبهة، والتركيز على العقوبة في حال المجاهرة والإعلان والمفاخرة بالمعصية، والاستخفاف بالقيم الإنسانية، وتحدي مشاعر المجتمع وإحساسه ونظامه العام وآدابه العامة.

13. الموسوعة الفقهية الكويتية (ج24، ص20): تَفَاوُثُ إِثْمِ الزَّانِي: يَتَفَاوُثُ إِثْمَ الزَّانِي وَيَعْظُمُ جُرْمُهُ بِحَسَبِ مَوَارِدِهِ. فَالزَّانِي بِذَاتِ الْمَحْرَمِ أَوْ بِذَاتِ الزَّوْجِ أَعْظَمُ مِنَ الزَّانِي بِأَجْنَبِيَّةٍ أَوْ مَنْ لَا زَوْجَ لَهَا، إِذْ فِيهِ انْتِهَاكُ حُرْمَةِ الزَّوْجِ، وَإِفْسَادُ فِرَاشِهِ، وَتَعْلِيْقُ نَسَبٍ عَلَيْهِ لَمْ يَكُنْ مِنْهُ، وَعَبِيرُ ذَلِكَ مِنْ أَنْوَاعِ آذَاهُ. فَهُوَ أَعْظَمُ إِثْمًا وَجُرْمًا مِنَ الزَّانِي بِعَبِيرِ ذَاتِ الْبَعْلِ وَالْأَجْنَبِيَّةِ. فَإِنْ كَانَ زَوْجُهَا جَارًا انْضَمَّ لَهُ سُوءُ الْجَوَارِ. وَإِبْدَاءُ الْجَارِ بِأَعْلَى أَنْوَاعِ الْأَذَى، وَذَلِكَ مِنْ أَعْظَمِ الْبَوَائِقِ، فَلَوْ كَانَ الْجَارُ أَحًا أَوْ قَرِيْبًا مِنْ أَقَارِبِهِ انْضَمَّ لَهُ قَطِيعَةُ الرَّحِمِ فَيَتَضَاعَفُ الْإِثْمُ. وَقَدْ ثَبَتَ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنَّهُ قَالَ: ((لَا يَدْخُلُ الْجَنَّةَ مَنْ لَا يَأْمَنُ جَارَهُ بَوَائِقَهُ)). وَلَا بَائِقَةٌ أَعْظَمُ مِنَ الزَّانِي بِامْرَأَةِ الْجَارِ. فَإِنْ كَانَ الْجَارُ غَائِبًا فِي طَاعَةِ اللَّهِ كَالْعِبَادَةِ، وَطَلَبِ الْعِلْمِ، وَالْجِهَادِ، تَضَاعَفَ الْإِثْمُ حَتَّى إِنَّ الزَّانِيَةَ بِامْرَأَةِ الْعَازِي فِي سَبِيلِ اللَّهِ يُوقَفُ لَهُ يَوْمَ الْقِيَامَةِ، فَيَأْخُذُ مِنْ عَمَلِهِ مَا شَاءَ. قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: ((حُرْمَةُ نِسَاءِ الْمُجَاهِدِينَ عَلَى الْقَاعِدِينَ كَحُرْمَةِ أُمَّهَاتِهِمْ، وَمَا مِنْ رَجُلٍ مِنَ الْقَاعِدِينَ يَخْلُفُ رَجُلًا مِنَ الْمُجَاهِدِينَ فِي أَهْلِهِ فَيُحَوِّثُهُ فِيهِمْ، إِلَّا وَقَفَ لَهُ يَوْمَ الْقِيَامَةِ فَيَأْخُذُ مِنْ عَمَلِهِ مَا شَاءَ فَمَا ظَنُّكُمْ؟)) أَيْ مَا ظَنُّكُمْ أَنْ يَشْرَكَ لَهُ مِنْ حَسَنَاتِهِ؟ قَدْ حَكَمَ فِي أَنَّهُ يَأْخُذُ مَا شَاءَ عَلَى شِدَّةِ الْحَاجَةِ إِلَى حَسَنَةِ وَاحِدَةٍ، فَإِنْ اتَّفَقَ أَنْ تَكُونَ الْمَرْأَةُ رَجْمًا لَهُ انْصَافَ إِلَى ذَلِكَ قَطِيعَةَ رَجْمِهَا، فَإِنْ اتَّفَقَ أَنْ يَكُونَ الزَّانِي مَحْصَنًا كَانَ الْإِثْمُ أَعْظَمَ، فَإِنْ كَانَ شَيْحًا كَانَ أَعْظَمَ إِثْمًا وَعُقُوبَةً، فَإِنْ اقْتَرَنَ

بِذَلِكَ أَنَّ يَكُونَ فِي شَهْرِ حَرَامٍ، أَوْ بَلَدٍ حَرَامٍ، أَوْ وَقْتٍ مُعَظَّمٍ عِنْدَ اللَّهِ كَأَوْقَاتِ الصَّلَاةِ
وَأَوْقَاتِ الْإِجَابَةِ تَضَاعَفَ الْإِثْمُ.

**THE TEXT OF THE RESULTS
OF RELIGIOUS CONSULTATION
ON CHILD MARRIAGE**



Some of International delegations are enjoying the song of *Sholawat Musawah* at the opening ceremony of the Congress (25/04/2017)



Students of Kebon Jambu Pesantren are performing *Shalawat* (songs of the Prophet) at the opening ceremony of the Congress (25/04/2017)

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

RESULTS OF THE RELIGIOUS CONSULTATION CONGRESS OF INDONESIAN WOMEN ULAMA No. 02/MK-KUPI-1/IV/2017 REGARDING CHILD MARRIAGE

A. DESCRIPTION

One in four Indonesian women is married before 18 (BPS and UNICEF, 2016). On a global level, Indonesia is among the seven countries with the highest absolute number of child marriages, and ranked as the second-highest number of cases of child marriage in ASEAN (UNICEF, 2010).

Throughout the year of 2011-2012, there have been cases of child marriage, i.e. 6,211 in 111 villages of 20 provinces (*Pekka Foundation and SMERU, 2013*). The practice of child marriage can easily be found in almost all regions of Indonesia. In 2015 for example, the five provinces with the highest prevalence of child marriage when compared to the national figure (22.82%), were 34.22% of cases in West Sulawesi, 33.68% South Borneo, 33.56% Central Kalimantan, 32.21% West Kalimantan and 31.91% Central Sulawesi. Higher child marriage rates are frequent in the countryside (27.11%) than in urban areas (17.09%). Yet, this figure shows a decrease when compared with 2013 which shows that the practice of child marriage in the countryside amounts to 28.47% as compared to urban areas at 18.48% (BPS, 2013 and 2015).

Other than in rural areas, regions suffering unnatural changes, especially in function of land usage the number of child marriages tends to be higher such as the areas of Banten, West Java, East Java, West Nusa Tenggara and South Sulawesi. This occurs because public access to natural resources on their land, is diminished or even closed. They no longer have the income from the land and the environment. On these conditions, marrying daughters becomes a shortcut to release the burden of the family. Because by marrying the daughter in the family, the responsibilities for taking care of the daughter will switch from the parents to the husband as the latter takes the daughter out of the family's home. Additionally, the parents have great hopes that the daughter in question will bring prosperity to her family (*Rumah Kitab, 2016*).

As to the factors that become the direct cause of child marriage is unwanted pregnancy (KTD), forced marriage, school drop outs because the child in question has to take care of household chores, or because of limited resources. Child marriage also occurs because the parents wish their son to become economically independent quickly, the son's sexuality is seen to be dangerous consequently his sexuality has to be controlled, or because the daughter becomes the victim of sexual violence therefore the solution is for the girl in question to be married. Together with the above factors, child marriage is oftentimes packed with religious justification such

as to follow the *sunnah* (tradition) of the Prophet, to complete someone's religious duty, and to prevent adultery (Rumah Kitab, 2016).

One of the regencies that shows a correlation between child marriage and illiteracy, maternal mortality (AKI) and infant mortality (AKB), is Bondowoso, East Java. The Regency has the highest prevalence for the above three things compared with other areas in the whole East Java. Illiteracy rate, of 6.84% boys and 19.09% girls of five years and over who have never attended school in 2012. One hundred nine out of 100,000 maternal mortality in 2012 and infant mortality rate were recorded 58 out of 1,000 births in 2011. This happens because the number of child marriages in Bondowoso is ranked to be the highest in East Java, i.e. 73.9% in 2011 (YKP, 2016).

Instead of reaping the benefit, child marriage is proven to cause a lot of *madlarat* or suffering, and discomfort of life, both to the girls who are married, and to the men who marry them (especially those who are still of child age), as well as to their offspring later. This *mudlarat* is entwined and intertwined with other aspects that ultimately affect the quality as human beings carrying out the mandate of God Almighty and that of His Messenger. Either good deed as an individual with vertical relationship to God Almighty, or as a member of the family, the community, citizen of the nation, and the world population all of which have a horizontal relationship to make the life of this world more prosperous and to improve humanity.

Child marriage is bad in almost all aspects of life. In the field of health, pregnancy that occurs due to young age of the mother (under 18) is the contributing cause of anemia in the mother during pregnancy, of malnutrition because the mother is still in the growing period meaning that nutrients are being seized between the mother and the breastfeeding baby, hence the baby suffers from malformation both physically and mentally because of imperfection during pregnancy or at the time of birth or because of the unpreparedness of the mother's reproductive organs, hence this causes the second biggest death during pregnancy and childbirth, including babies dying before reaching 28 days (UNICEF, 2016) so that this significantly contributes to the rise of maternal mortality (AKI).

On the aspect of education: girls with low education and who are drop outs from the school in general are more prone to get married when they are still of a young age as compared to those who have mid- level education or those who are highly educated. On the contrary, women who are married at the early age, 85% end their education after they marry (BPS, 2016). In other words, the majority of girls who are married before the age of 18 have six times greater chance for not completing education (UNICEF, 2016), especially those who are already pregnant, have to give birth, breastfeed, and raise the infant immediately.

UNICEF also reported that during the year 1998-2007 children of less educated mothers have high infant mortality rates, i.e. 73 out of 1,000 births while infant mortality rates of mid-level education or highly educated mothers amount to 24 out of 1,000 births. The difference is due to the behavior, better knowledge of health among women who are educated.

Socially, child marriage is particularly vulnerable to end up in a divorce. The rate of divorce reaches 50% to 22% of women married under the age of 18

(Indonesia Demographic and Health Survey, 2012). Child marriage could also end in divorce before a year due to the vulnerability of domestic violence, and forced sexual intercourse. Still as children, they are forced into adulthood with limited care giving abilities.

As to welfare, child marriage with low income is associated with lower level of prosperity. This is directly proportional with educational policy applicable in majority of schools that closes access to women who are married before 18, so that they are unlikely to improve their welfare either through work or becoming entrepreneurs. As a result, they become very poor, i.e. 28.8% poor and 29.9% very poor (BPS and UNICEF, 2016).

On the political aspect, child marriage basically deprives the rights of the child to grow as a reasonable citizen. The rights to contribute to develop the family and community, as well as to build the state have already been denied. As individuals, they must be free from pain, free of the burden of children, and must be free to determine their own life options better. Enforced child marriage eliminates the most basic political right of children, i.e. to be heard.

While as to the economic aspect, because of lack of skills due to the low level of education, employment opportunities become so limited for the children so that they become to poor or dependent on another party (the husband, the husband's family, their own family) all of those trigger violence, both economically, mentally, physically, or sexually.

According to *the Convention on the Rights of the Child* (CRC) or Convention of the Rights of Children, the latter are guaranteed the right to live, the right to good health, the right to be protected from all harmful practices, the right to be free from violence and exploitation, the right to education and the right to participate actively. Act No. 35 Year 2014 jo. Act No. 23 Year 2002 on child protection (Child Protection Law), stipulate the rights of children to develop, to get education, to grow in a comfortable environment, the right to play, and to be free from sexual violence.

The child protection Act defines a child who is below 18 (eighteen), including children who are still in the womb (Article 1). The practice of child marriage, with all the *mudlarats* have violated the rights of the child based on CRC and Child Protection Law.

Whereas Act No. 1 Year 1974 about marriage (UUP) actually already stipulates that marriage can only occur when a person is 21 years (Article 6 paragraph (2)), and with the consent of the couple Article 6 paragraph (1)). If the children are still below 21 (twenty-one), then they must get permission from both parents respectively (Article 6 paragraph (2)), with at least the man should be 19 (nineteen) while the woman 16 (sixteen) [Article 7 paragraph (1)]. Exemption from this paragraph (1) of this article may be requested to the Court or other authorities requested by both parents from the man and the woman (Article 7 paragraph 2). Article 7 paragraph (1) and (2) opens judicial legitimacy gap for many parties to enforce child marriage, including asking for permission from the authorities (Bureau of Religious Affairs or the Religious Court).

Questions:

1. How does the law prevent child marriage which gives rise to all *mudlarats* in the context of materializing a peaceful Islamic family (*sakiinah*)?
2. Who are the parties responsible for preventing child marriage?
3. What can be done to children who experience such marriage as a form of protection?

B. SOURCES

To answer the three questions above, the Discussion refers to several legal bases below:

1. The Text of Quran

- a. Objective of a marriage is to get peace of the soul (*sakiinah*) on the ground of compassion (*mawaddah wa nurses*) (QS. *ar-Ruum*, 30:21):

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً
 إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ (الروم، ٢١).

"And among the signs of His power is that He creates for you pairs of your kind, that you tend to be and feel at peace with him, and to create love and affection between you. Actually, these are really the signs of (the greatness of Allah) for those people who think. "

- b. The command not to produce a weak generation (QS. *an-Nisaa* ', 4:9):

وَلْيَخْشَ الَّذِينَ لَوْ تَرَكَوْا مِنْ خَلْفِهِمْ ذُرِّيَّةً ضِعَافًا خَافُوا عَلَيْهِمْ فَلْيَتَّقُوا اللَّهَ وَلْيَقُولُوا قَوْلًا
 سَدِيدًا (النساء، ٩).

"And let the fear of God, those who leave behind children who are weak, they are worried about their (welfare). Therefore, they should surrender to God and let them speak words of truth. "

- c. The command to be the best people to play an active role in the community social work (QS. *Ali ' Imraan*, 3:110):

كُنْتُمْ خَيْرَ أُمَّةٍ أُخْرِجَتْ لِلنَّاسِ تَأْمُرُونَ بِالْمَعْرُوفِ وَتَنْهَوْنَ عَنِ الْمُنْكَرِ وَتُؤْمِنُونَ بِاللَّهِ.
 (آل عمران، ١١٠).

"You are the best people who are born as human beings, to cry out to the ma'ruuf, and prevent from being ignorant, and to believe in God."

d. The ban on self-destruction leading to extinction (QS. *al-Baqarah*, 2:195):

وَلَا تُلْفُوا بِأَيْدِيكُمْ إِلَى التَّهْلُكَةِ وَأَحْسِنُوا إِنَّ اللَّهَ يُحِبُّ الْمُحْسِنِينَ (البقرة، ١٩٥).

"And you shall not lead yourself into destruction, but conduct good deed, because God like people who do noble things."

e. The command to use the authority in a fair manner (QS. *an-Nisaa* ', 4:58):

إِنَّ اللَّهَ يَأْمُرُكُمْ أَنْ تُؤَدُّوا الْأَمَانَاتِ إِلَىٰ أَهْلِهَا وَإِذَا حَكَمْتُمْ بَيْنَ النَّاسِ أَنْ تَحْكُمُوا بِالْعَدْلِ إِنَّ اللَّهَ نِعِمَّا يَعِظُكُمْ بِهِ إِنَّ اللَّهَ كَانَ سَمِيعًا بَصِيرًا. (النساء، ٥٨).

"Actually, Allah tells you to convey His mandate to those who are eligible to receive it, and (tell you) when setting the laws among humans that you set them justly. Essentially, Allah gives you the best possible teaching. In fact, Allah can hear and see everything".

f. Command to be just and do good deeds (QS. *an-Nahl*, 16:90):

إِنَّ اللَّهَ يَأْمُرُ بِالْعَدْلِ وَالْإِحْسَانِ وَإِيتَاءِ ذِي الْقُرْبَىٰ وَيَنْهَىٰ عَنِ الْفَحْشَاءِ وَالْمُنْكَرِ وَالْبَغْيِ يَعِظُكُمْ لَعَلَّكُمْ تَذَكَّرُونَ. (النحل: ٩٠).

"Allah is telling (you) to be just and conducts virtuous deeds, giving out to relatives, and God forbids cruelty, denial and hostility. He teaches you so that you can learn. "

g. Advice to pursue study as those who are knowledgeable their dignity shall be lifted in the eyes of Allah (QS. *al-Mujaadilah*, 58:11):

يَرْفَعُ اللَّهُ الَّذِينَ آمَنُوا مِنْكُمْ وَالَّذِينَ أُوتُوا الْعِلْمَ دَرَجَاتٍ وَاللَّهُ بِمَا تَعْمَلُونَ خَبِيرٌ. (المجادلة، ١١).

"Undoubtedly Allah shall exalt those who have faith among you and to some degree to those who are given knowledge. And Allah is All Knowing."

2. The Text of Hadiths

a. The ban to harm and address the danger with another danger:

عَنْ يَحْيَى الْمَازِينِيِّ أَنَّ رَسُولَ اللَّهِ -صلى الله عليه وسلم- قَالَ: «لَا ضَرَرَ وَلَا ضِرَارَ».
(رواه مالك في الموطأ، رقم الحديث: ١٤٣٥، كتاب الأفضية، باب باب الْقَضَاءِ فِي الْمَرْفَقِ).

From Yahya al-Mazini, Prophet Muhammad said: "You shall not harm and should not replace any danger with another hazard." (Collection of Malik, the book Muwatha ' (no. Hadith 1435), Ibn Maajah in his Sunan-(no. Hadith 2430 (and 2431), and Imam Ahmad in his Musnad-(no. 2912 23223 and Hadith

- b. The ban to be a tyrant and the advice to eliminate the distress and hardships of others:

أَنَّ عَبْدَ اللَّهِ بْنَ عَمَرَ رَضِيَ عَنْهُمَا أَخْبَرَهُ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ
الْمُسْلِمُ أَخُو الْمُسْلِمِ لَا يَظْلِمُهُ وَلَا يُسْلِمُهُ وَمَنْ كَانَ فِي حَاجَةِ أَخِيهِ كَانَ اللَّهُ فِي
حَاجَتِهِ وَمَنْ فَرَّجَ عَنْ مُسْلِمٍ كُرْبَةً فَرَّجَ اللَّهُ عَنْهُ كُرْبَةً مِنْ كُرْبَاتٍ يَوْمَ الْقِيَامَةِ وَمَنْ سَتَرَ
مُسْلِمًا سَتَرَهُ اللَّهُ يَوْمَ الْقِيَامَةِ. رواه البخاري في صحيحه، رقم الحديث: ٢٤٨٢).

That Abdullah ibn Umar said: The Messenger of Allah said, "A Muslim is a brother to the other Muslims, hence should not oppress them and not hand them over to the enemy. Whoever meets the needs of his brother, then Allah shall undoubtedly meet his needs. Whoever eliminates the trouble of a Muslim, then Allah shall eliminate his distress on the Judgment Day and those who cover the disgrace of a Muslim, Allah shall cover his shame on the Judgment Day. " (Bukhari in Shahiih, no. 2482 and Muslim in Shahiih-, no. 6743).

- c. The principle of compassion in all things:

عَنْ عَبْدِ اللَّهِ بْنِ عَمْرٍو قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ الرَّاحِمُونَ يَرْحَمُهُمُ الرَّحْمَنُ
ارْحَمُوا مَنْ فِي الْأَرْضِ يَرْحَمَكُم مَن فِي السَّمَاءِ (رواه الترمذي في سننه، رقم الحديث:
٢٠٤٩).

"From Abdullah ibn Umar, the Prophet said: "People with compassion shall always be loved by Allah The Most Compassionate. Have compassion and mercy among all of you (who and what) that is in the earth so that all that is in Heaven shall also repay you with love. " (Narrated by Turmudzi in his Sunan, no. 2049 and Abu Dawood in his Sunan, no. 4943).

d. Requiring a marriage in accordance with a person's ability:

عن عبد الله بن رضي الله عنه مسعود قَالَ لَنَا ،رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَا مَعْشَرَ الشَّبَابِ مَنِ اسْتَطَاعَ مِنْكُمُ الْبَاءَةَ فَلْيَتَزَوَّجْ فَإِنَّهُ أَغْضُ لِلْبَصْرِ وَأَحْصَنُ لِلْفَرْجِ وَمَنْ لَمْ يَسْتَطِعْ فَعَلَيْهِ بِالصَّوْمِ فَإِنَّهُ لَهُ وَجَاءٌ رَوَاهُ مُسْلِمٌ فِي صَحِيحِهِ، رقم الحديث: ٣٤٦٤).

"Abd-Allah ibn Mas'ud ra the Prophet said," O young people, whoever among you is able to marry, then you shall marry because marriage can uphold reputation and shall maintain honor. And those who are not able to, then let them fast because fasting can suppress sexual desires." (Narrated by Muslim in his Shahiih, no. Hadith 3464).

e. The requirement of willingness to get married:

عَنْ حُنْسَاءَ بِنْتِ خِدَامِ الْأَنْصَارِيَّةِ أَنَّ أَبَاهَا زَوَّجَهَا وَهِيَ تَيْبٌ فَكَرِهَتْ ذَلِكَ فَأَتَتْ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَرَدَّ نِكَاحَهُ. (رواه البخاري في صحيحه، رقم الحديث: ٥١٩٣).

"From her poetry ' binti al-Khidzam Anshariyyah ra, that his father got her married when she was a widow while she actually did not want it. Then, she came to the Prophet shallallaahu ' alaihi wasallam, who denied the marriage. " (Bukhari in Shahiih, no. 5193, and Sunan Turmudhi, no.2098).

3. Opinions of the Ulama

a. Eminent scholars of *the salaf*, such as Abdullah ibn Syubrumah (Ibn Syubrumah, d. 144 H/761 AD), Abu Bakr al-Asham (d. 279H/892 CE), and Uthman al-Batti (d. 143 H/760 M) in various books of *fiqh* and *tafsir* state that child marriage is not allowed (*al-Mabsuuth*, juz 5, PG. 491 and *Fiqh Women*, pp. 94-95). As quoted Ibn Hazm (d. 456 H/1064 M) in *al-Muhalla bil Atsaar* (juz IX, pp. 459), Ibn Syubrumah said:

لا يجوز إنكاح الأب ابنته الصغيرة إلا حتى تبلغ وتأذن (المحلى لابن حزم، ج ٩، ص ٤٥٩).

"A father shall not be allowed to marry his daughter who is still a child, unless she is already an adult and upon her consent."

b. Al-Shaafa'i madhhab scholar, Imaduddin Ali ibn Muhammad al-Thhabari al-Kiya al-Harasi (d. 504 Ah/1110 M) in the book *Ahkaam al-Qur'aan* (juz 1, PG. 314) states that there is no clear argumentation in the Qur'an governing child marriage, thus he agrees with the opinion of Ibn Syubrumah that child marriage is not allowed."

- c. Imam Al-Shawkaani said (d. 1255 1839 M/H) under " *Wablul ' Syifaa'il ' alaa Ghamam Awaam* "(juz 2, pp. 33) said that child marriage which does not bring any benefit should be cancelled, that the State also reserves the right to call off such marriage, and children who are trapped in that marriage can run away from the marriage, either when he or she is still a child or already an adult."
- d. Ibn Hajar al-From (d. 852 Ah/1449 M) in the book *Baari Fath* (juz 10, PG. 135) concerning the hadeeth of recommending marriage, associate marriage with a person's economic capabilities, in addition to the physical or biological abilities, which if he is not able thus he is recommended to fast."
- e. Imam Al-Syathibi (d. 790 a.h./1388 M) in the *Al-Muwaafaqaat* (juz 2, 326 pp.) states that the basic needs of human beings (*dlaruuriyyaat*) which must be met include five things, IE: religion (*ad-Deen*), soul (*an-nafs*), descendants (*an-nasl*), treasure (*al-maal*) and intellect (*al-' aql*).

ومجموع الضروريات خمسة وهي حفظ الدين والنفس والنسل والمال والعقل (الموفقات، ج ٢، ص ٣٢٦).

"That there are five basic needs of human beings: maintaining the religion, the soul, the descendants, the treasure, and the intellect."

- f. Norms Fiqhiyyah (*al-Asybaah Nadhaa'ir wan lis-Suyuuthi*, 1983, pp. 83, 86, and 121):

الضَّرَرُ يُزَالُ

"Harmful deeds should be eliminated."

الضَّرَرُ لَا يُزَالُ بِالضَّرَرِ

"Harmful deeds cannot be removed with other harmful deeds."

تَصَرُّفُ الْإِمَامِ عَلَى الرَّعِيَةِ مَنْوُطٌ بِالْمَصْلَحَةِ

"The policies and regulations of the country for the people should be for the benefit of the people."

4. The Constitution of the State (the State Constitution of the Republic of Indonesia Year 1945)

- a. Article 34: "Impoverished and abandoned children should be taken care of by the State."
- b. Article 28B article (2): "Every child has the right to survive, grow, and develop, as well as the right to protection from violence and discrimination."
- c. Article 28C article (1): "Everyone has the right to develop him/herself through the fulfillment of his/her primary needs, is entitled to education and get benefit from science and technology, art and culture, in order to improve the quality of life and for the prosperity of mankind."
- d. Article 28D article (1): "Everyone is entitled to recognition, guarantee, protection and fair justice and equal treatment before the law."
- e. Article 28G article (1): "Everyone has the right for self-protection, that of family, honor, dignity, and property under his/her control, as well as the right to security and protection from fear to do or not to do anything which relates to human rights."
- f. Article 28H article (1): "Everyone has the right to a prosperous life physically and spiritually, to get a good and healthy environment and the right to get access to health services; Article (2): "Everyone has the right to obtain the convenience and the same benefits and opportunities in order to achieve equality and justice; Article (3): "Everyone is entitled to social security that allows the development of his/her complete self being as a dignified human being."
- g. Article 28I article (1): "The right to live, the right not to be tortured, the right of freedom of conscience, the right for religion, the right not to be enslaved, the right to be recognized as a person before the law, and the right not to be prosecuted based on retroactive law is a human right which cannot be reduced under any circumstances; Article (2): "Everyone has the right to be free from discriminatory treatment on the basis of any kind and is entitled to protection against that discriminatory treatment."
- h. The child protection Act Number 23 Year 2002 and its Amendment Number 35 Year 2014.

C. ANALYSIS

The Quran instructs us that the purpose of marriage is to obtain serenity and peace based on love and compassion, as set forth in the QS. *ar-Ruum* (30:21). This verse is the basis for scholars to agree on the embodiment of tranquility in life and love being the main goal. This goal is also set in the compilation of the Islamic law (GENGHIS) Chapter 3, "Marriage is aimed to realize a household based on *sakiinah*, *mawaddah* and *rahmah*." With a different version, the same is also contained in Act No. 1 Year 1974 Article 1 that the purpose of marriage is to build a family, a happy home and everlasting marriage based on God Almighty.

Referring to the statement of the Quran and the affirmation of the law of Indonesia, it is understood that all forms of marriage that would inhibit the person to realize the above wedding goal should be prevented. For example, in the case of a child marriage. As described in *tashawwur*, child marriage will only bring *mudlarats* in the form of suffering and life discomfort, especially to the child in question. The main reason is because children still do not have the ability and maturity to carry out the obligations and responsibilities of a family, either physically and particularly because their reproductive organs are not yet ready to reproduce, both psychologically, financially and in terms of social maturity.

Having the ability being a condition to get married is already mentioned in Muslim Hadith (No. 3464) on *Adillah* point 2d. In this text, "*istithoo'atul baa'ah*" or the ability to get married is made as a prerequisite for anyone to get married. In the explanation of Ibn Hajar al-'Asqallani in the book *Baari Fath Al* against the text in question (as mentioned in *Adillah*, 3d), what is meant by ability concerns financial as well as physical capability. In the present context, whereby family life is becoming more complex, psychological and social maturity are also important as a prerequisite of a marriage-all of which is aimed so that a marriage based on *mashlahat*, *sakiinah*, *mawaddah*, and *rahmah* can really be materialized.

Because of inadequacies to undertake a married life, the child will experience a lot of *mudlarats*, suffering, and discomfort in various aspects of life, whether in terms of education, economic, social, health, moral or religion. This *mudlarat* will be experienced by children who are married, the man who marry them, as well as the children they produce. *Mudlarat* is stratified, entwined intertwined with other aspects that ultimately affect their quality as human beings carrying out the mandate of God Almighty and that of his Messenger, both as individuals with a vertical relationship to God Almighty, and as a member of the family, the community, the citizen of the nation and the world having a horizontal relationship to make life in this world more prosperous and to develop a better civilized humanity.

Thus, child marriage is a barrier to the realization of the benefit of the family and the community. Additionally, this hampers the achievement of the goal of marriage as already outlined in the al-Qur'an and stated in the positive law of Indonesia. Because child marriage is a way to bring *mudlarat* to someone, then preventing this from happening should be the mandate of al-Quran (*al-Baqara*, 2:195). In this verse, God Almighty guides us not to lead ourselves in self-destruction acts.

The prevention of child marriage is also the implementation of the most popular rule of *fiqh*: "*Mudlarat* must be removed" (الضرر يزال). This rule is based on the text of the Hadith of prohibition of carrying out harmful things (Muwatta, no. 1435). This Hadith can also mean that "Danger must be eliminated. A hazard cannot be eliminated with something dangerous." The meaning is exactly the same as the two rules mentioned in *Adillah fiqh*, i.e. "*adl-dlararu yuzaalu*" (الضرر يزال), that a *mudlarat* has to be removed, and "*adl-dlararu laa yuzaalu bidl-dlarari*" (الضرر لا يزال بالضرر), that a *mudlarat* should not be removed by another form of *mudlarat*.

Therefore, on the basis of the first *fiqh* rule, children must be protected from marriage which clearly will bring on *mudlarat* and suffering. Because child marriage brings *mudlarat*, on the basis of rules of *fiqh* "*adl-dlararu laa yuzaalu bidl-dlarari*", then child marriage cannot be used as a solution for another *mudlarat*, such as adultery. Hence worries of committing adultery should not be removed through child marriage. Because both will result into *mudlarats* that should be avoided in different ways. One *mudlarat* cannot be used as a solution to avoid another *mudlarat*. The Hadith itself provides a solution to concerns over adultery by fasting or self-restraint, not by marrying a child, because it can lead to another problem. Fasting is a solution that is based on a commitment to noble values, commitment to self-restraint, to distract attention to positive things which do not lead to self-destruction or any negative action.

Preventing child marriage is also a principle of Islamic teachings not to oppress anyone with deeds that will lead him to suffering. As mentioned in the Hadith Bukhari No. 2482 (*Adillah*, 2/b), that all fellow Muslims are brothers, they should not oppress and abuse others. The latter is also a loving implementation of Turmudzi hadiths story, no. 2049 (*Adillah*, 2/c) to the child to avoid the suffering and distress of life. The text of the hadiths is also generally speaking asking all Muslims, both as parents, members of community, or country to alleviate peoples' sufferings. One of which is to ensure that children are not trapped into a marriage that will bring them misery and suffering. The view of a child marriage that will bring benefit to the child must be corrected. In fact, the marriage will deprive children of their rights to play, learn, go to school, etc.

Argumentation on child marriage prohibition has emerged in the early days of Islam in the hands of eminent scholars, such as Abdullah ibn Syubrumah (Ibn Syubrumah, d. 144 H/761 M), Uthman al-Batti (d. 143 H/760 M), and Abu Bakr al-Asham (d. 279H/892 CE). According to them, child marriage is not allowed, because the child cannot enjoy the benefit of the marriage. Marriage is an allegiance to live together forever, which should be decided when someone is already a mature adult, and capable of making decisions. Therefore, according to them, child marriage must be prevented, and if it happens it should be cancelled. Or at least, in the words of Imam ash-Syawkani (d. 1255 H/1839), a child has the right to annul the marriage, either while she is still a child or when she becomes an adult later.

Cause of child marriage is not a singular one. There are economic factors, the view of the family on the child, difficult and expensive access to education, tradition and culture of the local community, the permissive religious view towards child marriage, lack understanding on reproductive health, uncontrollable access to pornography and certain conditions experienced by the child by him or herself. Therefore, preventive efforts and the handling of this should be done using different strategies involving many related and responsible stakeholders. As prevention and tackling of the issue should involve many parties, so should the handling of the *mudlarat* which affects the child resultant from the marriage.

Protective measures that should be conducted to victims of child marriage is by guaranteeing the rights of the child in question as other children to grow in good health, make a living, get education, parenting, health care, and protection from all

forms of violence, discrimination, and exploitation. This is the mandate from the 1945 Constitution (*Adillah*, 4/a-g). In more detail, this mandate is explained in the child protection Act Number 23 Year 2002 and its Amendment Number 35 Year 2014. Another form of handling of victims of child marriage is to provide options to the child, including the choice to cancel the unwanted marriage, in accordance with the Prophet's Hadith narrated by Imam Bukhari about Khansa ' binti Khizam ra (*Adillah*, 2/e) as above. Every effort is made to ensure that the children will not become a weak generation (QS. *an-Nisaa* ', 4:9).

In order to obtain the above-mentioned rights, including restoration when the child becomes the victim, the latter needs mentoring and guidance from adults, protection from the parents, support from the community and the State. Mentoring, guidance, protection and support of all parties represent the implementation of the obligation to perform the mandate and be just as outlined in the al-Qur'an (QS *an-Nahl*, 16:90; and *al-Mujaadilah*, 58:11, see: *Adillah*, 1/e and f).

Justice refers to the rights of the child to grow and become mature, strong and responsible. Additionally, justice ensures vulnerable groups, especially women and children, to obtain their rights, to be protected from all forms of violence, and not be exploited by those who have power over them, like parents, educators, and the State. Such is the significance of the implementation of the mandate and justice as outlined in the Quran which concerns child marriage.

Child marriage protection efforts are in line with the principles of *maqaashidus syarii'ah* in Islam, or the basic objectives of the Shari'ah of Islam-i.e. to maintain religion (*Deen hifdhud*), soul (*nafs hifhun*), intellect (' *aql hifdul*), descendants (*hifdun-nasl*), honor (*hifdul ' irdl*), and treasure (*hifdhul maal*). Maintaining religion (*Deen hifdhud*) means protecting child marriage so that he/she can remain capable of practicing his/her religious teachings correctly and can realize the goal of a marriage as outlined in the religion. Child marriage will only restrict the child to study and master the religion in general and practice the goal of marriage as outlined in the religion specifically.

Keeping the soul (*nafs hifdhun*) means protecting children from possible death resultant from immature reproductive health when getting married. Keeping the intellect (*hifdhul ' aql*) means protecting children from the possibility of not developing their potentials due to incompleteness of education. Keeping the descendants (*hifdhun nasl*) means protecting children from the risk of producing offspring that are not of good quality. Keeping the honor (*hifdhul ' irdl*) means protecting children from the vulnerability of human trafficking and exploitation when having to earn a living in order to make ends meet. Keeping the treasure (*hifdhul maal*) means protecting children from the risk of poverty and inability to live prosperously due to lack of skills and knowledge as a result of child marriage.

Protective measures, handling and the termination of child marriage which gives *mudlarat* is part of the obligation of everyone, including parents, teachers, families, communities, Government (Central Government and the regions, including the *Department of Population and Civil Registry*, the *Office of Religious affairs* (KUA), to the Government of the Village, (RW) and (RT) - all of whom are child protection stakeholders. These obligations are inspired from the Qur'an and the Hadith, and the

Constitution of 1945, Act Number 35 Year 2014 on child protection, and Act Number 23 Year 2004 on the elimination of domestic violence, and Act Number 21 Year 2007 on the eradication of criminal acts of human trafficking. All legislations and regulations relating to this child protection are in line with the rules of *fiqh* which say that the policy of a leader towards his people should be based on benefits, *imaam tasharruful ' alarra'iyah manuuthun bil mashlahah* (تصرف الرعية منوط بالمصلحة (على الإمام).

In this context, all efforts of protection against child marriage that causes *mudlarat* is the endeavor to realize the destination of a *sakiinah mawaddar wa rahmah* marriage, in accordance with the teachings of the Qur'an (QS. *ar-Ruum*, 30:21), the provisions of the Marriage Law No. 1 Year 1974, and the compilation of the Islamic laws (KHI). This protection is also an embodiment of the teachings of the Qur'an (QS. *an-Nisaa '* , 4:9; *Ali ' Imraan*, 3:38 and 110) to form a good generation (*dzurriyyah thayyibah*) and the best *ummah (khaira ummah)*, as well as in order to manifest the good state of the nation blessed by God Almighty (*baldatun thayyibatun wa rabbun ghofuur*).

D. RELIGIOUS ATTITUDES AND VIEWS

Referring to the legal foundations as above, and with the analyses as explained, the Congress decided the attitude and views as follows:

1. The law preventing child marriage in the context of the realization of the benefits of a *sakiinah* (tranquility), *mawaddah* (love) *wa rahmah* (compassion) family is mandatory because child marriage raises more *madlarat/mafsadah* (damage and harmful) rather than bringing benefits.
2. The parties most responsible for preventing child marriage are parents, families, communities, the Government, and the State.
3. As a form of protection, the thing that can be done to children who are victims of child marriage is to ensure their rights as other children especially the rights to education, health care, parents' upbringing, and protection from all forms of violence, exploitation, and discrimination.

E. RECOMMENDATIONS

1. For the Government and the State:
 - a. To ensure that there is a binding policy or regulation at the national level relating to the prevention, treatment, and elimination of child marriage.
 - b. To amend Act No. 1 Year 1974 on marriage in relation to the minimum age of a woman to be married from 16 years to 18.
 - c. To ensure that there is awareness and education regarding child protection to parents, children, community leaders, religious figures, the apparatus of the State and Government, including the *mudlarat* and the danger child marriage.
 - d. To make sure law enforcement to the State apparatus engaged in the falsification of child identity that encourages the occurrence of child marriage.

- e. To ensure that relevant agencies (Government Villages, Bureau of Religious Affairs/KUA, Court, State Court) not to handle and legally register the practice of child marriage.
 - f. To ensure enforcement of the law for government officials and law enforcement officers engaged in the practice of child marriage.
 - g. The Supreme Court to issue Regulation (PERMA) or Supreme Court Circulars (SEMA) to restrict and be selective in granting *itsbaat nikaah* and the dispensation of child marriage.
 - h. To make sure that the Central Government, local governments, and the Government of the village to facilitate prevention programs and handling of child marriage.
 - i. To make sure the fulfillment of compulsory education for children as a form of prevention of child marriage and even distribution of educational facilities in villages by the National Ministry of Primary and Secondary Education of the Republic of Indonesia.
 - j. To organize informal schooling to drop outs children to counter poverty at the grassroots level and to prevent the occurrence of child marriage.
 - k. The Ministry for Religious Affairs of the Republic of Indonesia to ensure premarital education and counseling to all prospective couples who are still under aged.
 - l. The Ministry for Religious Affairs and the National Ministry of Primary and Secondary Education of the Republic of Indonesia to incorporate reproductive health education and child protection into the curriculum of primary and secondary education, both in schools, Islamic boarding schools (*pesantren*), or religious schools.
 - m. To ensure protection and nurturing of vulnerable neglected children from becoming victims of child marriage.
 - n. The Ministry of Communications and Information to block pornographic content that could potentially increase extra marital sexual relations, or sexual relations with under aged children.
 - o. To conduct media literacy education for children to avoid child marriage.
 - p. To make sure that children who become victims of marriage can still attend formal education whereby the school has no right to deny access to them.
2. For the community, especially community leaders, indigenous figures, religious figures, and non-governmental organizations:
- a. To actively participate in building community awareness to prevent and not to be part of the perpetrators of child marriage, through promotional campaigns and maturation of marriage age and the religious views socialization on the *mudlarat (madlarat)* of child marriage.
 - b. To encourage the formation of community-based complaint Centers to handle and do the mentoring of child marriage cases.

- c. To encourage the inclusion of materials on the prevention of child marriage and reproductive health into social religious activities and educational institutions run by the community.
 - d. To provide access to victims of child marriage, including child who becomes pregnant, to remain at school or study at a formal school or at an Islamic boarding school (*pesantren*).
 - e. To design *fiqh* curriculum and materials relating to the prevention and interpretation of child marriage.
 - f. To actively seek children who become victims of the marriage, then do the mentoring in accordance with their respective capacities in order so that the rights of the children can still be properly fulfilled.
 - g. To socialize that an everlasting of marriage is more important than expediting the marriage especially if the child in question is not yet ready.
3. For parents and families:
- a. To be responsible for the fulfillment of children's rights (health, education, religion, leisure, play time, and child care) to prevent the occurrence of child marriage.
 - b. To recognize that child marriage is not the best solution to social economy problems and to ensure that the practice of child marriage does not occur in the family.
 - c. To upgrade the skills of parents, including their religious understanding, to prevent unwanted pregnancy (KTD) and eliminate violence against children, including sexual violence.
 - d. Not to abuse the rights of *ijbaar* as a tool to enforce marriage, because *ijbaar* does not actually refer to the right to force (*ikroh*), but rather to ensure that the prospective husband is a good and responsible person.
 - e. In the case of unwanted pregnancies in girls, then the parents should not impose marriage to the children.
 - f. To ensure the good fulfillment of the right to education and other rights, despite of the fact that the child is already married.
4. To the child:
- a. To attend a forum of same aged participants to strengthen awareness and to achieve education on the prevention of child marriage; ability to access information directed toward the prevention of child marriage as well as child protection, reproductive health, and comprehensive sexuality rights in accordance with the perspectives of Islamic law.
 - b. To be brave and confident enough to voice opinion for the sake of their best interest, including refusing parents to abuse the use of *ijbaar* rights (which is often misunderstood as the right to force), to reject all forms of sexual relations, marriage, and coercive work.

F. REFERENCES

1. *Al-Qur'aan al-Kariim*.
2. *Shahiih al-Bukhaari* . Abu Abdullah Muhammad bin Ismail bin Ibrahim bin al-Mughirah Ibn Bardizbah al-Bukhari. Cairo, Egypt: Jam'iyat al-Maknaz al-Islami. 2000.
3. *Shahiih Muslim* . Abul Husayn Muslim bin al-Hajjaj al-an-Qusyairi Naisaburi. Cairo, Egypt: Jam'iyat al-Maknaz al-Islami. 2000.
4. *al-Muwatha '* . Abu ' Abd al-Malik bin Anas bin Malik bin Abi Amir bin Amr bin al-Haris Ibn Ghaiman Ibn Jutsail. Cairo, Egypt: Jam'iyat al-Maknaz al-Islami. 2000.
5. *Sunan Al-tirmidhi* . Muhammad ibn ' Isa ibn Musa bin Saurah as-Sulami Al-Turmudzi. Cairo, Egypt: Jam'iyat al-Maknaz al-Islami. 2000.
6. *Sunan Abuu Dawood* . Abu Dawud Sulaiman Ibn al-Asy'as Ibn Ishak bin Syidad bin Basyir bin Amar al-Azdi Al-Sijistani. Cairo, Egypt: Jam'iyat al-Maknaz al-Islami. 2000.
7. *Sunan Ibn Maajah* . Abu Abdullah Muhammad Ibn Yazid Al-Rabi ' Al-Qazwinî Al-Hâfidz. Cairo, Egypt: Jam'iyat al-Maknaz al-Islami 2000.
8. *Al-Mabsuuth*. Syamsuddin, Muhammad bin Ahmad as-Sarakhsi. Beirut, Lebanon: Dar al-Ma'rifah. 1989.
9. *Al-Muhalla bil Reports*. Ali ibn Ahmad Ibn Hazm al-Andalusi. Beirut, Lebanon: Dar al-Afaaq al-Jadidah. T.t.
10. *Fath al-Baari Syarh bi Shahiih al-Bukhaari*. Syihabuddin Abul Fadhl Ahmad ibn Ali ibn Muhammad ibn Muhammad ibn Ali Ibn Mahmud ibn Ahmad Ibn Hajar al-Asqalani, ed.: Abdul Aziz bin Baz. Beirut, Lebanon: Dar al-Fikr. 1993.
11. *Al-Muwaafaqaat fyy Ushuuli-sy Syarii'ah*. Abu Ishaq Ibrahim bin Musa Al-Syatibi, ed.: Ibrahim Ramadan. Beirut, Lebanon: Dar al-Ma'rifah. 1996.
12. *Ahkaamul Qur'aan*. Imad bin Muhammad ath-Tahabri al-Harasi al-Kiya. Beirut, Lebanon: Dar al-al-Ilmiyah Pole. 1983.
13. *Al-Asybaah wa-n Nadhaa'ir fyy Furuu ' Fiqh-i Al-Syaafi'iyah*. Jalaluddin Abdurrahman as-Suyuti. Beirut, Lebanon: Dar al-al-Ilmiyah Pole. 1983.
14. *Wablul Ghamam ' alaa ' Syifaa'il Awaam*. Muhammad bin Ali bin Muhammad bin Abdullah Al-Shawkaani said, ed.: Muhammad Subhi Hallaq. Cairo, Egypt: Maktabah Ibn Taymiyah. 1416 h.
15. *Al-Qawaa'id al-Fiqhiyyah*. Ali Ahmad an-Nadwi. Damascus, Syria: Dar al-Qalam. 1994.
16. *Fiqh of women: Kiai Reflections upon Religious Discourse and Gender*. Husein Muhammed, ed.: Faqihuddin Abdul Kodir. Yogyakarta: LKiS. 2001.
17. The Constitution of the Republic of Indonesia Year 1945.
18. Act Number 23 Year 2004 on the Elimination of Domestic Violence.
19. Act Number 21 Year 2007 about the Eradication of Criminal acts on Human Trafficking.
20. Act Number 35 Year 2014 about Child Protection.
21. 'Delayed Progress: Data Analysis of Child Marriage in Indonesia '. Jakarta: Central Bureau of Statistics and UNICEF. 2015.

22. 'Indonesia Demographic and Health Survey in 2012, Special Report on Adolescent Reproductive Health'. Jakarta: IDHS, BPS, BKKBN, and Ministry of Health. 2013.
23. 'Child Marriage: The Status of the Girl?'. Number 88. Jakarta: YJP. 2016.
24. 'Testimony of a Bride's Child.' Jakarta: Our Common Home (House of The Book). 2016.
25. 'Exploring the Phenomenon Meaning of Child Marriage and Unrecorded Child Marriage'. Jakarta: Our Common Home (House of The Book). 2016.
26. 'Fiqh on Child Marriage, Rereading Religious Text on Child Marriage'. Jakarta: Our Common Home (House of The Book). 2016.
27. 'Reducing Child Marriage, Field Experience in Bondowoso, East Java'. Jakarta: Yayasan Women's Health. 2016.
28. 'Community-based Welfare Monitoring System (SPKKB)'. Jakarta: Yayasan PEKKA and SMERU. 2013

G. ATTACHMENTS

١. المسوط للسرخسي (ج ٥، ص ٤٩١): يَقُولُ ابْنُ شُرَيْمَةَ وَأَبُو بَكْرِ الْأَصَمُّ - رَحِمَهُمُ اللَّهُ تَعَالَى - أَنَّهُ لَا يُزَوِّجُ الصَّغِيرُ وَالصَّغِيرَةُ حَتَّى يَبْلُغَا لِقَوْلِهِ { حَتَّى إِذَا بَلَغُوا النِّكَاحَ } فَلَوْ جَازَ التَّزْوِيجُ قَبْلَ الْبُلُوغِ لَمْ يَكُنْ هَذَا فَائِدَةً، وَلِأَنَّ ثُبُوتَ الْوِلَايَةِ عَلَى الصَّغِيرَةِ لِحَاجَةِ الْمَوْلَى عَلَيْهِ حَتَّى إِنَّ فِيمَا لَا تَتَحَقَّقُ فِيهِ الْحَاجَةُ لَا تَثْبُتُ الْوِلَايَةُ كَالْتَّبَرُّعَاتِ، وَلَا حَاجَةُ بِيَمَا إِلَى النِّكَاحِ؛ لِأَنَّ مَقْصُودَ النِّكَاحِ طَبْعًا هُوَ فَضَاءُ الشَّهْوَةِ وَشَرَعًا النَّسْلُ وَالصِّغَرُ يُنَافِيهِمَا، ثُمَّ هَذَا الْعَقْدُ يُعَقَّدُ لِلْعُمُرِ وَتَلَزُمُهُمَا أَحْكَامُهُ بَعْدَ الْبُلُوغِ فَلَا يَكُونُ لِأَحَدٍ أَنْ يُلْزِمَهُمَا ذَلِكَ إِذْ لَا وَلَايَةَ لِأَحَدٍ عَلَيْهِمَا بَعْدَ الْبُلُوغِ.

٢. أحكام القرآن للكميا الهراسي (ج ١، ص ٣١٤): ولما ثبت أن المراد باليتيمة البالغة، ولم يكن في كتاب الله دلالة على جواز تزويج الصغيرة، لا جرم صار ابن شريمة إلى أن تزويج الآباء للصغار لا يجوز، وهو مذهب الأصم.

٣. وبل الغمام على شفاء الأوام للشوكاني (ج ٢، ص ٣٣): أما مع عدم المصلحة المعتبرة، فليس للنكاح إنعقاد من الأصل، فيجوز للحاكم بل يجب عليها التفرقة بين الصغيرة ومن تزوجها، ولها الفرار متى شاءت، سواء بلغت التكليف أم لم تبلغ، ما لم يقع منها الرضا بعد تكليفها.... إلى أن يقول: فإن قلت: إذا كان تزويج الصغيرة غير منعقد، فما حكم

الوطء والولد إذا حدث بينهما؟ قلت: حكمه حكم النكاح الباطل... فمن ادعى أن غير هذا أولى منه فعليه الدليل.

٤. فتح الباري شرح صحيح البخاري لابن حجر العسقلاني (ج ١٤، ص ٢٩٣): (الْبَاءَةُ) بِالْهَمْزِ وَتَاءِ تَأْنِيثِ مَمْدُودٍ، وَفِيهَا لُغَةٌ أُخْرَى بَعِيرٌ هَمْزٌ وَلَا مَدٌّ، وَقَدْ يُهْمَزُ وَيُمَدُّ بِأَلَا هَاءٍ، وَيُقَالُ لَهَا أَيْضًا الْبَاهَةُ كَالْأَوَّلِ لَكِنْ بِهَاءٍ بَدَلَ الْهَمْزَةِ، وَقِيلَ بِالْمَدِّ الْفُدْرَةُ عَلَى مُؤْنِ النَّكَاحِ وَبِالْفُضْرِ الْوُطْءُ، قَالَ الْخَطَّابِيُّ: الْمُرَادُ بِالْبَاءَةِ النَّكَاحُ، وَأَصْلُهُ الْمَوْضِعُ الَّذِي يَتَبَوَّأُهُ وَيَأْوِي إِلَيْهِ، وَقَالَ الْمَازِرِيُّ: اسْتَقَى الْعَقْدَ عَلَى الْمَرْأَةِ مِنْ أَصْلِ الْبَاءَةِ، لِأَنَّ مِنْ شَأْنِ مَنْ يَتَرَوَّجُ الْمَرْأَةَ أَنْ يُبَوِّئَهَا مَنْزِلًا. وَقَالَ النَّوَوِيُّ: اِخْتَلَفَ الْعُلَمَاءُ فِي الْمُرَادِ بِالْبَاءَةِ هُنَا عَلَى قَوْلَيْنِ يَرْجِعَانِ إِلَى مَعْنَى وَاحِدٍ: أَصَحَّهْمَا أَنَّ الْمُرَادَ مَعْنَاهَا اللَّعْوِيُّ وَهُوَ الْجَمَاعُ، فَتَقْدِيرُهُ مَنْ اسْتَطَاعَ مِنْكُمْ الْجَمَاعَ لِفُدْرَتِهِ عَلَى مُؤْنِهِ - وَهِيَ مُؤْنُ النَّكَاحِ - فَلْيَتَرَوَّجْ، وَمَنْ لَمْ يَسْتَطِعْ الْجَمَاعَ لِعَجْزِهِ عَنْ مُؤْنِهِ فَعَلَيْهِ بِالصَّوْمِ لِيُدْفَعَ شَهْوَتُهُ وَيَقْطَعَ شَرَّ مَنِيَّتِهِ كَمَا يَقْطَعُهُ الْوَجَاءُ، وَعَلَى هَذَا الْقَوْلِ وَقَعَ الْخُطَابُ مَعَ الشَّبَابِ الَّذِينَ هُمْ مَطْنَةُ شَهْوَةِ النِّسَاءِ وَلَا يَنْفَكُونَ عَنْهَا غَالِيًا. وَالْقَوْلُ الثَّانِي أَنَّ الْمُرَادَ هُنَا بِالْبَاءَةِ مُؤْنُ النَّكَاحِ، سُمِّيَتْ بِاسْمِ مَا يُلَازِمُهَا، وَتَقْدِيرُهُ مَنْ اسْتَطَاعَ مِنْكُمْ مُؤْنُ النَّكَاحِ فَلْيَتَرَوَّجْ، وَمَنْ لَمْ يَسْتَطِعْ فَلْيَصُمْ لِيُدْفَعَ شَهْوَتُهُ.

٥. الأشباه والنظائر للسيوطي (ص ٨٦): الثالثة: الضرر لا يزال بالضرر قال ابن السبكي: و هو كعائد يعود على قولهم الضرر يزال ولكن لا بضرر فشأنهما شأن الأخص مع الأعم بل هما سواء لأنه لو أزيل بالضرر لما صدق الضرر يزال.

**THE TEXT OF THE RESULTS
OF RELIGIOUS CONSULTATION
ON NATURE DESTRUCTION**



Discussion of religious opinion on child marriage at the third day of the Congress (26/042017).



A participant is stopping and seeing the Book Bazaar opened during the Congress at the front of the Pesantren Kebong Jambu

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

RESULTS OF THE RELIGIOUS CONSULTATION CONGRESS OF INDONESIAN WOMEN ULAMA No. 03/MK-KUPI-1/IV/2017 REGARDING NATURE DESTRUCTION

A. DESCRIPTION

Disasters related to the destruction of nature continue to increase, such as landslides, floods, droughts, and the outbreak of plant pests that threaten the community along with the sustainability of life. Drought has hit 16 provinces in Indonesia covering 102 districts/cities including 721 sub-districts, in total affecting 111 thousand hectares of agricultural land combined with the forecast to expand (National Board for Disaster Management/BNPB, 2015). In addition drought and water pollution also occurs without control, such as the Citarum River in West Java, which is in the list of the 10 most polluted rivers in the world. Indonesia's forests, the third largest tropical rain forests in the world, are also constantly experiencing ownership and functionality conversions. The average annual deforestation rate during 1980-2013 reached 1.1 to 2 million hectares (FWI, 2015). In 2000 and 2012, Indonesia has become the highest deforestation nation in the world.

The destruction of nature is still often deliberately executed in the name of development. This includes, among others, treating forest areas as commercial commodities by way of providing licenses to large-scale forestry industries, plantations, mining and manufacturing for the purpose of exploiting those concessions. Approximately 67% of the 39 million mining quarries are in forest areas, and 6.3 million hectares located in protected and conserved zones (areas that are part of prudent protection and management of natural resources). The poor management has impoverished the communities in the surrounding areas. Approximately 66.34% of the population is poor, totaling 12 million living on the outskirts of the forest. Half of which amounts to women and girls (KLHK, 2015).

In a social relations structure (formed by relationships within a society) that is imbalanced between groups of people, also between men and women, every form of environmental damage results in different implications. Studies on the impact of environmental damage show that any damage to water sources will increase the workload of women by 6-8 times above that of men. The additional workload of gathering water, grass, and other livelihoods causes girls to lose opportunities on schooling, experience reproductive health problems, and increases the level of maternal and infant mortality.

The granting of permits for exploitation in the name of development, which is then carried out by means of destroying natural habitats, has resulted in the emergence of conflicts due to forced seizures of living space (agrarian), especially land, home to indigenous which is further marginalized forcing to live in the plains. They instantly lose access and the control over their economic resources,

lose their participation rights after forests have turned into crop industries and mono-cultures (forests planted with one type of timber plant for industrial purposes, such as for the paper industry) or extractor industries (industries that exploit nature on a large scale, such as minerals, oil or gas mining and palm plantations) which systematically marginalizes the role and position of women. Any agrarian-related conflict will always provoke violence against women and children, either by a partner or by the parties in conflict. The most threatening violence, at the same time terrorizing for the citizens, is sexual violence. At least 450 agrarian-related conflicts throughout 2016 covered an area of 1,265,027 Ha involving 86,745 families. A 2-fold increase compared to 2015. (References: the Committee for Child Protection/KPA 2017 and Komnas Perempuan, 2005).

The widespread efforts of executing land conversions have caused indigenous farmers to be marginalized even more. Whereas traditional agriculture is mostly managed jointly by men and women or in certain segments only by women. Throughout 2003-2013, around 5.01 million farmer households switched professions. Men became laborers or porters in big cities, while young women drifted aimlessly without adequate skills to become workers with the lowest and most vulnerable wages (Tania Lee, 2010). This occurred simultaneously with the conversion of agricultural land for other uses of 0.25 hectares per minute (BPS, 2014). On the other hand, the corporations' control over the land strengthened. For example, a palm oil plantation of approximately 5.1 million hectares is now controlled only by 25 families of conglomerates. This situation resulted in tremendous inequality. About 56% of assets in Indonesia, such as property, land and plantations are controlled only by 0.2% of the population in Indonesia (BPN, 2016).

The above facts show that the effects of natural destruction lead to further impoverishment and overwhelming life burdens, especially towards poor women in rural and urban areas. The increasing ongoing tradition of under-age marriage and sexual violence in remote rural areas shows the connection between natural destruction and the loss of women's power over themselves due to the loss of their power over natural resources. On the other hand, woman's awareness of the destruction of nature that will have a long-term impact has no place in political negotiations involving women. The female presupposition as a "helpers" places them as an unimportant marginal group. This view arises from culture as well as certain religious understanding. For example, the women of *Kendeng* (a mountainous region in East Java) who adamantly resisted the operation of cement factories for fear of damaging the *plain* areas (limestone and dolomite areas showing *plain* morphology, very distinctive forms such as valleys, hills, and caves) and pollute the environment, especially the water, were then considered violating the nature of women. The assumption was then endorsed by the religious views of the parties who were in favor of the mine and the cement plant to operate.

Questions:

1. What is the law on the destruction of nature in the name of development?

2. What is the role of religion in providing protection to nature?
3. What is the religious view of the state's responsibility in overcoming the destruction of nature that impoverishes the people, particularly women?

B. SOURCES

Deliberations on the basics of law are required to answer above questions following:

1. The Text of the Qur'an

- a. The command to worship Allah, the Creator of the universe (*The Cow*, 2: 21-22):

يَا أَيُّهَا النَّاسُ اعْبُدُوا رَبَّكُمُ الَّذِي خَلَقَكُمْ وَالَّذِينَ مِنْ قَبْلِكُمْ لَعَلَّكُمْ تَتَّقُونَ الَّذِي جَعَلَ لَكُمْ الْأَرْضَ فِرَاشًا وَالسَّمَاءَ بِنَاءً وَأَنْزَلَ مِنَ السَّمَاءِ مَاءً فَأَخْرَجَ بِهِ مِنَ الثَّمَرَاتِ رِزْقًا لَكُمْ فَلَا تَجْعَلُوا لِلَّهِ أَنْدَادًا وَأَنْتُمْ تَعْلَمُونَ (البقرة، ٢: ٢١-٢٢).

"O ye people! Adore your Guardian-Lord, who created you and those who came before you, that ye may have the chance to learn righteousness. Who has made the earth your couch, and the heavens your canopy; and sent down rain from the heavens; and brought forth therewith Fruits for your sustenance; then set not up rivals unto Allah when ye know (the truth)."

- b. The affirmation to be a blessing to the universe (*QS The Prophets*, 21: 107):

وَمَا أَرْسَلْنَاكَ إِلَّا رَحْمَةً لِّلْعَالَمِينَ (الأنبياء، ٢١: ١٠٧).

"We sent thee not, but as a Mercy for all creatures."

- c. The affirmation that mankind empowers trust as caliphs on earth (*The Cow*, 2:30 and *The Clans, The Coalition, The Combined Forces*, 33:72):

وَإِذْ قَالَ رَبُّكَ لِلْمَلَائِكَةِ إِنِّي جَاعِلٌ فِي الْأَرْضِ خَلِيفَةً قَالُوا أَتَجْعَلُ فِيهَا مَنْ يُفْسِدُ فِيهَا وَيَسْفِكُ الدِّمَاءَ وَنَحْنُ نُسَبِّحُ بِحَمْدِكَ وَنُقَدِّسُ لَكَ قَالَ إِنِّي أَعْلَمُ مَا لَا تَعْلَمُونَ (البقرة، ٢: ٣٠).

"Behold, thy Lord said to the angels: "I will create a vicegerent on earth." They said: "Wilt Thou place therein one who will make harm therein and shed blood?- whilst we do celebrate Thy praises and glorify Thy holy (name)?" He said: "I know what ye know not."

إِنَّا عَرَضْنَا الْأَمَانَةَ عَلَى السَّمَاوَاتِ وَالْأَرْضِ وَالْجِبَالِ فَأَبَيْنَ أَنْ يَحْمِلْنَهَا وَأَشْفَقْنَ مِنْهَا وَحَمَلَهَا
الْإِنْسَانُ إِنَّهُ كَانَ ظَلُومًا جَهُولًا (الأحزاب، ۳۳ : ۷۲).

"We did indeed offer the Trust to the Heavens and the Earth and the Mountains; but they refused to undertake it, being afraid thereof: but man undertook it;- He was indeed unjust and foolish."

- d. The command to practice, guard, and preserve *mizaan* (ecosystem balance); as well as the prohibition to surpass this balance (*The Beneficent, The Mercy Giving, 55: 7-9*):

وَالسَّمَاءَ رَفَعَهَا وَوَضَعَ الْمِيزَانَ (۷) أَلَّا تَطْغَوْا فِي الْمِيزَانِ (۸) وَأَقِيمُوا الْوَزْنَ بِالْقِسْطِ وَلَا
تُخْسِرُوا الْمِيزَانَ (۹) (الرحمن، ۵۵ : ۷-۹).

"And the Firmament has He raised high, and He has set up the Balance (of Justice), In order that ye may not transgress (due) balance. So establish weight with justice and fall not short in the balance."

- e. The position of mankind as the servant of God (*The Winnowing Winds, 51:56*):

وَمَا خَلَقْتُ الْجِنَّ وَالْإِنْسَ إِلَّا لِيَعْبُدُونِ (الذاريات، ۵۱ : ۵۶).

"I have only created Jinns and men that they may serve Me."

- f. A reminder not to abandon the helpless generation (*The Women, 4:9*):

وَلْيَخْشَ الَّذِينَ لَوْ تَرَكَوْا مِنْ خَلْفِهِمْ ذُرِّيَّةً ضِعَافًا خَافُوا عَلَيْهِمْ فَلْيَتَّقُوا اللَّهَ وَلْيَقُولُوا قَوْلًا
سَدِيدًا (النساء، ۴ : ۹).

"Let those (disposing of an estate) have the same fear in their minds as they would have for their own if they had left a helpless family behind: Let them fear Allah, and speak words of appropriate (comfort)."

- g. The maximum penalty for perpetrators of multilevel destruction on earth (*The Table/The Table Spread, 5:33*):

إِنَّمَا جَزَاءُ الَّذِينَ يُحَارِبُونَ اللَّهَ وَرَسُولَهُ وَيَسْعَوْنَ فِي الْأَرْضِ فَسَادًا أَنْ يُقَتَّلُوا أَوْ يُصَلَّبُوا أَوْ
تُقَطَّعَ أَيْدِيهِمْ وَأَرْجُلُهُمْ مِنْ خِلَافٍ أَوْ يُنْفَوْا مِنَ الْأَرْضِ ذَلِكَ هُمْ خِزْيٌ فِي الدُّنْيَا وَهُمْ فِي
الْآخِرَةِ عَذَابٌ عَظِيمٌ (المائدة، ۵ : ۳۳).

"The punishment of those who wage war against Allah and His Messenger, and strive with might and main for harm through the land is: execution, or crucifixion, or the cutting off of hands and feet from opposite sides, or exile

from the land: that is their disgrace in this world, and a heavy punishment is theirs in the Hereafter."

h. The prohibiting of creating damage on the earth (*The Heights, 7:56*):

وَلَا تُفْسِدُوا فِي الْأَرْضِ بَعْدَ إِصْلَاحِهَا وَادْعُوهُ خَوْفًا وَطَمَعًا إِنَّ رَحْمَتَ اللَّهِ قَرِيبٌ مِّنَ الْمُحْسِنِينَ (الأعراف، ٧: ٥٦).

"Do no mischief on the earth, after it hath been set in order, but call on Him with fear and longing (in your hearts): for the Mercy of Allah is (always) near to those who do good."

i. Reprisals to earth's keepers and destroyers (*The Heights, 7:96*):

وَلَوْ أَنَّ أَهْلَ الْقُرَىٰ آمَنُوا وَاتَّقَوْا لَفَتَحْنَا عَلَيْهِم بَرَكَاتٍ مِّنَ السَّمَاءِ وَالْأَرْضِ وَلَكِن كَذَّبُوا فَأَخَذْنَاهُم بِمَا كَانُوا يَكْسِبُونَ (الأعراف، ٧: ٩٦).

"If the people of the towns had but believed and feared Allah, We should indeed have opened out to them (All kinds of) blessings from heaven and earth; but they rejected (the truth), and We brought them to book for their misdeeds."

j. Threats towards natural destruction on land and in the sea (*The Romans, 30:41*):

ظَهَرَ الْفَسَادُ فِي الْبَرِّ وَالْبَحْرِ بِمَا كَسَبَتْ أَيْدِي النَّاسِ لِيُذِيقَهُمْ بَعْضَ الَّذِي عَمِلُوا لَعَلَّهُمْ يَرْجِعُونَ (الروم، ٣٠: ٤١).

"Destruction has appeared on land and sea because of (the meed) that the hands of men have earned, that Allah may give them a taste of some of their deeds, in order that they may turn back (from Evil, to a righteous path)."

k. A pretext/alibi for destroying the earth in the name of development (*The Cow, 2:11-12*):

وَإِذَا قِيلَ لَهُمْ لَا تُفْسِدُوا فِي الْأَرْضِ قَالُوا إِنَّمَا نَحْنُ مُصْلِحُونَ أَلَا إِنَّهُمْ هُمُ الْمُفْسِدُونَ وَلَكِن لَّا يَشْعُرُونَ (البقرة، ٢: ١١-١٢).

"When it is said to them: "Make no harm on the earth." They answer: "Indeed, we only want to build (to repair)!" Be reminded, truly they are the ones who destroy, but they realise (it) not."

- l. The prohibition of destroying the microcosmos because it will impact the macrocosmos (*The Table, 5:32*):

مِنْ أَجْلِ ذَلِكَ كَتَبْنَا عَلَىٰ بَنِي إِسْرَائِيلَ أَنَّهُ مَنْ قَتَلَ نَفْسًا بِغَيْرِ نَفْسٍ أَوْ فَسَادٍ فِي الْأَرْضِ
فَكَأَنَّمَا قَتَلَ النَّاسَ جَمِيعًا وَمَنْ أَحْيَاهَا فَكَأَنَّمَا أَحْيَا النَّاسَ جَمِيعًا وَلَقَدْ جَاءَتْهُمْ رُسُلُنَا
بِالْبَيِّنَاتِ ثُمَّ إِنَّا كَثِيرًا مِنْهُمْ بَعْدَ ذَلِكَ فِي الْأَرْضِ لُمْسِرُونَ (المائدة، ٥ : ٣٢).

“On that account, We (Allah) ordained (a law) for the Children of Israel that: If any one slew a human being - not because that person (killed) another person, or not because of making damage to the earth - it would be as if he slew all humans. And if any one preserves a life, it would be as if he preserved the lives of all humans. And indeed there came to them Our apostles with (bringing) clear signs, yet, thereafter, many of them continued to commit destruction beyond comprehension on the earth.”

- m. Prohibition of obeying people who transgress and undermine nature. (*The Poet, 26:151-152*):

وَلَا تُطِيعُوا أَمْرَ الْمُسْرِفِينَ الَّذِينَ يُفْسِدُونَ فِي الْأَرْضِ وَلَا يُصْلِحُونَ (الشعراء، ٢٦ :
١٥١-١٥٢).

“And obey not the commands of the transgressors, who make mischief in the land and do not restore it (make repairs).”

- n. Prohibition of acting despotic on earth (*The Stories, 28:4*):

إِنَّ فِرْعَوْنَ عَلَا فِي الْأَرْضِ وَجَعَلَ أَهْلَهَا شِيَعًا يَسْتَضَعِفُ طَائِفَةٌ مِنْهُمْ يُذَبِّحُ أَبْنَاءَهُمْ
وَيَسْتَحْيِي نِسَاءَهُمْ إِنَّهُ كَانَ مِنَ الْمُفْسِدِينَ (القصص، ٢٨ : ٤).

“Truly, the Pharaoh acted arbitrarily in the land and divided its people, suppressing a group among them, their sons he slaughtered, but he kept alive their females. The Pharaoh was indeed a maker of mischief.”

2. The Text of Hadiths

- a. The affirmation that natural resources are publicly owned prohibits them to be privatized and commercialized:

عَنِ ابْنِ عَبَّاسٍ قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ الْمُسْلِمُونَ شُرَكَاءُ فِي ثَلَاثٍ فِي الْمَاءِ وَالْكَالِ وَالنَّارِ وَثَمَنُهُ حَرَامٌ (رواه ابن ماجه، رقم الحديث: ٢٥٦٦، وأبو داود، رقم الحديث: ٣٤٧٩).

“Three things cannot be denied to anyone: water, grass and fire and the price is illegitimate.” (The Story of Ibn Majah in his Sunan no. 2566, dan Abu Dawud in his Sunan, no. 3479).

- b. Prohibition of evoking a danger and overcoming the danger with other hazards:

عَنْ يَحْيَى الْمَازِينِيِّ أَنَّ رَسُولَ اللَّهِ -صلى الله عليه وسلم- قَالَ: «لَا ضَرَرَ وَلَا ضِرَارَ». (رواه مالك في الموطأ، رقم الحديث: ١٤٣٥، كتاب الأفضية، باب باب الْقَضَاءِ فِي الْمِرْفَقِ).

“From Yahya al-Mazini, The Prophet Muhammad MAY ALLAH BLESS HIM AND GIVE HIM PEACE said: It should not be hazardous and danger should not be replaced with other dangers.” [The Story of Imam Malik in the book Muwatha’ (hadith no. 1435), also Ibn Majah in his Sunan (hadith no. 2430 and 2431), and Imam Ahmad in his Musnad (hadith no. 2912 dan 23223)]

- c. Prohibition against committing injustice and appreciation to eliminate the difficulties of others:

أَنَّ عَبْدَ اللَّهِ بْنَ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا أَخْبَرَهُ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ الْمُسْلِمُ أَخُو الْمُسْلِمِ لَا يَظْلِمُهُ وَلَا يُسْلِمُهُ وَمَنْ كَانَ فِي حَاجَةِ أَخِيهِ كَانَ اللَّهُ فِي حَاجَتِهِ وَمَنْ فَرَّجَ عَنْ مُسْلِمٍ كُرْبَةً فَرَّجَ اللَّهُ عَنْهُ كُرْبَةً مِنْ كُرْبَاتٍ يَوْمَ الْقِيَامَةِ وَمَنْ سَتَرَ مُسْلِمًا سَتَرَهُ اللَّهُ يَوْمَ الْقِيَامَةِ (رواه البخاري في صحيحه، رقم الحديث: ٢٤٨٢).

“That Abdullah ibn Umar said: that The Prophet MAY ALLAH BLESS HIM AND GIVE HIM PEACE decreed: a Muslim is a brother to another Muslim, injustice should not be committed upon him and should not be submitted to the enemy. Whoever fulfills the needs of his brother, and then Allah will certainly fulfill his needs. Whoever does away with the suffering of a Muslim, then Allah will relieve his suffering on the Day of Resurrection and whoever conceals the disgrace of a Muslim, then Allah will conceal his shame on the Day of Resurrection. (The Story of Bukhari in his Shahih, no. 2482 and Muslim in his Shahih, no. 6743).

- d. The command to love all beings:

عَنْ عَبْدِ اللَّهِ بْنِ عَمْرٍو قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ الرَّاحِمُونَ يَرْحَمُهُمُ الرَّحْمَنُ
ارْحَمُوا مَنْ فِي الْأَرْضِ يَرْحَمَكُم مَّن فِي السَّمَاءِ (رواه الترمذي في سننه، رقم الحديث:
٢٠٤٩).

"From Abdullah bin Umar, The Prophet MAY ALLAH BLESS HIM AND GIVE HIM PEACE said: loving people are always loved by Allah the Most Gracious. Show mercy and love towards each other (to whom and to what) on earth so that all who are in the heavens always love you. (the Story of Turmudzi in his Sunan, hadith no.: 2049 and Abu Dawud in his Sunan, no. 4943).

e.The order to plant trees eventhough judgment day is nearinga:

حَدَّثَنَا هِشَامُ بْنُ زَيْدٍ قَالَ سَمِعْتُ أَنَسَ بْنَ مَالِكٍ قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ
إِنْ قَامَتِ السَّاعَةُ وَبِيَدِ أَحَدِكُمْ فَسِيلَةٌ فَإِنْ اسْتَطَاعَ أَنْ لَا يَقُومَ حَتَّى يَغْرِسَهَا فَلْيَفْعَلْ. (رواه
أحمد في مسنده، رقم الحديث: ١٣١٨١).

"If judgment day is nearing, meanwhile in your hand there is a seed of a tree, and you are able to plant it, then immediately plant it." (the Story of Ahmad, Musnad, no. 13181).

3. Opinison of the Ulama

- a.Abi Ya'la al-Farra al-Hanbali (w. 485 H): "If a homeowner builds a kitchen in his house and the smoke disturbs his neighbors or builds a mill in his home or hires blacksmiths and laundrymen, then this should not be. This is in line with Imam Ahmad's opinion." (*al-Ahkaamus Sulthaaniyyah, page 301*).
- b. Abu Muhammad Ghanim ibn Muhammad al-Baghdadi (d.1030 H): "If anyone wants to burn the rice field (hay) on his own land, to which he lights the fire, and it turns out his fire spreads to his neighbor's field burning the plants, he need not replace it, unless he knew in advance that by burning his rice field, his fire will spread to his neighbor's plants. Because, if he already knows, that means he deliberately wants to burn other people's plants. Likewise, a person who wants to have cotton plants in his own land that is adjacent with another person's land, and then lights a fire from the side of his own land and the fire spreads to the adjacent cotton field, compensation for the destroyed cotton is an obligation for the person lighting the fire. This is because he already knows that his fire will spread to other person's cotton field. He intentionally means to burn it." (*Majma' adl-dlamaanaat, juz 1, hlm. 161*).
- c.KH Ali Yafie in the book Pioneering Fiqh for the Environment states that the concept of al-Mizaan in the Qur'an (the Beneficent, 55: 7-9) can be defined as maintaining the balance of the world's ecosystems, so that the

exploitation of nature should not haphazardly; consideration should be given to the harmony and balance of nature. He also proposed the preservation of the environment (hifdhul bii'ah) as the sixth principle in addition to the five principles of Islamic Shari'ah: maintaining the religion [hifdhud diin], mind [hifdhul `aql], soul [hifdhun nafs], wealth [hifdhul maal], and family/reproduction [hifdhun nasl], so that environmental conservation becomes one of the main objectives of Islamic law.

- d. M. Quraish Shihab in the Interpretation of Al-Mishbah explains that QS. *The Poets*, 26: 151-152 are verses about the prohibition of obeying the orders and the conduct of the perpetrators, i.e. those who are constantly destroying the earth and making no conservation.
- e. Hamka in al-Azhar's Interpretation explains that QS. *The Poets*, 26: 151-152 is about the people who create damage as enemies of society. The peak of damages is due to the attitudes of arrogance, unjust and indiscriminate.
- f. Asy-Syathibi in the *Muwaafaqaat* states that human primary needs include five matters including *mashlahat or maqaashid dlaruuriyyaat*, namely religion, soul, ancestry, wealth and reason.
- g. Rules of *Ushuuliyah* and *Fiqhiyyah*:

الأصل في النهي للتحريم

"The basic principle that prohibits revealing the meaning of sin."

العبرة بعموم اللفظ لا بخصوص السبب

"The implication of a sentence is determined by the meaning of the word in generality, not by its specific reason."

الضَّرُّ يُزَالُ

"All acts that are harmful to yourself and, or others, should be eliminated."

الضَّرُّ لَا يُزَالُ بِالضَّرِّ

"Acts that are harmful cannot be eliminated by similar harmful acts."

إذا تعارضت المفسدتان روعي أعظمهما ضررا بارتكاب أخفهما

"If there are two types of damages simultaneously occurring that are unavoidable, the more serious should be abandoned and carrying out the less serious one."

درء المفسد مقدم على جلب المصالح

"Preventing damages should take precedence over attracting benefits."

4. The Constitution of the Republic of Indonesia (The Constitution of the Republic of Indonesia of 1945)

- a. Article 33 Paragraph (3): "The earth, water and natural resources contained therein are controlled by the State and used for the greatest prosperity of the people." Paragraph (4): "The National Economy is organized on the basis of economic democracy with the principle of mutuality, fair efficiency, sustainability, environmental insight, independence, as well as maintaining a balance of progress and national economic unity." And Paragraph (5): "Further provisions regarding the implementation of this article shall be regulated by law."
- b. Article 28H Paragraph (1): "Every person shall have the right to live in physical and spiritual prosperity, to live and to secure a decent and healthy living environment and to be entitled to health care."

C. ANALYSIS

The main mission of Prophet Muhammad's *MAY ALLAH BLESS HIM AND GIVE HIM PEACE* apostolic, as affirmed in the Qur'an (QS the Prophets, 21:107), is to manifest blessings for the universe or *Rahmatan Lil 'alamin*, meaning Islam is a religion that brings blessings and prosperity to the entire universe and its inhabitants. This mission of salvation has become the basic principle of Islamic law, so that the whole universe, including the environment, must be protected through Islamic laws that are ruled by the *Scholars*. The mission of this blessing must also be manifested in the Muslim view of the environment. This viewpoint, as confirmed by KH Ali Yafie (2006), is actually based on Qur'anic verses and Hadith texts.

In Islam, this universe was created by *Allah, Praise be unto Thee the Almighty*, faultlessly calculated (*the Stone Land, 15:19 and the Beneficent, 55: 5*), with seriousness (*the Prophets, 21:16*), not with vanity or futility (*the Letter 'S', 38:27*), and with a righteous and good purpose (*the Stone Land, 15:85*). Nature is an integral part of the life system. Nature (and everything contained therein) is alive and even always exalts and glorifies *Allah, the Almighty (the Night Journey, 17:44)*. This universe was created by *Allah Praise Be unto Thee the Almighty* for the benefit of human beings, and because of that, it must always be preserved and maintained to continue to be sustainable until the last generation. Even at the time of the apocalypse, the Prophet *MAY ALLAH BLESS HIM AND GIVE HIM PEACE* decreed us to keep preserving nature, by planting trees. The Qur'an has also decreed the balance of the world's ecosystems, through the concept of balance (*al-Mizaaan*). Humans are prohibited from damaging this balance. According to the Qur'an, the act of corrupting this balance is considered in violation of the limits of Allah's provision (*the Beneficent, 55: 7-9*). The Qur'an repeatedly asserted three times regarding the prohibition of destroying the earth that has been prearranged by *Allah Praise be unto Thee the Almighty* to be in balance with each other (*the Cow, 2:11, the Heights, 7:56 and 85*). Thus, the Islamic viewpoint is to preserve and conserve nature, not to destroy it.

The verses on the prohibition of damaging the earth as mentioned above, is written using the form of *nahy* (prohibition). In the rule of *ushul fiqh*, *nahy* (prohibition) has the meaning of *forbidden or illicit* (للتحريم النهي في الأصل). The verse on the prohibition of doing damage on earth is also repeated more than three times in the Qur'an in different chapters. This shows that the Qur'an addresses extraordinary attention to the preservation of nature as well as the strict prohibition against the perpetrators accountable for harming the earth. In another verse, the perpetrators are without doubt threatened with the penalties of death, crucifixion, the cutting off of hands and/or feet, or alienated from their domicile of residence. In addition, in the hereafter, they are also promised painful punishment (*the Table*, 5:33).

Meanwhile, in the hadith, there is also a prohibition to create danger or overcome a danger with other dangers (ولا ضرار لأضرار). This hadith uses a common editor ('aam). The general editor ('aam) is the editor that can include the smallest unit. Therefore, the *ushuliyah* rule gives an explanation "When a text uses the 'aam' editors, then all the smallest units under it have the same legal consequences. "The implication of a sentence is determined by the meaning of the word in generality, not by its specific reason." (السبب بخصوص لا اللفظ بعموم العبرة).

The two legal bases above confirm the prohibition of destruction on earth in any form, including the destruction of nature. Damage, according to ar-Razi in his interpretation, is damage of all types, whether it threatens, life, religion, reason, property, or heredity. The verses of the Qur'an and Hadith regarding the prohibition of destruction and the decree to preserve nature encourage the scholars to establish the prohibition of all forms of action that lead to things that interfere with others, as well as actions that lead to the destruction of nature.

Based on the *al-Mishbah* interpretations, M. Quraish Shihab explains that the verses in the chapter *the Poets*, 26: 151-152 are regarding the prohibition of complying with the commands and the conduct of those breaking the set of laws as decreed, i.e. those who are constantly destroying the earth and making no improvement. The word *al-musrifiin* comes from the word *sarafa* which means to transgress. Although the word is meant for notable figures who became enemies of the Prophet Methusaleh, *upon him be peace*, the command and advice is also addressed to the general public. The verse that comes from the advice of the Prophet Methusaleh, *upon him be peace* is also addressed to the leading elders, because they often give examples of behavior beyond the set boundaries. The word *yufsiduuna* in verse 151 of the chapter means destructive as the explanation of the intent of acting beyond the set limits. This word is in the form of a verb (*fi'il*) *mudlaari'* to imply that destruction is continuous, perpetually conducted by humans. Although in principle it is destructive, its intensity remains criticized. The destruction of nature is thus an action that has diminished the values of nature's function that was in the past useful and beneficial to be partially or entirely wasted due to the undertaking and act of the perpetrators. Therefore, the word *فسد* (to destroy) is the opposite of the word *صلح* (to fix or to restore).

In the interpretations of *al-Azhar*, Hamka explains that the chapter *Poets*, 26: 151-152 is about the people who cause damage are enemies of society. The peak of all destruction is the attitudes of arrogance, cruelty, and overbearing. Overbearingness is

central to a nation that advances science in modern times, but does not bring progress in the field of life and humanity. There are factories, industries, luxurious living facilities, transportation, but considers nature to be a commodity to exploit, not to maintain the balance in the in order to remain sustainable. A Muslim who is conscious of his or her religion has an obligation to maintain and conduct no destruction to the earth, including the destruction of Allah's creation.

In a hadith, it is asserted that men are aligned in three natural resources that should not be monopolized, privatized, and commercialized, namely water, grass, and fire. This indicates that nature is a partner to humans, a sibling to humans, and even similar to a human body. When nature is destroyed, people also hurt and suffer. Therefore, humans and nature share a mutual relationship. If nature is healthy, then humans are healthy. To create a healthy nature requires active human involvement to maintain and preserve it. This assertion is also confirmed by the hadith of the Prophet who decreed humans to plant trees even though the apocalypse is nearing.

The affirmations contained in the legal bases have also spawned an Islamic jurisprudence maintaining the prohibition of all forms of acts of vandalism, both to fellow human beings as well as to other issues. One of the most famous rules is that any and all harmful acts must be eliminated. Another rule even asserted that prevention of harm in any form must take priority over creating virtue. Therefore, it becomes impossible to prohibit damage in a way that causes other damage. That is why in the Islamic rule, it is confirmed that damage should not be eliminated by any other damages. In conditions where there are two unavoidable damages, scholars agree to choose the one with the least amount of damage. This was confirmed in a principle Islamic rule that reads: "If there are two unavoidable damages, then the one that may result in the most damage should be avoided by carrying out the one resulting in the least damage".

The affirmation of the prohibition in the Qur'an and Hadith texts against the destruction of the earth or the universe increasingly finds its relevance when the fact of today's destruction to nature is already very disturbing where the basic sources of life, such as water, air, soil, flora, fauna, and the balance in the ecosystem has already experienced tremendous damage. These damages are the result of blind exploitative actions perpetrated by a few people, such as:

1. Massive factory construction polluting the environment and air.
2. Disposal of waste and toxins in groundwater, soil, and air.
3. Massive deforestation.
4. Mining.
5. Development that destroys the ecosystem.
6. Hunting and killing of protected animals.
7. Petroleum exploration that destroys nature.

The above acts have caused devastation to the order of life on earth, which includes:

1. The destruction of the ecosystem. This has resulted in erratic weather changes in cropping patterns, loss of sources of food and medicines, the occurrence of flash floods, abrasion, and landslides that threaten the lives of living things on earth. Whereas in the chapter *The Cow, 2: 21-22*, Allah

asserts that "He has made for you the ground as a bed and the sky as a roof, and He is the one who sends down water (rain) from the sky, and He produces with it fruits as good fortune for you..." This verse describes the ecosystem chain of nature that is interrelated so that neither one of them may be destroyed. Because damage to one part of the ecosystem will result in the destruction of other parts of nature.

2. The vulnerability of the human body is due to diseases that threaten health. The evenly spread destruction of ecosystems and the environment has also resulted in a large number of a variety of diseases that threaten health and human life on earth. Among them are respiratory tract disorders, dehydration, skin diseases, and increased cancer patients, to female reproductive disorders. Such diseases certainly threaten efforts to accomplish the quality of human life as mandated by God. In the Qur'an, the Lord cautions us of the danger of leaving behind weak and unqualified offspring of humanity (*the chapter Women, 4:9*).
3. Impoverishment. The damage that occurs to nature above has also resulted in the impoverishment of human life, especially to women. This is contrary to the ideals of life that religion wishes to realize, namely prosperity and happiness in the world and in the afterlife. Therefore, religion has cautioned against poverty where it endangers religion itself.

In view of the above effects, the act of destruction to nature must receive serious attention by mankind, especially from religious leaders or scholars, because humans live on this earth received a mandate from Allah as His caliph. The caliphate itself has two main functions, namely worshiping and maintaining the balance of life on earth. This means that the task of the Caliphate is incomplete if one of the above functions is ignored. Thus, the act of destruction done by man through the exploitation of nature without limits is basically ignoring the second function of the caliphate, namely maintaining the balance of life on earth. The neglect of one of these functions is actually a betrayal of the caliphate mandate that Allah has given to mankind.

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."

Some important points about Islamic teachings related to the destruction of nature are as follows

1. Development is only allowed if the utilization and management of nature is for benefit of all based on the foundation of maintaining the religion, the soul, the mind, offspring and dignity, and safeguarding wealth. Therefore, the utilization and management of nature must not exceed the limit of needs and self-interest and not impact the destruction of nature.
2. The existence of humans, men and women on this earth, their main function are as khalifah (*the Cow, 2:30*). In their position as khalifah, humans are not only obliged to always devote themselves to Allah the Almighty (worship) (*the Winnowing Winds, 51:56*), but also to maintain the balance of ecosystems on earth. Man is entrusted with the decree of Allah (*the Clans, 33:72*). The universe with all its contents is the mandate of Allah the Almighty given to man to be safe guarded, preserved, and made as a source of livelihood and life of all beings on an ongoing basis. Man himself is part of the universe so that human beings with all other living organisms are essentially equal and must interact mutually for the sustainability of the universe.
3. In this context, besides associating fellow Muslims, fellow countrymen, fellow human beings, it is also very important to develop the an association with fellow beings in order to carry out Allah's mandate to maintain the continuity of this universe .
4. Islam was revealed by Allah as a grace and benevolence for the entire universe (*the Prophets, 21: 107*). The grace in question is affection, love, peace, harmony, and balance. Islam emphatically teaches the benefit, goodness, justice, and sustainability of the universe. Islam also explicitly forbids human beings to do any kind of harm or destruction to this earth, whether it be social, moral, cultural, or the universe in its entirety. The perpetrators of the destruction of the universe are considered equivalent to killing all human beings on this earth. Therefore, the perpetrators of vandalism are categorized as crimes against humanity, which is equal to defying the commands and decrees of Allah and His Apostles.
5. The forms of destruction of the universe prohibited by the teachings of Islam include massive deforestation, mining in all its forms, the haphazard disposal of waste and toxins in water, soil, and air, development that poses damage to the ecosystem, the hunting and killing of protected animals, exploration oil (fossil fuel) that destroys ecosystems, and the like.
Pelestarian or conservation and the persistence of the universe (water, air, soil, flora, fauna) is part of the teachings of Islam. Without the condition of a clean and healthy planet, religion will not be able to perform perfectly. Conservation and the persistence of the universe should be part of the awareness and practice of diversity. For that, the issue of the universe should

be incorporated into the educational curriculum of religion, in schools and madrassas alike, as well as in higher education.

D. RELIGIOUS ATTITUDES AND VIEWS

Based on the legal foundation and analysis , as mentioned above, deliberations have influenced the following religious attitudes and views:

1. Inflicting damage to 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 to protect 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. Protection of nature can be implemented largely by:
 - a. Strictly banning the destruction of nature and impose serious concern in maintaining and preserving nature. Therefore, humans, men as well as women, as the receiver of Allah's mandate on earth are obliged to care for and maintain nature and balance of ecosystems on earth, because of the function of the Caliphate is namely to worship Allah, the Almighty and to foster or preserve life on earth. Both are oriented towards the realization to benefit mankind, in this world and in the afterlife.
 - b. Develop knowledge and build awareness regarding the importance of environmental law in Islam, and living a healthy, clean, and maintaining the balance of ecosystems, should be a habituation of religious life, both within the scope of individuals, communities, societies as well as the nation. Among the most important daily habits are throwing trash in its rightful place, managing waste, caring for trees and plants and all flora loving animals and other living things, always maintaining cleanliness, energy efficiency, using adequate (not excessive) amounts of water, not indiscriminately cutting trees nor burning forests, and not using pesticides or other toxic materials.
 - a. The religious views of the responsibility of the state in overcoming the destruction of nature that impoverishes the people, especially women is:
 - 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 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 its recovery by providing necessary policies, strictly enforcing existing regulations, and engaging in concrete activities with communities to conserve. In such efforts, the state must involve women who experience the most negative impact and the excessive burden caused by the destruction of nature.

E. RECOMMENDATIONS

1. For the state and government:
 - a. Change the paradigm of seeing nature as a source of development to become a source of livelihood and life so that nature does not become the object of exploitation, but as part of the human life system that must be preserved in order to ensure the survival of humanity.
 - b. Develop appropriate policy instruments, special programs and adequate financing to ensure the sustainability of nature as a source of livelihood and life.
 - c. Resolve the vulnerability of women and children and ensure protection for them from the effects of damages to the natural environment through sustainable policy instruments and special programs.
 - d. Eliminate laws and policies that see nature as a development resource, hence has the potential to damage the ecosystem, and strictly enforce existing laws as well as natural conservation policies.
 - e. Penalize industries that damage nature and prohibit them from operating in Indonesia.
 - f. Develop environmental friendly research and technology, renewable energy and innovation to strengthen the role of women as the subject of nature conservation.
 - g. Document the traditions and good practices of nature preservation in the community in order to be made knowledgeable with the community at large.
2. For Religious Leaders:
 - a. Develop a discourse of nature conservation from the perspective of religion by promoting religious interpretation, requiring humans to protect nature and position nature as a source of livelihood, and interpretations that threaten people behind the destruction of nature.
 - b. Establish a religious discourse on the vulnerability of women and children as a result of the destruction of nature including the threats of illness, violence, and poverty.
 - c. Conduct education and critical awareness about Islamic teachings on nature conservation through sermons, Qur'an teachings, education, and other media.
 - d. Provide exemplary direct practice of nature conservation in everyday life in the environment where they live.
 - e. Provide input and control to the government related to nature conservation.
3. For the Community:
 - a. Conduct a "Rescue Mother Earth" movement where women will be the center piece of nature's conservation and maintaining balance in the ecosystem.
 - b. Explore and preserve the tradition and good practice of nature conservation that is rooted in the community to this day, such as

- prohibiting the cutting of trees in certain areas and period of time, the responsibility to plant certain trees during special events, etc.
- c. Conduct a movement to plant trees, crops, and medicinal plants in the surrounding environment.
 - d. Live a lifestyle that is healthy, clean and preserving nature in everyday life.
 - e. Build solidarity, strength and a joint movement to face the threat of destruction by industry players in the surrounding environment.
 - f. Conduct a movement refusing to use the products of companies that damage nature, including those that damage female reproduction.

F. REFERENCES

1. *Al-Qur'aan al-Kariim*.
2. *Shahiih al-Bukhaariy*. Abu Abdullah Muhammad bin Ismail bin Ibrahim bin al-Mughirah bin Bardizbah al-Bukhari. Cairo, Mesir: Jam'iyat al-Maknaz al-Islami. 2000.
3. *Shahiih Muslim*. Abul Husain Muslim bin al-Hajjaj al-Qusyairi an-Naisaburi. Cairo, Mesir: Jam'iyat al-Maknaz al-Islami. 2000.
4. *al-Muwatha'*. Abu Abdillah Malik bin Anas bin Malik bin Abi Amir bin Amr bin al-Haris bin Ghaiman bin Jutsail. Cairo, Mesir: Jam'iyat al-Maknaz al-Islami. 2000.
5. *Sunan at-Tirmidzi*. Muhammad bin 'Isa bin Saurah bin Musa as-Sulami at-Turmudzi. Cairo, Mesir: Jam'iyat al-Maknaz al-Islami. 2000.
6. *Sunan Abuu Dawud*. Abu Daud Sulaiman bin al-Asy'as bin Ishak bin Basyir bin Syidad bin Amar al-Azdi as-Sijistani. Cairo, Mesir: Jam'iyat al-Maknaz al-Islami. 2000.
7. *Sunan Ibnu Maajah*. Abu Abdullah Muhammad bin Yazid Ar-Rabi' Al-Qazwinî Al-Hâfidz. Cairo, Mesir: Jam'iyat al-Maknaz al-Islami. 2000.
8. *Musnad Ahmad*. Ahmad bin Hanbal. Cairo, Mesir: Jam'iyat al-Maknaz al-Islami. 2000.
9. *al-Muwaafaqaat fiy Ushuul asy-Syarii'ah*. Abi Ishaq Asy-Syathibi. Beirut: Darul Kutub al-Ilmiyah. t.t.
10. *Al-Ahkaamus Sulthaaniyyah*. Abu Ya'la Al-Farra' al-Hanbali. Beirut: Dar al-Kutub al-Ilmiyah. 2000.
11. *Mafaatihul Ghayb*. Fakhruddin ar-Razi. Beirut: Dar al-Ihya' al-Turats al-'Arabi. t.t.
12. *al-Asybaah wan Nadhaa'ir fiy Qawaa'id wa Furuu' asy-Syaafi'iyyah*. Jalaluddin Abdurrahman as-Suyuthiy. Cairo Mesir: Darussalam. 2006.
13. *Majma' adl-Dlamaanaat*. Abu Muhammad Ghanim bin Muhammad al-Baghdadi al-Hanafiy. Beirut: Dar al-Kitab al-Islami. t.t.
14. *Merintis Fiqh Lingkungan Hidup*. Ali Yafie. Jakarta: Yayasan Amanah dan Ufuk Press. 2006.
15. *Tafsir al-Mishbah, Pesan, Kesan, dan Keserasian al-Qur'an*. vol. 1. M. Quraish Shihab. Jakarta: Lentera Hati. 2007.
16. *Greenpeace Indonesia*.

- <http://www.greenpeace.org/seasia/id/news/Tanggapan-Greenpeace-atas-StudiBaru-yang-Menyatakan-Deforestasi-Indonesia-Tertinggi-di-Dunia/>. 2014.
17. Koalisi Anti Mafia Sumber Daya Alam. *Saatnya Kerja Selamatkan Sumber Daya Alam*.
<https://programsetapak.org/wp-content/uploads/2017/01/saatnya-kerja-nyata-selamatkan-SDA.pdf>. 2017.
 18. *FWI: Laju Deforestasi Indonesia Tertinggi*. H. Martha Simanjuntak. Antaranews.
<http://www.antaranews.com/berita/474271/fwi--laju-deforestasi-indonesia-tertinggi>. 2015.
 19. *12 Juta Masyarakat Pinggiran Hutan Hidup Miskin*. Wilujeng Kharisma. Pikiran Rakyat.com
<http://www.pikiran-rakyat.com/nasional/2015/06/12/330796/12-juta-masyarakat-pinggiran-hutan-hidupmiskin> Narasi April 19, Kota Bekasi 16 . 2015.
 20. *Konflik Agraria Naik Hampir Dua Kali Lipat Pada 2016*. Dani Prabowo. Kompas.com
<http://nasional.kompas.com/read/2017/01/05/15230131/konflik.agraria.naik.hampir.dua.kali.lipa.t.pada.2016>. 2017.
 21. *KPA Launching Catatan Akhir Tahun 2016*. Konsorsium Pembaruan Agraria.
<http://www.kpa.or.id/news/blog/kpa-launching-catatan-akhir-tahun-2016/>. 2016.
 22. *Meretas Jejak Kekerasan terhadap Perempuan dalam Pengelolaan Sumberdaya Alam*. Komnas Perempuan.
<http://www.komnasperempuan.go.id/meretas-jejak-kekerasan-terhadap-perempuan-dalam-pengelolaan-sumberdaya-alam/>. 2008.
 23. *Ketimpangan Kepemilikan Aset sebagai Penyebab Kemiskinan*. Anonim. Joyo Winoto.
<https://ugm.ac.id/id/newsPdf/1135-joyo.winoto.:ketimpangan.kepemilikan.aset.sebagai.penyebab.kemiskinan>. 2007.

G. ATTACHMENTS

١. مجمع الضمانات، دار الكتاب الإسلامي لأبي محمد غانم بن محمد البغدادي الحنفي (الجزء ١، ص ١٦١): (الفصل الثالث فيما يُضْمَنُ بِالنَّارِ وَمَا لَا يُضْمَنُ) رَجُلٌ أَرَادَ أَنْ يَحْرِقَ حَصَائِدَ أَرْضِهِ فَأَوْقَدَ النَّارَ فِي حَصَائِدِهِ فَذَهَبَتْ النَّارُ إِلَى أَرْضِ جَارِهِ فَأَحْرَقَ زَرْعَهُ لَا يُضْمَنُ

إِلَّا أَنْ يَعْلَمَ أَنَّهُ لَوْ أَحْرَقَ حَصَائِدَهُ تَتَعَدَّى النَّارُ إِلَى زَرْعِ جَارِهِ؛ لِأَنَّهُ إِذَا عَلِمَ كَانَ قَاصِدًا إِحْرَاقَ زَرْعِ الْعَيْرِ. قَالُوا: إِنْ كَانَ زَرْعُ غَيْرِهِ يَبْعُدُ عَنِ حَصَائِدِهِ الَّتِي أَحْرَقَهَا وَكَانَ يَأْمَنُ أَنْ يَحْتَرِقَ زَرْعُ جَارِهِ وَلَا يَطِيرُ شَيْءٌ مِنْ نَارِهِ إِلَّا شَرَارَةً، أَوْ شَرَارَاتٍ فَحَمَلَتْ الرِّيحُ نَارَهُ مِنْ أَرْضِهِ إِلَى أَرْضِ جَارِهِ فَاحْرَقَ زَرْعَ الْجَارِ وَكُنْهُ لَا يَضْمَنُ فَإِذَا كَانَ أَرْضُ جَارِهِ قَرِيبًا مِنْ أَرْضِهِ بِأَنْ كَانَ الزَّرْعَانِ مُلتَصِقَيْنِ، أَوْ قَرِيبَيْنِ مِنَ الْإلتِصَاقِ عَلَى وَجْهِ أَنَّ نَارَهُ تَصِلُ إِلَى زَرْعِ جَارِهِ يَضْمَنُ صَاحِبُ النَّارِ زَرْعَ الْجَارِ وَكَذَلِكَ رَجُلٌ لَهُ قُطْنٌ فِي أَرْضِهِ، وَأَرْضُ جَارِهِ لَاصِقَةٌ بِأَرْضِهِ، فَأَوْقَدَ النَّارَ مِنْ طَرَفِ أَرْضِهِ إِلَى جَانِبِ الْقُطْنِ فَأَحْرَقَتْ ذَلِكَ الْقُطْنَ كَانَ ضَمَانُ الْقُطْنِ عَلَى الَّذِي أَوْقَدَ النَّارَ؛ لِأَنَّهُ إِذَا عَلِمَ أَنَّ نَارَهُ تَتَعَدَّى إِلَى الْقُطْنِ كَانَ قَاصِدًا إِحْرَاقِ الْقُطْنِ.

٢. تفسير الرازي (ج ٧، ص ١٤٦): ثم قال تعالى: {وَلَا تُفْسِدُوا فِي الْأَرْضِ بَعْدَ إِصْلَاحِهَا} وفيه مسألتان: المسألة الأولى: قوله: {وَلَا تُفْسِدُوا فِي الْأَرْضِ بَعْدَ إِصْلَاحِهَا} معناه ولا تفسدوا شيئاً في الأرض، فيدخل فيه المنع من إفساد النفوس بالقتل وبقطع الأعضاء، وإفساد الأموال بالغصب والسرقة ووجوه الخيل، وإفساد الأديان بالكفر والبدعة، وإفساد الأنساب بسبب الإقدام على الزنا واللواطه وسبب القذف، وإفساد العقول بسبب شرب المسكرات، وذلك لأن المصالح المعتبرة في الدنيا هي هذه الخمسة: النفوس والأموال والأنساب والأديان والعقول. فقول: {وَلَا تُفْسِدُوا} منع عن إدخال ماهية الإفساد في الوجود، والمنع من إدخال الماهية في الوجود يقتضي المنع من جميع أنواعه وأصنافه، فيتناول المنع من الإفساد في هذه الأقسام الخمسة، وأما قوله: {بَعْدَ إِصْلَاحِهَا} فيحتمل أن يكون المراد بعد أن أصلح خلقتها على الوجه المطابق لمنافع الخلق والموافق لمصالح المكلفين، ويحتمل أن يكون المراد بعد إصلاح الأرض بسبب إرسال الأنبياء وإنزال الكتب كأنه تعالى قال: لما أصلحت مصالح الأرض بسبب إرسال الأنبياء وإنزال الكتب وتفصيل الشرائع فكونوا منقادين لها، ولا تقدموا على تكذيب الرسل وإنكار الكتب والتمرد عن قبول الشرائع، فإن ذلك يقتضي وقوع الهرج والمرج في الأرض، فيحصل الإفساد بعد الإصلاح، وذلك مستكره في بداهة العقول.

**RECOMMENDATIONS
OF THE CONGRESS OF INDONESIAN
WOMEN ULAMA**



From the left: Hj. Ninik Rahayu (Secretary of the organizing committee), Lukmah Hakim (Minister of MORA), GKR Hemas, Hj. Badiryah Fayyumi (Head of steering committee) on the stage of the closing ceremony (27/042017).



A participant is giving her opinion on the Seminar of the Congress (26/042017).

C. RECOMMENDATIONS OF THE CONGRESS OF INDONESIAN WOMEN ULAMA

From the entire series of activities held, both before and during the implementation of the Congress, taking into account the voices presented, ideas and thoughts raised, questions asked and answers concluded, either from participants, observers, or speakers, the Indonesian Congress of Women Scholars issued notes as recommendations for the parties to be able to implement in accordance with their respective capacities. Recommendations consist of two: general and thematic. General recommendations are general notes on all Islamic, national, and humanitarian issues. This recommendation has been read at the closing stage of the Congress on April 27, 2017 by Mrs. Nyai Hj. Fatmawati Hilal from Makassar.

The thematic recommendations are the final notes generated from parallel discussions of nine themes of the Indonesian Congress of Women Scholars aimed at individuals, certain groups of people, certain institutions, or the government. The nine issues in question are [1] women's scholar education, [2] the Islamic boarding schools' response to female scholars, [3] sexual violence, [4] child marriage, [5] migrant workers, [6] religious radicalism, [7] village development, [8] humanitarian crisis and conflicts, and [9] destruction of nature. The discussions were held on the second day of the Congress, Wednesday, April 26, 2017, at 13.30-16.30, in the classes of the *Kebon Jambu Islamic Boarding School, al-Islamy, Babakan Ciwaringin* Cirebon. The participants and observers of the Congress were divided according to their respective interests in following one of the nine themes.

1. General Recommendation

To reinforce Islamic, nationalistic and humanitarian values, the *Indonesian Congress of Women Scholars*, which was held on 25-27 April 2017 at the *Kebon Jambu Islamic Boarding School, al-Islamy*, recommended that the parties do the following:

A. For the Women Ulama:

- 1) Acknowledge and disseminate the Islamic understanding of nationalism and humanity, which inspires Islam as moderate and progressive rejecting any understanding that will fragment the life order of the nation and state.
- 2) Integrate religious beliefs and practices with a basic justice perspective on male and female relations taking into account the life experiences of women and other vulnerable groups.
- 3) Allowing access that can affirm the existence, role, and progress of women scholars, and turn places of worship into centers of empowerment, education and development of knowledge for women, in addition to a place of daily rituals.

- 4) Respond to social problems, particularly regarding the issues of women, children and vulnerable groups by providing religious opinions and considerations from the perspective of victims, affirming the principles of justice, truth and recovery.
- 5) Encourage the emergence of mentoring and handling of victims on an Islamic Boarding School basis or religious communities in synergy with relevant institutions and foundations to create an integrated criminal justice system and access to justice for victims.

B. For Civic Organizations:

- 1) Integrate the values of Islam, nationality, and humanity in all cadre efforts.
- 2) Ensure organizational leaders and cadres disseminate messages of unity, fraternity, peace, equality and anti-discrimination.
- 3) In particular, the organizations *Alimat, Rahima and Fahmina* together with their partners need to nurture, expand and strengthen women scholars in order to remain relevant for the affirmation of Islamic, national and humanitarian values.

C. For the Community:

- 1) Devoutly implement Islamic, national, and humanitarian values within the family and community; and be wary of all religious and social organizations that intend to destroy the order of life of the nation and state.
- 2) Take concrete steps to prevent unfair treatment, including all forms of violence and discrimination in the surrounding environment.
- 3) Participate in efforts to support victims of violence and discrimination as well as recovery efforts.

D. For Law Enforcement:

- 1) Take firm action against individuals, organizations, and corporations that engage in violence, intimidation and discrimination on the basis of race, gender, religion and class.
- 2) Guarantee access to justice, protection and recovery for victims of gender based violence, including victims of sexual violence, female migrant workers, victims of agrarian conflicts or other victims.
- 3) Ensure all police units at the central, regional and village levels maintain a UPPA (Women and Child Protection Unit) with adequate human and budgetary resources.

E. For the Legislative Body:

- 1) Introduce regulations at the central and regional levels as well as villages related to the protection of victims of gender based violence that includes victims of sexual violence of migrant workers and protection policies for other vulnerable groups.
- 2) Encourage the introduction of a gender-based budget for the fulfillment of victims' rights, which includes the protection, treatment and recovery of victims at both the central and regional levels as well as in village communities.
- 3) Monitor the implementation of policies, both at the national and regional levels as well as in the villages that includes budget and policy implementation.
- 4) Conduct supervision and coordination with the government to ensure that community organizations uphold the values of nationality and humanity.

F. For the Government:

- 1) Integrate all regulations and policies with human rights covering women's rights, children's rights, disability rights, socio-cultural economic rights and civil and political rights, as well as other constitutional rights.
- 2) Ensure that regulations issued can provide protection for the fulfillment of victims' rights, including the right to the truth, justice and recovery.
- 3) Provide a budget for the protection, treatment and recovery of victims of gender-based violence that includes victims of sexual violence, migrant workers, victims in areas of agrarian conflict and other vulnerable groups.
- 4) Ensure the protection of the balance in the ecosystem and natural resources to ensure access to the community.
- 5) Ensure the presence of efforts to eliminate violence and discrimination against any vulnerable groups in educational institutions, whether formal, non-formal or informal.
- 6) Conduct supervision and coordination with the government to ensure that community organizations uphold the value of nationality and humanity.
- 7) In particular, prepare a recommendation addressed to the *Ministry of Religious Affairs*, requesting to build a *Ma'had Ali* (an Islamic religious college that conducts academic education in the field of mastery of the Islamic religion based on the *yellow book* organized by Islamic boarding schools) to produce cadres of Islamic women scholars with national and humanitarian insights.

2. Thematic Recommendation

Based on the comprehension of nine parallel discussion themes from various aspects, both knowledge, textual and context interpretation, field data, the vulnerability of women as victims, as well as preventive steps, victim prevention and remedies, the Indonesian Congress of Women Scholars herewith recommend to all parties, especially to scholars and religious institutions, in accordance with the discussion theme the following:

A. Theme: Education of Women Ulama in Indonesia

- 1) Encourage all elements of society, social institutions, and government to participate in socializing and acknowledging the existence of female scholars/clerics, as well as appreciating their role and progress in society.
- 2) Request institutes administering Islamic education, institutions of scholars, and government to open the widest possible access and opportunity so that women can achieve the level of knowledge to function as Islamic scholars at various levels.
- 3) Specially request the Ministry of Religious Affairs of the Republic of Indonesia to open *Ma'had Aly*, (an Islamic religious college that conducts academic education in the field of mastery of the Islamic religion based on the *yellow book* organized by Islamic boarding schools) specifically to produce female clerics, through the education of a strong and credible Islamic Boarding Schools.

B. Theme: The Islamic Boarding School's Response to Women Ulama (the case of the *Babakan Ciwaringin's Islamic Boarding School in Cirebon*)

It is recommended to all parties who have concern over Islamic Boarding Schools and the issue of fairness of relations between men and women, either individual, social institution, or government, to conduct the following:

- 1) Map boarding schools that are open and ready to develop the fairness perspective of male and female relations.
- 2) Identify, explain and publish profiles of female religious scholars based on an Islamic Boarding school basis.
- 3) Prepare the genealogy of the Islamic Boarding School academics (and curriculum) that is responsive towards the perspective of women and men's fairness.

C. Theme: Ending Sexual Violence

- 1) Remind all elements of society to be aware of all forms of sexual violence that usually affects vulnerable groups; such as low social classes, women, and children.
- 2) Strengthening the role of Islamic scholars, both male and female, in order to be able to prevent sexual violence including by integrating reproduction health materials and protection of women and children from sexual violence in a religious education curriculum, Friday sermon material, marriage sermon material, and other religions rituals.

- 3) Encourage law enforcement institutions to seriously provide access to justice for victims of sexual violence, especially women and children.
- 4) Demand the parliament and government to issue regulations that can protect the community, especially victims, comprehensively.

D. Theme: Protecting Children from Early Marriage

- 1) Remind and affirm all elements of society that child marriage is not beneficial to children. On the contrary, it gives rise to physical, psychological, and social impairment.
- 2) Demand that the government evaluate all policies that encourage child marriage, such as tourism, village impoverishment, poor implementation of compulsory education, and others.
- 3) Encourage parents (especially fathers, grandfathers, and uncles of girls) to not use the concept of *wali mujbir*. A *wali mujbir* means a guardian (a father, brother, uncle, grandfather, and so forth) who is entitled to marry off someone who is a girl without needing the girl's consent as a basis for coercion of girls to marry. This is because the concept is in point of fact and in essence to bring benefits to children, not to thrust them into mental and social impairment.

E. Theme: Protection of Migrant Workers

Prohibit all religious social institutions, especially female clerics and Islamic Boarding Schools to protect migrant workers by conducting the following:

- 1) Conduct in-depth studies to understand the structural problems experienced by women migrant workers.
- 2) Produce religious views that provide protection for the right to work, migration rights, economic rights, social rights and the right of security from all forms of violence against migrant workers.
- 3) Prevent human trafficking and participate in psychological and social recovery for women victims of trafficking.
- 4) Make every effort so that Islamic Boarding Schools, or religious social institutions, can develop alternative models of parenting for children of migrant workers.
- 5) Encourage the government to be responsible in providing protection for migrant workers, whether still in Indonesia, abroad, or when returning home.
- 6) Encourage the government to be responsible for acknowledging and convalescing orphaned children of women rape victims abroad.

F. Theme: Empowering Women to Develop Rural Areas that are Impartial

Recommend to all religious social institutions, especially female clerics, to participate actively and in synergy with various parties in empowering communities to develop rural area that are impartial as follows:

- 1) Affirming and socializing to all elements of society, that the work of clerics is not only with regard to ritual worship and religious sermons,

but covers all efforts to fulfill women's basic needs, such as access to resources and relieve them from all forms of violence, discrimination and impoverishment.

- 2) Communicating religious views that reinforce impartial rural development, so as to provide psychological and spiritual motivation to individuals and groups that undertake women's empowerment work.
- 3) To include the work of strengthening the role of women in rural development as proselytizing the situation (*da'wah bil haal*) for scholars/clerics, and the work of organizing women as proselytizing in reality (*da'wah bil-lisaan*).
- 4) Enliven the places of worship to not only function as a place to perform rituals, but also as a center of empowerment, education, and knowledge, as well as a domain to share experiences in empowering and strengthening.

G. Theme: The Role of Women in Confronting Religious Radicalism Prevention:

- 1) Women scholars are expected to increase the production of knowledge science and disseminate key discourses related to radicalism and its relation to the oppression of women's rights in Islam, such as the meaning of the word jihad, hijab, polygamy, leader of the household, women and defending the state, and so on.
- 2) Schools or Islamic Boarding School institutions are obliged to integrate nationalistic education to support character building of students that is more inclusive and has high integrity towards Indonesia.
- 3) Islamic mass organizations such as NU need to revisit the existence of ASWAJA (an acronym for *Ahlus Sunnah Wa al-Jama'ah*). In general terms ASWAJA refers to one group or class committed to follow the Sunnah (the habits or ways) of the Prophet Muhammad PBUH. This should be contextualized to practical political reality that easily drags NU followers to "instant thinking" so that efforts to revitalize ASWAJA are capable of becoming an anti-radicalized stronghold within families as well as communities.
- 4) Schools and Islamic Boarding Schools need to encourage critical thinking environments for students to open up Islamic and being-Indonesian insights that agree with the context of a pluralistic society in Indonesia.
- 5) Religious elders must be involved in restoring the religious disseminating intermediaries such as large district mosques, smaller village mosques, and non-formal Islamic education institutions to conduct friendly, tolerant, and supportive values of gender equality.
- 6) Women clerics/scholars should urge the government to monitor Islamic Boarding Schools that are suspected of spreading radicalism; and if they cannot be warned by the government, they must be closed.

Protection:

- 1) Encourage relevant institutions (MUI, the Police, the President, the Ministry of Religious Affairs, etc.) to respond more comprehensively to issues of radicalism, including enforcing the law against violators of minority rights.
- 2) The Indonesian Police shall enforce the rule of law concerning hate speeches that are disseminated in places of worship, religious lectures, and religious disseminating intermediaries, because their potential to divide the nation.
- 3) Related ministers, (the Minister of Social Affairs, the Minister of Women and Children Empowerment, and the Minister of Human Development and Culture) must provide long-term support to women and children victims of radicalism by means of a disengagement approach towards radical groups.
- 4) The government and religious elders should call on the general public not to persecute, stigmatize and discriminate the families of former terrorists, but instead prevent the spread of radicalism from those families.

Empowerment:

- 1) The BNPT (the *National Board for Terrorist Prevention*) must work together with moderate Islamic Boarding Schools to run an Islamic Boarding School based on a -radicalization preventive program, in which ex-terrorists and their families are facilitated in the process of rediscovering Islam, which is a religion of *Rahmatan Lil 'Aalamiin* meaning Islam is a religion that brings grace and prosperity to all in the entire universe, including animals, plants and *jinnns*, as well as and most importantly humankind and a strong spiritual sense of Indonesian nationalism.
- 2) BNPT must work together with moderate Islamic Boarding Schools to create special programs to disengage children of ex-terrorist families to learn and memorize the Qur'an along with its interpretations, and provide a solid foundation of nationalism, so that the children of former terrorists do not return to radical groups.
- 3) BNPT, should work with moderate Islamic Boarding Schools to develop entrepreneurship programs therein that involves families of former terrorists, so that intensive monitoring of their development can be carried out while providing public education on the danger of radicalism.

H. Theme: The Role and Strategy of Women Ulama in Responding to Humanitarian Conflicts and Crises

- 1) Encourage scholars, both men and women, to reconstruct the concept of jihad as the work of civilization and humanity, while jihad with the meaning of warfare is only in the context of self-preservation.
- 2) Strengthen all efforts in early detection of conflicts founded on religion, beliefs, and teachings.

- 3) Women scholars should be engaged in awareness-raising efforts for tolerance and peace, including by creating a religious education curriculum that promotes peace.
- 4) Strengthen and socialize the knowledge and experience the progressiveness of Nusantara Islam to strengthen the fraternal strands of the country and the homeland among citizens of different religion, race, and class.
- 5) In conflict situations, the protection of vulnerable groups, such as women who experience sexual violence and children forced into early marriage should take precedence.

I. Theme: The Role of Scholars in Resolving Social Inequality and Environmental Degradation

- 1) Prepare a proposal to add the concept of brotherhood of living beings to emphasize the importance of harmony and balance among Allah's life forms, including water, air, soil, flora, fauna, and all of its contents, besides the trilogy that we already recognize, namely the brotherhood of fellow Muslims, the brotherhood of nation and homeland, and the brotherhood of fellow human beings. The concept of the brotherhood of living beings is to affirm the change in paradigm and our attitude towards nature. We must view the position of nature and mankind as equal and parallel. Nature and mankind are like brothers who need each other. Nature is like our body. When nature is destroyed and exploited, we also become ill and suffer. Nature is not to be destroyed and exploited, but to be preserved and its balance maintained in order to remain a source of livelihood and life to the universe.
- 2) Encouraging scholars to formulate and socialize environment fiqh as part of fiqh taught in Islamic Boarding Schools, Islamic Schools, public schools, and college.
- 3) Encourage the scholars to socialize the *haram fatwa* for the perpetrators of the destruction of nature and profiting from the damages done to the natural environment.
- 4) Encourage educational institutions to integrate "*fiqh* (Islamic interpretation) on environment" into the curriculum of religious (Islam) education, and to observe habits of healthy, clean, and responsible living in everyday life.
- 5) Encourage religious communities, especially the Islamic Boarding Schools, to pioneer and build a religious-based conservation and restoration movement.
- 6) The state (parliament and government) should evaluate and revise all laws, regulations and policies that tolerate environmental and natural destruction.
- 7) The government must act decisively without discrimination to discipline destroyers of the natural environment with severe penalties, especially towards corporations.

CLOSING REMARKS
BY MINISTER OF RELIGIOUS AFFAIRS

Drs. H. Lukman Hakim Saifuddin

Assalaamu'alaikum wr.wb.

Bismillaah, walhamdulillaah, walhamdulillaah, tsumma alhamdulillaah, wa ash-shalaatu wassalaamu 'alaa Rasuulillaah sayyidinaa Muhammadin ibni 'Abdillaah wa 'alaa aalihi wa ashhaabihi wa man waalah, wa laa haula wa laa quwwata illaa billaah.

I praise the scholars and elderly who are present in our midst this afternoon, in particular to KH. Husein Muhammad. The respected Hj. Masthuroh Hannah, Mrs. Nyai Masriyah Amva, I do apologize for not mentioning you one by one, all participants of the conference or *Congress of Indonesian Women Scholars*.

To be honest, I feel this Congress is extraordinary. Not only regarding the substance studied, which we have observed together, and the outcomes and recommendations that were born of this Congress, but equally important is the process. Because, I heard, I received many reports, this was entirely the initiative of the community, from the women themselves, who then made efforts to organize a congress of women scholars for the first time in the world held in Cirebon. Therefore, as the Minister of Religious Affairs, I would like to express my infinite gratitude, the highest appreciation to all parties, to the initiators, originators, promoters, and of course to all members of the organizing committees present to us all, and all the participants that have given birth to a formulations that will hopefully improve not only women themselves, but our civilization in Indonesia and in this world. At least, I noted three things of strategic significance from this Indonesian Congress of Women Scholars:

First, this congress has succeeded in striving for justice through the awareness of the roles and relations of men and women. This is an issue that is always, and even in my opinion, in the future, from this day forward, may have a higher level of urgency and relevance. So, strive for justice through the awareness of the roles and relationships of women and men, and sometimes even often through holy verses. Because, one way or another, because of our limited understanding, directly or indirectly influences this aspect, and therefore this congress has a very important role on how justice in these relationships are constantly being fought for.

Secondly, in my eyes that are of course limited, this Congress has also been able to achieve not only recognition or acknowledgment, but also revitalization of the role of female scholars since the era of Siti 'Aisyah, wife of the Prophet until the present day now in Indonesia. So the recognition, as well as the revitalization of the roles of our female scholars, and no less importantly, is to build networks, because - I was so amazed - participants from Banjarmasin, from Batam, from all over the archipelago, through this congress, this network of female scholars can be built and can be constantly developed.

Third, in my eyes, this Congress has succeeded in affirming and emphasizing that the moderation of Islam should always be put forward. A moderate Islam, Islam that is *Rahmatan lil 'Aalamiin* (bringing grace and prosperity to all in the entire universe), Islam that does not confront the position of women, Islam that spreads benefits for others. And once again, this issue is increasingly relevant, and female scholars have taken a very strategic position through this Congress by introducing Islamic moderation issues, so that the civilization of the world, where Islamic values are expected to contribute and support,

is able to be preserved, taken good care of together and developed in the future.

Before I conclude my closing statement, there are two things I would like to convey in response to the recommendations. First, in relation to the regulation of our Marriage Act. The Judicial Review that was once filed, namely our desire to change the regulation of the minimum age of women from 16 to 18, was rejected by the Constitutional Court. After I tried to find out to a number of constitutional judges who resided on the judicial review, I got the answer that according to them, of course we can agree or not. According to them, this falls under the legislative authority, not judicial. Once the Judicial Court fulfills the request, the age of 18 years old will be pegged by the Constitutional Court. Then, when there is a need to adjust the age again, to 19 or 20, 21 and so on, it will not be possible. So they said, let this be the authority of our legislators to review.

So, the approach is not a judicial review, but a legislative review. Therefore, since the government also has the right to conduct a legislative review, not only the right of the House of Representatives, so I will soon be communicating with the *Minister of Women and Children Empowerment* to perform this review, and I request that the women scholars congress can provide a more concrete formula, because the age of 18 is certainly negotiable. In certain cases, exceptions (*Istitsnaa'*) should also be accommodated, since such situations might occur.

The second is regarding Ma'had Ali (*Islamic Boarding School Based Religious Colleges*). We, the *Ministry of Religious Affairs* are open for the special Ma'had Ali for women in an effort to increase our female scholars. Currently, there are 13 Ma'had Alis. One of them is Babakan Ciwaringin, a Ma'had Ali that specializes in *takhashush* about *fiqh* and *usulul fiqh*, and if women in particular also need it, of course we will gladly open ourselves to prepare for it. Not only the curriculum, but everything related to the establishment of Ma'had Ali. That is what I want to say. Once again, I congratulate you, hopefully this Congress really brings benefit and good to all of us.

Wabillaahit taufiiq wal hidaayah, wallaahul muwaffiq ilaa aqwamith thariiq,

Wassalaamu'alaikum warahmatullaahi wabarakaatuh.

Cirebon, 27th April, 2017

*) These speech was delivered at closing ceremony of the Congress of Indonesian women ulama (KUPI) in the Pesantren Kebon Jambu Babakan Cirebon.

C L O S I N G



An observer from Pakistan is giving her respon at the Paralel Discussion on religious radicalism on the second day of the Congress (26/04/2017)



Senior activists, Saparina Sadli and Sjamiyah Ahmad attend fully as observers on the whole three days of the Congress

V. CLOSING

This Document of the KUPI's Process and Results, as described, tells the story of how the belief in the value of cooperation and the principle of mutuality becomes an integral part of all activities from beginning to end. This document may be referred to by all parties to discover more about KUPI's vision, mission, objectives, outputs, its working character, organizers, institutional networking, community and the participants. It is also a valid reference to the results and recommendations of the KUPI, and furthermore becomes the basis of follow up on both the results and the next commencement of the KUPI. The contents of this document may be reviewed and delivered by anyone for the benefit of both formal and informal public education, in institutions and communities, as well as for legal and policy advocacy purposes. The KUPI recommendations can also be followed up by the participants and anyone in compliance with their respective capacities. It is even expected that the follow-up initiative comes from participants and other parties who share the same basic vision and mission.

What needs to be emphasized here is that KUPI is not an organization that has a permanent structure, but an activity that has a set of values and principles in the process of implementation and is orientated on movement. This activity is organized by three institutions (Alimat, Rahima and Fahmina) which have been synergized based on our work and perspective of equality and justice between men and women. Therefore, all forms of future cooperation can go through one of these three institutions. The holding of a similar Congress in the future, can only be done through cooperation and supervision of the three institutions. This is to ensure that KUPI's vision, mission, values, perspectives, and working character are embodied in the implementation of the subsequent activities. As these three institutions cooperate with others, organizing activities related to the vision and mission of KUPI in the future opens the possibility of cooperation with a more variety of institutions and communities.

From this document, some possible agenda of future cooperation, especially through a collective nature between individuals, institutions, and communities believing in the vision and mission of the KUPI, are as follows:

1. Disseminate the perspectives of faith, nationhood and humanity recorded in the *Kebon Jambu Pledge* on Women Ulama as the foundation of the whole work of individuals and society, both as part of the Muslims and as Indonesian citizens. Dissemination can be achieved through religious lectures with conventional media and social media, through formal and informal education, studies, discussions and seminars.
2. Identify figures of women ulama in various communities, past and present, and appreciate their roles and work. Identification and appreciation, in the view of the KUPI, is a call to our faith and a necessity to the better representation of Indonesian Islamic history. For academics, especially from the Islamic state and private universities, or institutions of Islamic studies, these efforts can be

implemented by allocating resources and funds for research of female scholars from various regions of Indonesia.

3. Adopt the perspective of essential justice offered by KUPI as a methodology in analyzing, reviewing and reinterpreting the texts of social sources and realities, especially Islamic texts relating to the lives of women and children. The use of this perspective can be done in individual or group studies, research, writings, and methodological training, especially academic workshops on Islam.
4. Practice model of Religious *Musyawah* (discussion for consensus building) initiated by KUPI in various regional and community level. As mentioned in this document, this religious *musyawarah* demands the cohesion of texts and the reality represented in various respects; amongst other is by facilitating the meeting and cooperation between those who master the understanding of texts and those who master the comprehension of reality; references to the texts of the Qur'an and Hadith and Aqwaalul Ulama and the Constitution; and the formulation of results with structure of *tashawwur* (description), *adillah* (sources), *istidlal* (analysis), religious attitudes and views, *maraji'* (references), and *marafiq* (appendix). These discussions can be commenced particularly for issues that have not been discussed during Congress.
5. Deepening religious argumentation and social analysis of the KUPI's perspective and religious responses in relation to three themes: sexual violence, child marriage, and natural destruction. This is necessary to obtain both a more comprehensive understanding and strengthened argument on the matters. This deepening process can be achieved through individual and group studies, discussions, and scientific writing, and through the involvement of Islamic academic institutions and universities in Indonesia and abroad.
6. Conducting capacity strengthening of female clerics at various levels, whether in community, college or others. The response of the *Minister of Religious Affairs* of the Republic of Indonesia, H. Lukman Hakim Saefuddin, at the closing ceremony, who is willing to establish Ma'had Aly, especially for strengthening of women scholars with KUPI's perspective, must be supported and accompanied by various elements so that this can be realized soon to produce scholars who can implement KUPI's vision and mission. Strengthening the capacity of female clerics, especially those in the KUPI's network, needs to be also done so that they are able to implement the vision, mission and recommendations points of KUPI.
7. Undertake public awareness and education works and policy advocacy on the nine themes discussed during the Congress. The formulated general and thematic recommendations can be the starting point for drafting materials needed for raising public awareness and policy advocacy. The will of the Minister of Religious Affairs, delivered during the closing ceremony of KUPI, to increase the marriage age of women, in response to KUPI's recommendation, should be welcomed by the parties, especially the individual networks, institutions and communities present at KUPI.

The above seven points can serve as a map of programs and activities as a follow up of KUPI's results for the three organizers, other cooperating institutions, participants and observers who attended the Congress, or any individuals and institutions that share a similar vision and mission. This map can also serve as a

starting point of discussion on the possibility of cooperation between KUPI's organizers and governmental agencies and private institutions who want to respond to the results of the KUPI.

Thus we publish this official document. We hope, the KUPI can inspire all people in realizing Islamic values, national identity and humanity in our lives. More specifically, we also hope that the implementation of KUPI becomes part of the joint effort of all components of the nation and people of the world in realizing social justice, especially in the relation of men and women. Amen.

A P P E N D I X



KH Helmi Ali is saying his opinion of the fiqh of environment at the Paralel Discussion on natural eradication in the second day of the Congress (26/04/2017).



Exiting cheer from representatives of the Pesantren Kebon Jambu, guests, individuals of the committee at the closing ceremony of the Congress (27/04/2017)

Term of References (ToR)

THE CONGRESS OF INDONESIAN WOMEN ULAMA (KUPI)

History records that women's ulama have been a part of every stage of the development of Islam. Theologically, the concept began with the actions of the Prophet who respected women and provided them with freedoms (Abu Shuqqa, 1999). However, the tradition of women's ulama in the Muslim world, including Indonesia, has not only been influenced by the Prophet's respect for women but also by the unique political and cultural contexts in different localities and the way that Islam has been assimilated into local cultures. Islam Nusantara is Islam that is open to women assuming active roles in the public sphere. In past times, the agrarian culture of Indonesia meant that there was hardly any social separation between men and women, something which is distinctly different from the social situations in other Arab and Muslim countries such as Pakistan, Bangladesh and some Sub-Saharan countries in Africa.

This openness of social life also results in ulama taking different approaches and drawing on different inspirations in the way they 'give space' to women. 'Classic' ulama or 'textualists' take an approach which places strict limitations on women's involvement in the social sphere. These interpretations are drawn from sources or contexts that regard the Arab world in ancient times. Meanwhile, ulama who were born into Islam in regions outside of the Arab world, in places such as Spain, Baghdad, Turkey, Iran, India and Central Asian countries, as well those who have monitored the situations in places in which the residents are more enlightened, produce views that are more conducive for the involvement of women in the public sphere.

The Islamic world experienced a time of widespread prosperity (a golden age) that contributed much to the development of civilization. In this era women also enjoyed broad social and political roles and were legally justified to lead; in Aceh over a period of two centuries, two Sultanah's reigned. Coinciding with the collapse of the Islamic kingdoms in Indonesia, Muslim countries throughout the world entered the colonial period which left behind long-lasting cultural damage. One of the psychological mechanisms in dealing with Western colonization was the strengthening of the classical fiqh (Islamic jurisprudence) tradition which placed very strict limits on women's freedom of movement and affirmed women's subordination to men in the name of protection.

In the context of Indonesian Islam, the presence of women's ulama throughout the ages is a distinctive feature which separates Indonesian Islam to the Islam practiced in other Muslim majority countries (Andree Feillard, 1990). Women have played an important role in the two major institutions that ensure Indonesian Islam remains rooted to its organizational roots, the Nahadutul Ulama (NU) and Muhammadiyah. These organizations form and are formed from networks of ulama and carry out important work in the field of education, establishing pesantren (Islamic boarding schools) that are independent of state influence. These

organizations have been operating since the colonial era through until the political reform era with dynamic relations with the state that ebb and flow.

To date, the portrayal of and research completed on the work of women's ulama in the history of Islamic development in Indonesia remains very limited. This is due to the methodology and practice of historiography itself which is gender biased. The presence and importance of women's ulama role in history is rarely written in a balanced and accurate way. Even in a comprehensive study which is considered a masterpiece on the history of the modernist Islamic movement in Indonesia (Deliar Noer, 1988) the role of female scholars is not fully described. The description of the role of women is general and limited only to a description of the women's wings of organizations such as Aisiyah and Muslimat. The only two women's names mentioned in the text are Nyi Walidah (Nyai Ahmad Dahlan), known as the founder of Aisiyah, and Rahman El-Yunusiyah a famous educator who worked at Diniyah Putri Padang Panjang.

The ebb and flow of the involvement of women or women's ulama in the Indonesian Islamic movement has been heavily influenced by the cultural situation, the political movements and the relationships between the networks of Indonesian ulama with the outside world. The rise of women's ulama in West Sumatera such as Rahmah El Yanusiah constitutes one form of resistance to colonialization and cultural customs which limited the access of girls to education. Rahmah El Yanusiah introduced a modern style of education for girls that was based on education models from Egypt.

The development of the situation of female Muslims in Minang was quite different from the situation in Java. In Java, it was only in 1920 that a small number of girls, who were the children of Kyai (Javanese way in addressing to ulama/experts on Islam), were permitted to attend classes at Pesantren. However, in cities such as Jogjakarta, KH Ahmad Dahlan and Nyai Ahmad Dalan, the founders of Muhhamadiyah and Aisiyah respectively, in 1917 had already pioneered the 'Sopo Tresno' education program for girls (Kunto Wijoyo, 1992).

However, discriminatory treatment towards women was not eroded by the involvement of women in educational institutions alone. By looking at the curriculum it is apparent that gender bias continues to exist in the education delivered in pesantren. Language, which is the primary tool of scholarship, is taught and its importance emphasized more for male students (Andree Feillard 1999). Although, it is clear that females, just as much as males, need an understanding of language in order to write Islamic literary works. The books written by women, although limited in number, are friendlier to the bodies of women (van Bruinessen, 1994). In the era that saw the mass movement of women's organizations, Islam in Indonesia experienced a changing role. Antagonism between left-wing nationalist groups and religion triggered women's Islamic organizations to join in campaigning for issues that were relevant for the feminists in the international world in the colonial era such as human trafficking, child marriage, and polygamy.

It is clear that education is the most important factor in the creation of women's ulama. The establishment of Islamic colleges open to women assisted with the creation of women's ulama. In 1956, a breakthrough was made by Kyai Wahid

Hasyim who opened the opportunity for female pesantren students to enter the Faculty of Sharia. The result of this is that women were able to become religious judges, something that is forbidden to women in other parts of the Islamic world. Becoming a religious judge requires an ability and knowledge of religious science needed to make legal decisions, this knowledge and ability resembles that of ulama (Abdurrahman Wahid, in Marcoes, 1992).

In the New Order era, it was increasingly difficult for women's ulama to be independent because of co-optation policies introduced by the state. Women's ulama were acknowledged because of their political role and support for the government, they become the implementers of development programs such as the 'family planning' program as well as health and education programs. (Marcoes, 1992, Hafidz, 1992). However, in this era, a conference took place which acted to connect circles of female Islamic activists from pesantren with other groups of women activists from non-religious, secular backgrounds who were promoting the ideology of gender equality. This was an important event in the development of women's ulama in Indonesia that cannot be found in other countries. (Wajdi, 2010, Eka Sri Mulyani 2004).

The research of Migunani (2017) on Women's Collective Action which was initiated by organizations from the MAMPU program shows that presently, at the community level, there are three women's leadership groups working at the grassroots. These groups are; the Women's Collective Action who are supported by NGO's, leaders of majelis taklim (congregation that hold classes on Islam and recitals of the Koran)/wives of kyai/ female ulama, and an organization of women supported by the government called family welfare program (PKK-program Kesejahteraan Keluarga). The leaders of *majelis taklim* who also play the role of local ulama are able to enact social change because of their intense ties to women at the grassroots. However, their teachings rarely foster a critical awareness of women's rights. This is different from Women's Collective Action who undertake training provided by women's NGOs which provides them with knowledge about gender equality and social justice. This research also shows that women's leadership, in reality, is lacking of capacity in organizing community. Proper organizing can help women gain increased access and involvement in decision-making processes at the village level.

After the reformation era, a number of advancements for women took place. The acknowledgment of the problem of violence against women prompted the formation of the National Commission on Violence against Women (Komnas Perempuan) as well as a number of laws and policies. The role of women's ulama had a big influence in framing issues facing women through a critical religious perspective, however, at the same time, women were facing new struggles related to their roles in the public sphere. This was caused by the strengthening of increasingly conservative socio-religious points of view, which accompanied regional autonomy and international/regional developments.

For example, there is an increase of discourses that question the dichotomy between religion and the state, individual piety vs social piety, and local vs global, which in practice caused tension in everyday life. Women become the group most

vulnerable to violence and injustice. Regional bylaws are competing in emphasizing the symbolization of social piety, and methods to restrict the women's space and mobility become their icons. It is in this context that regulations that detailed women's clothing, curfews, the victimization of victims of sexual violence, virginity testing and the like are issued. At the same time, violence carried out in the name of religion has been on the rise, affecting women of minority ethnicities, diverse gender expression, and religious minority groups. This unfortunate situation continued to give rise to discriminatory practices that affect women from various groups.

Realizing that such a situation is essentially inconsistent with the religious principle of *rahmatan lil alamin* (blessings upon the world and everything within it), a strategic effort to encourage the birth of critical, intersectional thought and action to be able to expand space for women in the private and public spheres is needed. An increase of ulama who are sensitive and critical in comprehending current situation, who take social responsibility in eliminating all forms of injustice and gender based violence whilst reinforcing ideals of humanity and nation is needed. Efforts are needed to reaffirm the social work of ulama who strive for the advancement and enforcement of for women's rights, values of humanity and values of the nation. It is necessary to "reclaim" the presence and function of women's ulama in Indonesia and the world. It is to this end that the Indonesian Women's Ulama Congress (KUPI) is being held. The congress has been organized to legitimize and affirm the work of women's ulama in Indonesia, especially those who are conscious of the need for gender equality and just relations between the sexes. This congress is to involve women leaders of Islamic boarding schools caretakers, leaders of majelis taklim, female teachers of Islam (ustadzah), female preachers (muballighah) those who spread Islam (da'wah), activists, academics, experts and observers who care about the issues of Islam and gender equality. The congress will bring these people together from all corners of Indonesia, to study together, make new networks, and exchange experience and knowledge regarding the phenomenon of women's ulama.

The concept of the KUPI has been developed as a forum for women ulama to gather and produce solutions to the problems facing Islam, the nation and humanity. There are four main goals of this congress:

1. Recognize and affirm the existence and role of women's ulama in the history of Islam and the Indonesian nation;
2. Open the space for women's ulama from Indonesia and the world to share their experiences relating to the work of women's empowerment and social justice in the framework of integrating Islamic values, nationhood, and humanity and bringing these values down to earth.
3. Build the collective knowledge of women's ulama and their contribution to the advancement of women's rights and civilization as a whole;
4. Formulate the position and religious views of Indonesian women's ulama relating to contemporary issues, using the Islamic perspective of *rahmatan lil alamin*.

In line with the goals of the event, the Congress also hopes to produce three things:

1. The Pledge of Indonesian Women's Ulama
2. Religious based stances on contemporary women's issues from an Islamic perspective in the context of the Indonesian nation and global humanity, (reached through the religious musyawarah method).
3. Recommendations for addressing the problems of sexual violence, child marriage, degradation of the natural world in the context of social injustice, migration, radicalism, inequality in development, conflict and humanitarian crisis.

For the purpose of this Congress, Cirebon is chosen as host because of its highly relevant socio-historic Islamic and Indonesian nationhood's importance. Cirebon has a strong tradition of Islam and is home to a number of traditional pesantrens. It is also a region that is diverse and socially accepting of differences in society. The Pesantren Kebon Jambu, located in Cirebon, is a concrete example of a monumental Islamic education institute led by a woman. This pesantren is led by Ibu Nyai Masriyah Amya, who applies the traditions of Islam and works for the empowerment of women and just, equal gender relations in society.

SCHEDULE OF EVENTS
THE CONGRESS OF INDONESIAN WOMEN ULAMA (KUPI)

Day, Date, Time, and Activities	Note
Monday, 24 April 2017 (27 Rajab 1438 H)	
<p>08.00 WIB: Participants' Arrival The participants who will attend the international seminar at IAIN (not all participants) can arrive and rest at the Pesantren, when it suits them. Participants that are not attending international seminar can arrive on Tuesday, 25 April 2017</p>	<p>Participants invited to international seminar and wanting to sleep at the Pesantren Kebon Jambu please register to the committee (lkoh: hp/wa: 081322240524</p>
<p>16.00 – 20.00 : Re-registration of Congress Participants At Pesantren Pondok Jambu, Babakan Cawaringin, Cirebon (for participants who are already at site)</p>	<p>Participants who have not send photo via email, please bring a photo (3x4) during re-registration. Please also bring your letter of invitation.</p>
Selasa, 25 April 2017 (28 Rajab 1438 H)	
<p>08.00 – 12.00 : Re-registration of Congress Participants At Pesantren Pondok Jambu, Babakan Cawaringin, Cirebon</p>	<p>International Seminar's participants staying at Pesantren will be escorted to IAIN at 07.00 am from Pesantren. The seminar will start at 08.30 WIB.</p>
<p>08.30-12.00 WIB: Khatmul al-Qur'an Lead by Nyai Hj. Afwah Mumtazah (Caretaker of Pondok Pesantren Kempek dan Rector of Institut Studi Islam Fahmina (ISIF) Cirebon) at Masjid Pesantren Kebon Jambu al-Islamy (Congress' site).</p>	<p>International seminar's participants who havenot re-registered can do re-registration at the booth available at the seminar location.</p>
<p>08.30-16.00 WIB: International Seminar on Women's Islamic Scholarship</p> <p>Venue: IAIN Sykeh Nurjati Cirebon</p> <p>Opening Session:</p> <ol style="list-style-type: none"> 1. Welcoming Remark by Rector of IAIN Syekh Nurjati Cirebon (Dr. H. Sumanta, M.Ag.) 2. Keynote Speech 1: "The Existence of Women Ulama in Islamic Civilization" (Steering Committee of KUPI, Dra. Hj. Badriyah Fayumi, Lc. MA). 3. Keynote Speech 2: "The State and the Existence of Women Ulama in Indonesia", (General Director of Islamic Education, Ministry of Religious Affairs of Indonesia, Prof. Kamaruddin Amin, Ph.D) 	<p>This activity is held for those who share the concerns of women's ulama on international issues.</p> <p>Congress participants who are invited to the international seminar can attend this seminar at IAIN Cirebon. However, due to capacity constraints, not all Congress participants can attend the International Seminar.</p>

<p>Plenary 1:</p> <p>Women’s Ulama, Muslim Communities and States</p> <p>Musawah: Reclaiming Space for women Ulama Through Building the Movement- Zainah Anwar (Malaysia)</p> <p>Challenges and Opportunities for Women Ulama in Engaging with OIC— Dr. Hj. Siti Ruhaini Dzuhayatin (Indonesia)</p> <p>Working in the Community Challenging Religious Extremism - Bushra Qadeem (PAIMAN, Pakistan)</p> <p>Facing Resistance: Personal Insight and Strategies of Women Ulama - Hatoon Al- Fasi (Saudi Arabia) Moderator: Kamala Chandrakirana</p> <p>Plenary 2:</p> <p>From Talk to Action: Women Ulama Promoting Peace and Justice</p> <p>Women Ulama Under Syariah Law in Post Conflict Aceh - Prof Eka Srimulyani (Aceh Indonesia)</p> <p>Engaging Female Ulama in Promoting Women’s Rights and Peace - Roya Rahmani (the Ambassador of Afghanistan in Indonesia)</p> <p>Strengthening Community Resilience, Engaging Women Ulama in Responding ISIS – Ulfat Hussein Masibo, Supreme Council of Kenya Muslims (Kenya)</p> <p>Bokoharam: Islamism, Politics and Women’s Security in Nigeria - Dr. Rafatu Abdul Hamid (Nigeria) Moderator: Ruby Khalifah</p> <p>Concluding Remark by Prof. Chamamah Suratno</p>	<p>However, in order to fulfill the wishes of various parties, efforts will be made to broadcast the seminar though live streaming. Thus, it can be followed from the location of Congress at Pondok Pesantren Babakan Ciwaringin, or from anywhere.</p> <p>Congress participants attending this seminar can do the re-registration for the Congress on the special booth provided at the Seminar’s venue.</p> <p>After the seminar, all participants will go to the Congress’ site for the opening ceremony.</p>
<p>13.00-16.00 WIB: Silaturahmi and Consolidation of Congress Participants</p> <p>Participants will be facilitated to get acquainted and</p>	<p>Participants are requested to bring the data, at least recognize the daily activities</p>

<p>share the facts of daily activities as a basis of documentation on women's ulama in Indonesia.</p> <p>This session is emphasized on strengthening the expertise to recognize self-data (live realities), as a basis of the the database on women's ulama.</p> <p>Participants will be divided into 6 groups. Each groups will be accompanied by a facilitator to rewrite each individual's life history that can serve as a database on women's ulama.</p> <p>Team of Facilitators: AD Eridani, Afwah Mumtazah, AD.Kusumaningtyas, Neng Hannah, Sely Fitriani, Roziqoh, Syafirah Hardani, Khotimun Sutanti, Leli Nurohmah, Yefri Heriani, Dini Anitasari Sabaniah, and Nadia Bafagih.</p>	<p>related to women's ulama and their works in the community.</p>
<p>19.30 - 22.00: Opening of the Indonesian Women's Ulama Congress</p> <p>Located on the main yard of the Pesantren. The opening agenda is as follo:w</p> <ul style="list-style-type: none"> • Opening remarks • The recitation of Holy Qur'an • Sing National Anthem of Indonesia Raya • Sing Justice Shalawat • Speech by the Leader of Pondok Pesantren Kebon Jambu al-Islami (Ibu Nyai Hj Masriyah Amva). • Committee's Greeting of KUPI (Dra. Hj. Badriyah Fayyumi Lc. MA). • Message from KUPI Advisory Board (Prof. Dr. Nazaruddin Umar, High Priest of Istiqlal Mosque). • Performance, song of Barzanji (Santri Kebon Jambu) • Keynote Speech, as well as official opening of the Indonesian Women's Ulama Congress (Nyai Hj Sinta Nuriyah Wahid, M.Hum). • Praying and Closing 	<p>Open for public (participants are prioritized)</p>
<p>Wednesday, 26 April 2017 (29 Rajab 14</p>	
<p>08.30 – 12.00 : National Seminar on The Role of Women's Ulama in Affirming Islamic Values, Nationhood, and Humanity</p> <p>venue: Plenary Room, Front courtyard, Pesantren Kebon Jambu</p> <p>Resource persons:</p> <ol style="list-style-type: none"> 1. The history and role of women's ulama in 	

<p>Indonesia (KH Husein Muhammad, Chairperson of Fahmina Foundation, Cirebon);</p> <ol style="list-style-type: none"> 2. The methodology of Islamic Studies from the Perspective of Women's Ulama (Dr. Nur Rofiah, Postgraduate lecturer at PTIQ, and Caretaker of Alimat and Rahima institutes); 3. The da'wah strategy of women's ulama in affirming the values of nationhood and humanity (Siti Aisyah, Chairperson of Central Leadership 'Aisyiah, Yogyakarta) 4. The challenges and opportunities for Women's Ulama in spreading Moderate Islam in Indonesia (Prof. Dr. Machasin, Professor of UIN Sunan Kalijaga Yogyakarta). <p>Moderator: Neng Dara Affiah</p>	
<p>13.30 – 16.30 Paralel Discussions</p> <p>These discussions are spaces for participants to share opinions, knowledge and experiences on concrete issues in women's daily life as well as a follow up of the ideas shared earlier in the National Seminar.</p> <p>Venue: main hall and classrooms of the Pesantren,</p> <p>The discussion will explore the following nine themes:</p> <ol style="list-style-type: none"> 1. The challenges and opportunities regarding education and female religious scholarship in Indonesia; <p>Panelists:</p> <ol style="list-style-type: none"> 1. Hj. Noor Laila, M.Pd.I, Head of <i>Madrasah</i> NU Banat Kudus 2. Laili Ramadani, SPdi, MA, Head of Girls' Institution of Padang Panjang, Director of STIT, Diniyyah Puteri, Padang Panjang 3. AD Eridani, Director of Perkumpulan Rahima <p>Moderator: Septi Gumiandari</p> <ol style="list-style-type: none"> 2. Pesantren's Responses to Women's Ulama (Experience of Pesantren Babakan Ciwaringin Cirebon) <p>Panelists</p> <ol style="list-style-type: none"> 1. Dr. Neng Khozanah (Tutor and ustadzah PP Babakan, Ciwaringin, Cirebon) 2. Dra. Hj. Umamatul Khaeriyah, 	<p>Sessions will be in Indonesian. Translation is available in two sessions. Please check with the committee for the themes.</p>

M.Ag (Tutor and ustadzah PP Babakan, Ciwaringin, Cirebon)

3. Ny. Hj. Yamaha Amin Halim (Tutor and ustadzah PP Babakan, Ciwaringin, Cirebon)
4. Dr. Phil. Sahiron Syamsudin, MA (Alumni of Pesantren Babakan, Vice Rector of UIN Sunan Kalijaga Yogyakarta)

Moderator: Dr. Suwendi

3. Stopping Sexual Violence in the Perspective of Women's Ulama

Panelists:

1. Saeroni (Rifka Annisa)
2. Sri Wiyanti Eddyono, S.H., LL.M, PhD (Practitioner and Lecturer of Law UGM)
3. Ninik Rahayu, S.H., M.Si. (Commissioner of ORI)
4. Imam Nakhoi (Commissioner of Komnas Perempuan)
5. Dian Puspitasari (*Forum Pengada Layanan* – Forum of Service Provider)

Moderator: Samsidar

4. Protection against child marriage for children from the perspective of women's ulama

Panelists:

1. Prof. Kathryn Robinson (Australian Researcher of Women's Issues in Indonesia)
2. Nurhady Sirumorok, MA (Researcher of *Insist and Rumah Kitab*)
3. Lies Marcoes, MA (Activists, Researcher, Tutor from *Rumah Kitab*)
4. Kyai Mukti Ali, Gus Jamaluddin Muhammad, Riland Gunawan, Ahmad Hilmi (Texts Study) (*The Pesantren's Ulema* who are studying the issue of Child Marriage)

Moderator: Nurasiah Jamil

5. Protection for migrant workers from the perspective of women's ulama

Panelists:

1. Yuniyanti Chuzaifah (Komnas Perempuan's

- Commissioner)
2. Anis Hidayah (Head of Research and Migration Study)
 3. Nusron Wahid (Chairperson of BNP2TKI)
 4. Maria Ulfa Ansor (Commissioner of the Commission for Child Protection Indonesia)

Moderator: Wiharti

6. Women's Empowerment for Just Rural Development: The Women's Ulama Perspective

Panelists:

1. Peny Yuliarti (Union Federation Administrator of Pekka)
2. Ratna Fitriani, Mdp, Gender and Inclusion Manager KOMPAK (Community Collaboration & Service for Welfare)
3. KH Faqihuddin Abdul Kodir, Fahmina Foundation:

Moderator: Nani Zulminarni

7. Women's role in facing religious radicalism, strengthening of values of nationhood and the realization of world peace

Panelists

1. KH. Husein Muhammad (Ulema of Pesantren and Activists for Peace and Gender Justice)
2. Any Rufaidah (Researcher, PRIK-UI), "The recruitment pattern of Women Jihadis"
3. Woman Jihadi Survivor
4. Romatio Wulan, UN Women

Moderator: Ruby Khalifah

8. The roles, challenges and strategies of women's ulama in responding to the humanitarian crisis and conflicts;

Panelists

1. Andy Yentriyani (Activist and Former Commissioner of Komnas Perempuan)
2. Dr. Izza Rahman Nachrowi, MA. (Lecturer of UIN Jakarta and Vice Dean of FKIP UHAMKA Jakarta)
3. Missiyah (Activist and Daily Chairperson of Kapal Perempuan Institute)

<p>Moderator : AD Kusumaningtyas,</p> <p>9. The role of women's ulama in overcoming social injustice and environmental degradation</p> <p>Panelist</p> <ol style="list-style-type: none"> 1. Nissa Wargadipura (Pesantren Ekologi ath-Thariq Garut) 2. Siti Maemunah (Sayogyo Institute Bogor) 3. Ala'i Nadjib, M.Ag (Lakpesdam PBNU) 4. Mia Siscawati, Ph.D (Direktur Pascasarjana Kajian Wanita Universitas Indonesia) <p>Moderator: Marzuki Wahid.</p>	
<p>16.00 : Free time Interested participants can join the Spiritual, Cultural and Commercial tours provided by the Committee. (Please participant can register this tour at the time of re-registration).</p>	
<p>20.00-22.00 WIB: Cultural Night- Performing Arts and Culture in the front yard of the Pesantren Among them will be Screening and Discussion of Documentary Film "Rising from The Ashes: the Story of A Woman in the Greatness of God", by Noorhayati Kaprawi (Malaysia).</p>	<p>Cultural nights and city tours are open for public</p>
<p>Thursday, 27 April 2017 (30 Rajab 1438H)</p>	
<p>08.30-12.00 WIB: Launching and Discussion of a Book on the works of Women's Ulama</p> <p>The launching and discussion of this book is one of the means to build and share knowledge about the real portraits of female scholars and what they do in their community and with their people. This event will be begun with giving the book symbolically to 10 women's ulama from various backgrounds, including writers / contributors to the book and the characters they wrote.</p> <p>There are 2 Books to be launched, namely "Traces of Struggles of Women's Ulama " (Rahima and KUPI 2017) and "" From Inspiration to Hope: Indonesian Muslim Women and Their Hope to Pluralist and Peaceful Islam" (LBH Apik, 2014).</p> <p>Resource persons: KH. Helmy Ali Yafie (scholar and activist from Makasar), Prof. Dr. Nurjannah Ismail (Professor of UIN Ar-Raniri Aceh), Ratna Batara Munti (Activist from LBH Apik and author of the second book; Nyai Hj.Ruqayyah Ma'shum (Ulama and Nanny of Pondok Pesantren Bondowoso) Moderator: Farha</p>	<p>Open for public</p>

<p>Ciciek.</p> <p>Book launching event will be followed with the launching of Social Media on Women's Ulama (KUPI and Media Mubaadalah Website).</p> <p>Source: Maemunah Mujahid (activist of Bait al-Hikmah) Ruby Khalifah (Country Representative Aman Indonesia) Moderator: Yulianti Muthmainnah</p>	
<p>08.30 – 12.00 WIB Musyawahar for Religious Deliberation</p> <p>Muyawahar for religious deliberation is a discussion forum of issues raised by the ummah to the women's ulama. In this Congress, only three themes are discussed, namely sexual violence, child marriage, and natural destruction in the context of social inequality.</p> <ol style="list-style-type: none"> 1. Musyawarah on Sexual Violence will be facilitated by Afwah Mumtazah, Ninik Rahayu, Imam Nakhoi, Umdah El Baroroh, Ruqayyah Maksum, dan Neng Hanna. 2. Musyawarah on child marriage will be facilitated by Maria Ulfah Anshor, Mariam Abdullah, Emma Marhumah, Rita Pranawati, Mukti Ali, dan Yuli Muthmainnah. 3. Musyawarah on natural destruction in the context of social inequality will be facilitated by Neng Dara Affiah, Atiyatul Ulya, Khotimatul Husna, Helmi Ali, Marzuki Wahid, dan Alai Nadjib. 	<p>Limited Forum, only for Congress participants (especially those with a background of Islamic studies) and are required to register to the Committee, Observers may enter if the room is sufficient and must also register</p>
<p>Recommendations Majelis</p> <p>This majlis will draft points of recommendation issued by the Congress. The Majelis will be facilitated collectively by: Nyai Hj. Masriyah Amva, Prof. Machasin, KH Husein Muhammad, Nyai Hj. Badriyah Fayyumi., Masruchah, and Kamala Chandrakirana.</p>	<p>Limited forum. For Congress participants only, and Are required to register from the beginning of registration.</p>
<p>14.00-16.00 WIB: Closing of the Congress Located on the yard of the Pesantren, with agenda as follows:</p> <ul style="list-style-type: none"> • Opening 	<p>Open for public</p>

<ul style="list-style-type: none"> • The recitation of Holy Qur'an • Sing National Anthem of Indonesia Raya • Sing Justice Shalawat • Greeting from Committee of KUPI • Reading of Women's Ulama Consultative Results • Reading of Congress' Recommendations • Reading of Pledge of Women's Ulama • Performance, Song of Barzanji (Santri Kebon Jambu) • Concluding remarks, as well as closing remark by Mr. Drs. H. Lukman Hakim Saefuddin (Minister of Religious Affairs of the Republic of Indonesia). <p><input type="checkbox"/> Praying and Closing</p>	
<p>END of the Day</p> <p>Interested participants can join the spiritual, cultural and Commercial city tours provided the Organizing Committee, before leaving Cirebon. (Interested participants please register at the time of re-registration).</p>	<p>Some participants will be invited to discuss the possibility of holding the second Congress 2-3 years ahead.</p>

**LIST OF PARTICIPANTS
CONGRESS OF INDONESIA WOMEN ULAMA
25-27TH APRIL, 2017 (28-30TH RAJAB, 1438)**

NO	NAME	LOCAL ORIGIN
1	Aan Anshori	Jombang Jatim
2	Abdul Muis Ghozali	Cirebon Jabar
3	Abidatul Chasanah	Rembang Jateng
4	AD Eridani	Depok Jabar
5	AD. Kusumaningtyas	Depok Jabar
6	Ade Komalasari	Bogor Jabar
7	Adnen	Aceh
8	Afifah	Jepara
9	Afra Suci Romadhon	Jakarta
10	Afwah Mumtazah	Cirebon Jabar
11	Agung Susilo	Jakarta
12	Ai Maryati M.Si	Jakarta
13	Aina Ainul Mardiyah	Kediri Jatim
14	Ait Bahagia Wati	Papua
15	Ajeng Herlianti	Yogyakarta
16	Akmaliah	Bandung Jabar
17	Akrimi Matswah	Jember Jatim
18	Alai Nadjib	Jakarta
19	Alfi Siti Alfijah	Ambarawa
20	Alfisyah Nurhayati	Jember Jatim
21	Alia Lestari	Palopo Sulsel
22	Alifatul Arifiati	Cirebon Jabar
23	Alimah	Yogyakarta
24	Alimatul Qibtiyah	Yogyakarta
25	Alimul Muniroh	Jawa Timur
26	Amaliyah	Jakarta
27	Amanah Nurish	Yogyakarta
28	Amar Alfikar	Kendal Jateng
29	Amirotin	Jakarta
30	Amroh Umaemah	Cirebon Jabar
31	Ana Yunita Pratiwi	Lampung
32	Andy Yentriyani	Pontianak Kalbar
33	Anin Nurhayati	Tulungagung Jatim
34	Anis Afifah	Garut Jabar
35	Anis Fahrotul Fuadah	Jakarta
36	Anis Hidayah	Jakarta

37	Anis Su'adah	Lamongan Jatim
38	Anisa Rahmawati	Jakarta
39	Anisah Mahfudz	Malang Jatim
40	Anisatul Hamidah	Situbondo
41	Anisatun Muthi'ah	Brebes Jateng
42	Aqilatul Munawaroh	Brebes Jateng
43	Arifah Millati Agustina	Nganjuk Jatim
44	Arikhah	Semarang Jateng
45	Arnisah Vonna	Jakarta
46	Asdirwati Ali	Jakarta
47	Asmaniah	Jakarta
48	Asniah	Kutai Kertanegara
49	Athiyatul Ulya	Jakarta
50	Atih Ardiansyah	Pandeglang Banten
51	Atiyatul Izzah	Yogyakarta
52	Azizah	Jakarta
53	Azriana	Jakarta
54	Badriyah Fayumi	Bekasi Jabar
55	Badru Tamam	Karawang Jabar
56	Bahiyah	Cirebon Jabar
57	Bakhtiar Aulawy	Kudus Jateng
58	Balkis Soraya Tanof	Perwati Kupang NTT
59	Bashirotul Hidayah	Jawa Timur
60	Chalimatus Sa'diyah	Banten
61	Chamida M	
62	Cholifah Shoim	Bojonegoro Jatim
63	Chuzaimah Batubara	Sumatera Utara
64	Ciptaningsih	Jakarta
65	Citra Orwela	Kediri Jatim
66	Cucu Nurhayati	Jakarta
67	Cut Marini	Aceh
68	Daimah	Cirebon Jabar
69	Darnifawan	Jakarta
70	Darrotul Jannah	Cirebon Jabar
71	Dede Masyitoh	Majalengka Jabar
72	Deswalantri	Bukittinggi Sumbar
73	Dewi Aisah	Cirebon Jabar
74	Dewi Ani Endriyati	Jakarta
75	Dewi Kholifah	Sumenep Jatim
76	Dewi Sadiyah	Bandung Jabar
77	Dewi Yulaikhah	Yogyakarta
78	Dian Puspitasari	Semarang Jateng
79	Dian Siti Nurjanah	Bandung Jabar
80	Diana Mutiah	Jakarta

81	Dini Anitasari Sabaniah	Jakarta
82	Dorasni	Padang Sumbar
83	Durotun Nafisah	Banyumas Jateng
84	Durraton Ma'munah	Brebes Jateng
85	Durrotun Nafisah	Yogyakarta
86	Durrotun Nafisah	Temanggung Jateng
87	Durrotur Rosidah	Salatiga Jateng
88	Durrotus sa'adah	Temanggung Jateng
89	Dwi Rubiyanti Khalifah	Depok Jabar
90	Eka Julaiha	Banten
91	Eka Sulestari	Lampung
92	Eka Zulaikhah	Serang Banten
93	Elisa Kurniadewi	Yogyakarta
94	Elok Durrotun Faiqoh	Sidoarjo Jatim
95	Ema Marhumah	Yogyakarta
96	Emma Matul Qudsiyah	Jakarta
97	Endang Listiani (Eliest)	Solo Jateng
98	Eni Amaliah	Lampung
99	Enik Maslahah	Yogyakarta
100	Enung Nursaidah Ilyah	Tasikmalaya Jabar
101	Epah Maspupah	Bandung Jabar
102	Erfanah Zuhriah	Malang Jatim
103	Erik Sabti Rahmawati	Malang Jatim
104	Ervi Siti Zahro	Jakarta
105	Ery Khaeriyah	Cirebon Jabar
106	Eti Nurkhayati	Cirebon Jabar
107	Etri Wahyuni	Sumatra Barat
108	Euis Daryati	Surabaya Jatim
109	Euis Suhartati	Cirebon Jabar
110	Eva Kusuma Sundari	Jakarta
111	Eva Nur Arofah	Cirebon Jabar
112	Evi Muafiah	Ponorogo Jatim
113	Fadhilah Suralaga	Jakarta
114	Faqihuddin Abdul Kodir	Cirebon Jabar
115	Farha Ciciek	Jember Jatim
116	Farhanah	Jakarta
117	Faridatus Sa'adah	Pati Jateng
118	Faridatus Syuhadak	Malang Jatim
119	Fathimah Asri Mutahmainnah	Lasem Jateng
120	Fathonah K. Daud	Bojonegoro Jatim
121	Fatikhatul Khoiriyah	Lampung
122	Fatimah Abbas	Jambi
123	Fatimah N.A	Purwokerto Jateng
124	Fatimatuzzahro Amin	Indramayu Jabar
125	Fatmawati	Makasar Sulsel

126	Fitria Villa Sahara	Jakarta
127	Fitrotul Muzayyanah	Jakarta
128	Gayda Bachmid	Manado Sulut
129	Gina Giftia Azmiana	Bandung Jabar
130	Grata Endah Werdaningtyas	Jakarta
131	Habibah Aqsho	Cirebon Jabar
132	Habibah Djunaidi	Banjar Baru Kalsel
133	Halimah	Yogyakarta
134	Halimah Noor Qotrunnah	Cirebon Jabar
135	Haliyah	Sumenep Jatim
136	Hamdanah Utsman	Jember Jatim
137	Harini Tri Dyah K	Jambi Jatim
138	Hasanatul Jannah	Madura Jatim
139	Hasmida Karim	Sulawesi Tenggara
140	Hazimah	Bengkayang Kalbar
141	Helly Siswayati Hamid	Jakarta
142	Helmi Ali	Makasar Sulsel
143	Heni Noviarita	Lampung
144	Heniwati	Bondowoso Jatim
145	Heny Gustini Nuraeni	Bandung Jabar
146	Hera Diani	Jakarta
147	Hera Sa'diyati	Tangerang Banten
148	Hidayatul Thoyyibah	Yogyakarta
149	Hijrotul Maghfiroh	Jakarta
150	Hilyatul Aulia	Yogyakarta
151	Hilyatul Aulia	Kediri Jatim
152	Himah Sholiha	Jakarta
153	Hindun	Cirebon Jabar
154	Hosnul Khatimah	Sumenep Jatim
155	Huriyah Saleh	Cirebon Jabar
156	Husein Muhammad	Cirebon Jabar
157	Husnul Khotimah	Cirebon Jabar
158	Husnul Khotimah Husairi	Yogyakarta
159	Husnul Laila	Nusa Tenggara Barat
160	Ida Nurhalida Nurhalida	Tasikmalaya. Jabar
161	Ida Rosyidah	Jakarta
162	Ida Rosyidah	Majalengka Jabar
163	Idza Priyanti S	Brebes Jateng
164	Iffah Muzammil	Madura Jatim
165	Ihsan Ali Fauzi	Jakarta
166	Iin Mahsunah	Cirebon Jabar
167	Iis Istianah	Cirebon Jabar
168	Ijah Bahijah	Cirebon Jabar
169	Ilah Holilah	Banten

170	Imam Nakhoi	Situbondo Jatim
171	Iman Sholeh Hidayat	Bandung Jabar
172	Imas Rosyanti	Bandung Jabar
173	Imroatul Azizah	Bojonegara Jatim
174	Inayah Rohmaniyah	Yogyakarta
175	Inayatillah	Aceh
176	Inda Kartika	Jakarta
177	Indah Lestari	Padang Sumbar
178	Indiah	Yogyakarta
179	Ipah Jahrotunasipah	Majalengka Jabar
180	Ipah Uripah	Cirebon Jabar
181	Irma Riyani	Bandung Jabar
182	Irzum Fariyah	Kudus Jateng
183	Ismail Hasani	Jakarta
184	Ismiati Ismail	Jayapura Papua
185	Isti Nur Ismiati	Jayapura Papua
186	Isti'anah	Tasikmalaya Jabar
187	Isti'anah Ghazali	Pekalongan Jateng
188	Istiatun	Yogyakarta
189	Istibsjaroh	Jombang Jatim
190	Izzatus Sholihah	Kediri Jatim
191	Jauharatul Faridah	Semarang Jateng
192	Jauharatun Nafisah	Kudus Jateng
193	Jeti Rosila Hadi	Jakarta
194	Julia Suryakusuma	Jakarta
195	Kamala Chandrakirana	Jakarta
196	Kencana Indrishwari	Jakarta
197	Khadijah Khasbullah	Bandung Jabar
198	Khadijah Munir	Jakarta
199	Khairul Umami	Surabaya Jatim
200	Khalilah	Jakarta
201	Khanifah	Sumenep Jatim
202	Khodijah Amiri	Batam Kepri
203	Khodijah Hulliyah	Jakarta
204	Khojanah	Bandung Jabar
205	Khotimah Suryani	Lamongan Jatim
206	Khotimatul Husna	Yogyakarta
207	Khotimun Sutanti	Jakarta
208	Kinkin S	Garut Jabar
209	Kodar Tri Wusananingsih	Jakarta
210	Kokom	Garut Jabar
211	Kunthi Tridewiyanti	Jakarta
212	Kurdi Fadal	Pekalongan Jateng
213	Kusmana	Tangerang Banten

214	Laely Yustinawati	Tunika Papua
215	Laifa Annisa Hendarmin	Jakarta
216	Laila Jauharoh	Jepara Jateng
217	Laila Mubarakah	Salatiga Jateng
218	Latifatul Hasanah	Tangerang Banten
219	Leli Nurohmah	Jakarta
220	Lien Iffah Naf'atu Fina	Yogyakarta
221	Lies Marcoes	Bogor Jawa Barat
222	Lihayati	Cirebon Jabar
223	Lilik Nihayah Fuadi	Cirebon Jabar
224	Lilis Nurul Husna	Bekasi Jabar
225	Lilis Satriah	Bandung Jabar
226	Lis Safitri	Majalengka Jabar
227	Listia	Yogyakarta
228	Listyowati	Jakarta
229	Lolly Suhenty	Jakarta
230	Lujeng Lutfiyah	Lamongan Jatim
231	Lulu Chairi Z	
232	Luluk Farida	Jawa Timur
233	Luluk Nur Hamidah	Jakarta
234	M. Saeroni	Yogyakarta
235	Maemunah Mujahid	Cirebon Jabar
236	Mahmudah	Cirebon Jabar
237	Maisah	Jambi
238	Makrus Ali	Kudus Jateng
239	Mamang Haerudin	Cirebon Jabar
240	Marhaeni Nasution	Jakarta
241	Maria Ulfah	Rembang Jateng
242	Maria Ulfah Anshor	Jakarta
243	Mariatul Asiah	Kalimantan Selatan
244	Maryam Abdullah	Cirebon Jabar
245	Maryamah	Jakarta
246	Marzuki Wahid	Cirebon Jabar
247	Masfiyatul Asriyah	Lampung
248	Ma'shumah Zuhdi	Tuban Jatim
249	Mashunah Hanafi	Kalimantan Selatan
250	Masniati	Makasar Sulsel
251	Masruchah	Jakarta
252	Mastanah	Tangerang Banten

253	Masthuriyah Sa'dan	Yogyakarta
254	Masyitah Umar	Kalimantan Selatan
255	Maya Fitria	Yogyakarta
256	Mellyarti Syarif	Padang Sumbar
257	Mesraini	Banten
258	Mia Faiza Imran	Tasikmalaya Jabar
259	Mia Siskawati	Jakarta
260	Mien Rianingsih	Jakarta
261	Miftahul Janah	Tangerang Banten
262	Mimin Mintarsih	Purwakarta Jateng
263	Minatun Maula	Majalengka Jabar
264	Mohammad Jamaluddin	Jakarta
265	Mubasyaroh	Kudus Jateng
266	Mufidah Cholil	Malang Jatim
267	Muflihah	Brebes Jateng
268	Muflihah	Yogyakarta
269	Muh. Nida Fadlan, Mhum.	Jakarta
270	Muhammad Dluha Luthfillah (pengganti)	Yogyakarta
271	Muhammad Khodafi	Sidoarjo Jatim
272	Muhammad Muntahibun Nafis	Tulungagung Jawa Timur
273	Mukti Ali	Jakarta
274	Mulyani Hasmi	
275	Musdalifah Dachrud	Manado Sulut
276	Musliha Rofik	Jakarta
277	Mustaghfiroh Rahayu	Yogyakarta
278	Muzaenah Zein	Jakarta
279	Nadia Bafaqih	Surabaya Jatim
280	Naelin Nikmah	Banyumas Jateng
281	Naili Hanani	Cirebon Jabar
282	Nailul hafidzoh	Lampung
283	Naimah Hasan	Aceh
284	Najhah Barnamij	Cirebon Jabar
285	Najmatul Millah	Jember Jatim
286	Nani Ayum Panggabean	Sumatra Utara
287	Nani Zulminarni	Jakarta
288	Napisah	Palembang
289	Nazhifatum Mutahhirah	Jombang Jatim
290	Nelly Munalati Rohmah	Lampung

291	Neneng Habibah	Jakarta
292	Neng Dara Affiah	Banten
293	Neng Hannah	Bandung Jabar
294	Neng Hilma Sufina, M	Garut Jabar
295	Nia Sjarifudin	Jakarta
296	Nidaussa'adah	Jombang Jatim
297	Nih Loh Gusti Madewati	Bandung Jabar
298	Nihayatul Muhtaj	Cirebon Jabar
299	Nikawati	Cirebon Jabar
300	Nina Mariani Noor	Yogyakarta
301	Nina Nurmila	Bandung Jabar
302	Ninik Rahayu	Jakarta
303	Noer Chalida Badrus	Kediri Jatim
304	Nofitri	Bukitting Sumbar
305	Noor Saili Rohmah	Lasem Jateng
306	Noormayani	Kalimantan Selatan
307	Nor Ismah	Yogyakarta
308	Norma Susanti rm	Aceh
309	Nur Aflahatun	Brebes Jateng
310	Nur Aini	Tegal Jateng
311	Nur Arfiyah Febriani	Jakarta
312	Nur Azizah	Jakarta
313	Nur Fadhilah	Gresik Jatim
314	Nur Faizah	Gresik Jatim
315	Nur Hayati Aidah	Jakarta
316	Nur Hidayah	Pati Jateng
317	Nur Hidayah	Tangerang Banten
318	Nur l'annah	Semarang Jateng
319	Nur Imroatus Sholikhah	Yogyakarta
320	Nur Rofiah	Jakarta
321	Nur Said	Kudus Jateng
322	Nurasiah	Sumatra Utara
323	Nurasiah Jamil	Banten
324	Nurfadilah	Yogyakarta
325	Nurhady Sirimorok	Makasar Sulsel
326	Nurhasanah	Yogyakarta
327	Nurhidayah Latif	Pare-Pare Sulsel
328	Nuril Hidayati	Kediri Jatim

329	Nurjannah Ismail	Aceh
330	Nurlaelah Abbas	Makasar Sulsel
331	Nurlaila Thahir	Cirebon Jabar
332	Nurliati Ahmad	Jakarta
333	Nurmaya Arofah	Depok Jabar
334	Nursalmi	Aceh
335	Nurul Bahrul Ulum	Cirebon Jabar
336	Nurul Fadhillah	Bengkulu
337	Nurul Faizah	Magelang Jateng
338	Nurul Huda AS	Yogyakarta
339	Nurul Sugiyati	Sumenep Jatim
340	Nurulla	Aceh
341	Oki Setiana Dewi (yang datang pengganti)	Jakarta
342	Okta Mayang Sari	Lampung
343	Poppy Edianti	Jakarta
344	Priyati	Jakarta
345	Qurrotul Aini	Cirebon Jabar Jatim
346	Qurrotul Ainiyah	Jombang Jatim
347	R. Indri Sri Sembadra	Jakarta
348	Rachmad Hidayat	Yogyakarta
349	Rahimun	Aceh
350	Rahmatang	Jayapura Papua
351	Rahmatia Arqam	Sulawesi Tenggara
352	Rahmi Kusbandiah	Nusa Tenggara Barat
353	Rahmi Purnomowati	Tangerang Banten
354	Rani Anggraeni Dewi	Jakarta
355	Raras Maftukhah	Purwokerto Jateng
356	Ratna Batara Munti	Jakarta
357	Ratna Puspitasari	Cirebon Jabar
358	Ratna Ulfatul Fuadiyah	Purworejo Jateng
359	Ratnawati	Jambi
360	Ratu Chulaelah Buchori	Bandung Jabar
361	Raudlatul Miftah	Sumenep Madura
362	Resya Nurhaeti	Bandung Jabar
363	Rina Rindanah	Cirebon Jabar
364	Rindang Farihah	Yogyakarta
365	Riswani	Riau
366	Rita Hendri Okmawati	Jakarta

367	Rita Pranawati	Banten
368	Rival Ahmad	Jakarta
369	Rizka Verawati	Bandar Lampung
370	Rizkiyatul Fitriah	Madura Jatim
371	Rodliyah	Cirebon Jabar
372	Romatio Wulandari	Jakarta
373	Ros Mayasari	Kendari Sultra
374	Rosmiaty Aziz	Goa Sulsel
375	Roudloh	Cirebon Jabar
376	Royanna Ahal	Cirebon Jabar
377	Roziqoh Sukardi	Cirebon Jabar
378	Rubiyannah	Jakarta
379	Rufi'ah	Jawa Tengah
380	Ruhaini Dzuhayatin	Yogyakarta
381	Rukaya Jamaluddin	Sulawesi Selatan
382	Rusmawaty	Banjarmasin Kalsel
383	Rusmini	Medan Sumut
384	Samsidar	Aceh
385	Samsidar Jamaluddin	Maros Sulsel
386	Sari Narulita	Jakarta
387	Sekhah Wal Afiah	Surakarta Jateng
388	Selly Fitriani	Lampung
389	Septi Gumindari	Cirebon Jabar
390	Shinta Dewi Rahmawati	Pekalongan Jateng
391	Shintho' Nabilah	Magelang Jateng
392	Shobihah	Cirebon Jabar
393	Silfia Hanani	Bukitting Sumbar
394	Sisca Lestari	Bandung Jabar
395	Siti Alkhomah	Lampung
396	Siti Anshoriyah	Tangerang Banten
397	Siti Fatimah	Cirebon Jabar
398	Siti Fatimah Tuzzahro	Cirebon
399	Siti Hanifah	Jakarta
400	Siti Kholisoh	Jakarta
401	Siti Latifah	Jember Jatim
402	Siti Mahmudah	Lampung
403	Siti Maimunah	Bogor Jabar
404	Siti Malaiha Dewi	Kudus Jateng

405	Siti Marfuah	Pati Jateng
406	Siti Maryam	Yogyakarta
407	Siti Masykuroh	Lampung
408	Siti Mudrikah	Tegal Jawa Tengah
409	Siti Muna Hayati	Banjarmasin Kalsel
410	Siti Munawaroh	Jember Jatim
411	Siti Musawwamah	Pamekasan Jatim
412	Siti Muyassarotul Hafidzoh	Yogyakarta
413	Siti Noor Aini (Ainoen)	Yogyakarta
414	Siti Nurhabibah	Cirebon Jabar
415	Siti Nurjannah	Jakarta
416	Siti Qurrotul Aini	Jember jatim
417	Siti Ruqayyah Ma'shum	Bondowoso Jatim
418	Siti Sa'adah	Jakarta
419	Siti Syamsiyatun	Yogyakarta
420	Siti Uswatun Khasanah	Brebes Jateng
421	Siti Yuhanah	Tegal Jateng
422	Siti Zubaidah	Yogyakarta
423	Sofinia Ghufron	Jakarta
424	Sri Artaria Alisjahbana	Jakarta
425	Sri Hidayati Nehik	Yogyakarta
426	Sri Mulyati	Bandung Jabar
427	Sri Nurhayati	Cirebon Jabar
428	Sri Sunani	Cirebon Jabar
429	Sri Wiyanti Eddyono	Yogyakarta
430	Sri Yunarti	Tanah Datar Sumbar
431	Sriyatun Kurniaty	Jakarta
432	Sudiarti	Papua Barat
433	Suharti	Mataram NTB
434	Sukiati	Sumatera Utara
435	Sulasmi	Jawa Tengah
436	Sulhah	Sumenep Jatim
437	Sun Fatayati	Kediri Jatim
438	Sunarmi	Lampung
439	Sunarti	Bengkayang Kalbar
440	Sunhiyah alias Achoe Sunhiyah Misya	Sumenep Jatim
441	Suniah Wibawati	Jombang Jatim
442	Suraiya Kamaruzzaman	Aceh

443	Suraya Khusnaniyati	Nganjuk Jatim
444	Sururin	Jakarta
445	Suryani	Aceh
446	Susi Ratna Sari	Bukitting Sumbar
447	Susianah Affandy	Jakarta
448	Sutjiati	Papua Barat
449	Suwendi	Jakarta
450	Syarifah Ema Rahmaniah	Pontianak Kalsel
451	Syarifah Hanum	Cirebon Jabar
452	Syarifah Rahmatillah	Aceh
453	Tanty Nurhayati	Jakarta
454	Tati Hartimah	Jakarta
455	Tati Krisnawati	Karawang Jabar
456	Tatiek Faricha	Depok Jabar
457	Tatik Hidayati	Sumenep Madura
458	Tazkiyyatul Muthmainnah	Jawa Tengah
459	Tgk Nurhayati Ibrahim	Aceh
460	Thoah Jafar	Cirebon Jabar
461	Thohir Laela Sholeh	Cirebon Jabar
462	Thoyibah	Cirebon Jabar
463	Titi Patiha	Yogyakarta
464	Titiek Rohanah Hidayati	Jember Jatim
465	Tjijik Mursyida Muqaffi	Bojonegoro Jatim
466	Trisna Ningish Yuliaty	Pandeglang Banten
467	Tutik Hamidah	Malang Jatim
468	Tutik Nurul Janah	Pati Jateng
469	Ulfah Faiqotul Himmah	Yogyakarta
470	Ulfatmi	Sumatra Barat
471	Ulfiah	Bandung Jabar
472	Ulin Na'mah	Kediri Jatim
473	Ulya	Kudus Jateng
474	Ulya Izzati	Magelang Jateng
475	Umamatul Khairiyah	Cirebon Jabar
476	Umdah El Baroroh	Pati Jateng
477	Umdatul Choirot	Jombang Jatim
478	Umdatul Hasanah	Serang Banten
479	Umi Chaidaroh	Jombang Jatim

480	Umi Hanisah	Aceh
481	Umi Musyarrofah	Jakarta
482	Umi Salamah	Bandung Jabar
483	Uminah Dimyati	Kuningan Jabar
484	Umma Farida	Kudus Jateng
485	Ummu Azizah Mukarnawati	Sidoarjo Jatim
486	Upik Rofiqoh	Majalengka Jabar
487	Vina Mawaddah	Banyuwangi Jatim
488	Wahidah Fitriani	Tanah Datar Sumbar
489	Wakhit Hasim	Cirebon Jabar
490	Wanda Fitri	Padang Sumbar
491	Wardatun Nadhiroh	Banjarmasin Kalbar
492	Wawan Gunawan Abdul Wahid	Yogyakarta
493	Widjayanti MS.	Jakarta
494	Wiharti	Jakarta
495	Wiwin Siti Aminah Rohmawati	Yogyakarta
496	Yana Amin Halim	Cirebon Jabar
497	Yani Sutirah	Bandung Jabar
498	Yati Andriyani	Jakarta
499	Yayah Nurhidayah	Cirebon Jabar
500	Yayuk Istichanah	Malang Jatim
501	Yefri Heriani	Padang Sumbar
502	Yessy Fitrianti	Jakarta
503	Yeyen Ainul Widad	Cirebon Jabar
504	Yovie Safitri	Jakarta
505	Yuliana	Jambi
506	Yuliana Emaawati	Yogyakarta
507	Yuliani Khalifah	Palangkaraya Kalteng
508	Yulianti Muthmainnah	Jakarta
509	Yuminah Rahmatullah	Depok Jabar
510	Yuningsih	Cirebon Jabar
511	Yuniyanti Chuzaifah	Jakarta
512	Yus Mashfiyah	Yogyakarta
513	Yuyun Affandi	Semarang Jateng
514	Zakiah	Jakarta
515	Zakiyah	Indramayu Jabar

516	Zakiyah Draja	Jakarta
517	Zubaidah Albugist	Manado Sulut
518	Zuhrotul 'Aini	Lampung
519	Zulfi Zumala Dwi Andriani	Banyuwangi Jatim

LIST OF OBSERVERS
CONGRESS OF INDONESIAN WOMEN ULAMA
25-27TH APRIL, 2017 (28-30TH RAJAB, 1438)

No.	NAME	COUNTRY ORIGIN
		Indonesia
1	Aam Azmiyah	Cirebon Jabar
2	Abdullah Abdul Muthalleb	Aceh
3	Afandi Moctar	Cirebon Jabar
4	Afifatul Millah	SerpongTangsel
5	Ahmad Hilmi	Jakarta
6	Ai Rahmayanti	Jakarta
7	Alexander Irwan	Jakarta
8	Alifatul Arifiati	Cirebon Jabar
9	Bambang Sasangko	Jakarta
10	Budhy Munawar R	Jakarta
11	Debby Firoeza Indiany	Tegal Jawa Tengah
12	Dede Wahyudin	Cirebon Jabar
13	Dewi Komalasari	Cirebon Jabar
14	Edriana	Jakarta
15	Elizabeth Ch Marantika	Ambon Maluku
16	Enggal	Jakarta
17	Enung Nursaidah Ilyas	Tasikmalaya. Jabar
18	Enurlaela Hasanah	Jakarta
19	Erna Sulisttyowati	Tegal Jawa Tengah
20	Esti Kristianti	Kalimantan Barat
21	Fauziah Fauzan El-Muhammady	Padang Sumbar
22	Feby Indirani	Jakarta
23	Fetty Indryani	Jakarta
24	Fini Rubiyanti	Jakarta
25	Fransiska Felomena Wekiberi	Jakarta Selatan
26	Helwana Fatolaya	Jakarta
27	Hendriyanto	
28	Hilyatul Awliya	Kediri Jatim
29	Husniah	
30	Ibi Satibi	Yogyakarta
31	Imas Karyaman	Bandung Jabar
32	Ismira Lutfia Tisnadibrata	Jakarta Selatan
33	J Marlene Joseph	
34	Jojo Sri R Tobing	
35	Julaesih	Cirebon Jabar
36	Kalis Mardiasih	Yogyakarta
37	Kana Kurniawan	Kuningan. Jabar
38	Karmila	Bandung Jabar

39	Kartina Ruswiyanti Amran	Jakarta
40	Katerina Sasova	Jakarta
41	Koidah Kosim	Cirebon Jabar
42	Laelatul Fitriyah	Karawang Jabar
43	Linda Bustan	Surabaya Jatim
44	Lutfiyah Handayani	Cirebon Jabar
45	M.Syafran	Jakarta
46	Madiana (H)	
47	Maryam Fithriati	Yogyakarta
48	Marzuki Rais	Cirebon Jabar
49	Masfufah	Jakarta
50	Michelle	
51	Mimin Mu'minah	Cirebon Jabar
52	Muhammad Billah Yuhadian	Jakarta Selatan
53	Munawir	Cirebon Jabar
54	Musta'anah	Cirebon Jabar
55	Mustika al-Adawiyah	Jakarta Selatan
56	Mutmainah Korona	Sulawesi Tengah
57	Muzayyanah	Cirebon Jabar
58	Myra Diarsi	Jakarta
59	Nadisa Astawi	Cirebon Jabar
60	Naely Eva Malicha	Cirebon Jabar
61	Nailatin Fauziah	Jombang Jatim
62	Neneng Yanti Khozanatu Lahpan	Bandung Jabar
63	Nina Sintarijana	Bandung Jabar
64	Ninuk Pambudi	Jakarta
65	Nur Khaeriyah	Cirebon Jabar
66	Nur Nailah	South Australia
67	Nurani hartini	Jakarta
68	Nurasiah Jamil	Padang Sumbar
69	Parihat	
70	Rani Aprilianti	Bandung Jabar
71	Ratih Hilmi	Bandung Jabar
72	Ratna Azizah AR	Cirebon Jabar
73	Ratna Fitriani	Jakarta
74	Ressy T Mulyani	Pelembang Sumsel
75	Retnasari Tjaraadisurja	Jakarta
76	Rina Komara	Bandung Jabar
77	Risma Dwi Fani	Cirebon Jabar
78	Rodliyah Khizazi	
79	Rival Agung	
80	Rohimah	Cirebon Jabar
81	Roland Gunawan	Jakarta
82	Rosidin	Cirebon Jabar
83	Rosnida Sari	Aceh

84	Sa'adah	Cirebon
85	Saef Rahmat	Jakarta
86	Saparinah Sadli	Jakarta
87	Satori	Cirebon Jabar
88	Sita Aripurnami	Jakarta
89	Siti Bilqis Rochmi	Tangerang Banten
90	Siti Muniroh	Jakarta
91	Siti Robbiah al Fatimah Sugono	Cirebon Jabar
92	Siti Syahraeni	
93	Sjamsiah Achmad	Jakarta
94	Sri Wahyuni (Ayu)	Riau
95	Suntiyah	Jakarta
96	Sylvana Apituley	Jakarta
97	Tunggal Pawestri	Jakarta
98	Zaenab	Cirebon Jabar
99	Zainal Abidin	Cirebon Jabar
100	Zakiuddan Baidhowi	Jawa Tengah
101	Zenia Zahara	Jakarta
		Malaysia
102	Muhammad Afiq Bin Mohamad Noor	Malaysia
103	Azareena Abd Aziz	Malaysia
104	Azka Annisa	Malaysia
105	Datin Raihanah binti Haji Abdullah	Malaysia
106	Fatin Nur Majdina binti Nordin	Malaysia
107	Norhayati binti Kaprawi	Malaysia
108	Nur Izura Udzir	Malaysia
109	Siti Nur Sakinan binti Ahmad Budiman	Malaysia
110	Rozana Moh Isa	Malaysia
111	Zainah Anwar	Malaysia
		Thailand
112	Rosalia Sciortino	Thailand
113	Chalida Tajaroensuk	Thailand
114	Kaosar Aleemama	Thailand
115	Sakiroh Yaena Benharoon	Thailand
116	Samak Kosem	Thailand
117	Amporn Marddent	Thailand
		Singapura
118	Nurul Fadiah Johari	Singapura
119	Zubee Ali	Singapura
		Australia
120	Dina Afrianty	Australia
121	Kathryn May Robinson	Australia
		Filipina
122	Baqian Aleya A Abdulkarim	Filipina

123	Mucha-Sim L. Quling	Filipina
124	Hatoon Al-Fasi	Arab saudi
125	Ani Zonneveld	Amerika
126	Bushra Hyder	Pakistan
127	David Cloos	Belanda
128	Priyanka Borpujari	India
129	Rafatul Abdulhamid	Nigeria
130	Ulfat Hussein masibo	Kenya
131	Nasim Hasan	Bangladesh

ORGANIZING COMMITTEE
THE CONGRESS OF INDONESIAN WOMEN ULAMA (KUPI)

Advisory Board

Nyai Hj. Aisyah Hamid Baidlowi
Dr. (HC). KH. A. Mustofa Bisri
Prof. Dr. Azyumardi Azra
Prof. Dr. KH. A. Machasin
Nyai Hj. Masriyah Amva
Prof. Dr. H. Nasaruddin Umar, MA
Dr. Lilik Nur Kholidah
Prof. Dr. Kamaruddin Amin, Ph.D
Prof. Dr. Hj. Siti Chamamah Soeratno

Steering Committee

Nyai Hj. Badriyah Fayumi (Chair)
Nyai Hj. Hindun Anisah (Secretary)
DR. Kunthi Tridewiyanti (Member)
Nani Zulminarni, MA (Member)
Kamala Chandrakirana, MA (Member)
KH. Husein Muhammad (Member)
KH. Helmy Ali (Member)
KH. Marzuki Wahid (Member)

Executive Committee

AD Eridani (General Chairperson)
Nur Rofiah (1st Chair)
Faqihuddin Abdul Kodir (2nd Chair)
Ninik Rahayu (General Secretary)
Alifatul Arifiati (1st Secretary)
Marzuki Rais (2nd Secretary)
M. Syafran (General Finance)
Satori (1st Finance)

DIVISIONS:

1. Pre-Congress Activities:

AD Kusumaningtyas
Masfufah
Suhramawardi
Rosidin

2. Notetakers:

Tati Krisnawati
Yuli Muthmainnah
Umdah El-Baroroh

3. Seminars and Workshops:

Ruby Khalifah
Maria Ulfah Anshor
Ghufron
Alai Nadjib
Neng Dara Affiah
Loly Suhenti

5. Media and Information

Ismail Hasani
Emy Fikhriyati
Sahbani Siregar
Jihan Fairuz

7. Exhibition and Social Activities

Dewi Komala
Abdullah
Mu'tashim Billah
Devida

9. Fasilitators:

Khotimun Susanti
Leli Nurrohmah
Muyassaroh Hafidzoh
Syarifah Hardani
Nadia Bafaqih
Neng Hannah
Dian Puspitasari
Yefri Heriyani

4. Documentation:

Alissa Wahid
Kalis Mardiasih
Sarjoko
Autad Annasher
Adin Zulfa Fatin
Ilmi Suraji

6. Accomodations and Equipments

Afwah Mumtazah
Rozikoh
Lailatul Fitriyah
Maman Rohman
Napol

8. Congress Activities:

Lies Marcoes
Rita Pranawati
Samsidar
Wiharti
Lukman Hakim

Fitri
Villa Sahara
Hanifah Haris

ORGANIZERS' PROFILE

1. RAHIMA ASSOCIATION

Rahima, Information and Education Center on Islam and Women's Rights is a non-governmental organization that focuses on women empowerment in Islamic perspective. Rahima was founded to respond the need of information on gender and Islam on August 5th, 2000, and its establishment was validated by Notary on September 11th, 2000 in Jakarta. This organization began all activities in February 2001.

In conjunction with its tenth anniversary, at the "Future of Women's Ulama Leadership" on November 23rd, 2010, it was officially announced the formation shift of Rahima from Foundation to Association. Since then, this organization is known as "Rahima Association." The main theme raised by Rahima Association is "Women's Ulama for Human Welfare."

The name "**Rahima**" was chosen because of two etymologies. First from the word "**rahim**" (womb), a place where life begins, and taken from one of God's beautiful names (*asma-ul husna*) that is "**ar rahman and ar rahiim**," which means the Most Loving and the Most Benevolent. Therefore, the name "rahima" was chosen as an effort to celebrate life with the spirit of compassion.

At first, Rahima focused on critical education and the spread of information on women's rights in *pesantren* environment. Due to the increasing demand of people's needs, Rahima expanded its range to various groups outside *pesantren* such as *madrasah*, teachers in Islamic schools and Islamic teachers in public schools, *ta'lim* assembly, Muslim women organizations, students' organizations and other NGOs.

The Membership of Rahima Association is open but limited. For period 2011-2015, the members of Rahima consisted of 33 people, who represented Rahima partner representative (participants of Rahima education program) from various areas, ulemas, *pesantren* figures, academics, and civil society movement activists that are key to Rahima's movements. Among them are Wahyu Budi Santoso, Farha Ciciek M.Si., Daan Dini Khairunnida, MA., Dra. Hj. Maria Ulfah Anshor, M.Hum., Badriyah Fayumi, Lc., Faqihuddin Abdulkodir MA., Ust. Imam Nakhai, M. Ikhsanuddin M.Ag., Tohari M.Pd., Syafiq Hasyim, MA., Dra. Hj. Ida Nurhalida Ilyas, Siti Amsariyah, MA., Ust. Cecep Jaya Karama, Neng Hannah M.Ag., Dra. Muyassaroh, Najmatul Millah, M.Ag.

Rahima members of Board of trustees are Kamala Chandrakirana, MA (Head), KH. Husein Muhamma, and Drs. H. Hilmi Ali. Its executive board members are Dra. Hj. Masruchah (Head), Hindun Annisa, Drs. Kusnaedi, Dr. Nur Rofiah, Nur Achmad, M.Ag, Nyai Hj. Siti Ruqayyah Ma'shum, and Nyai Hj. Dra. Afwah Mumtazah. Members of it's executive management are Aditiana Dewi Eridani, SH M. Syafran, Maward, S.Fil. I, AD. Kusumaningtyas, M. Si., and Rizal F. It's secretariat is located at Jl. H. Shibi No. 70 RT 07 RW 01 Srengseng Sawah, Jagakarsa, Jakarta Selatan 10550 Telp. 021-7873210.

2. ALIMAT

Alimat is an Indonesian movement on thoughts and people's actions aiming to realize gender justice and equality in Islamic family. This movement was founded on May 12th, 2009 in Jakarta by several individuals or organizations who have concerns about women in family structure.

Among the organizations are from Women Commission, Fatayat NU, 'Aisyiyah, Nasyiatul 'Aisyiyah, Fahmina-institute, Migrant Worker Defender Women Movement (GPPBM), Rahima, Empowerment of Women as Head of Household (Pekka), Indonesian Women Coalition (KPI), LAKPESDAM NU, National Islamic University (UIN) Sunan Kalijaga Yogyakarta Women Studies Center, STAIN Pekalongan Gender Studies Center (PSG) and Pancasila University. The birth of Alimat was initiated by several activists involved in "National Consultation: Creating Family Law Policy that is Gender Equal and Just" activity, held by the National Commission on Violence against Women (Komnas Perempuan) on February 3-4, 2009 in Jakarta.

ALIMAT is a movement that synchronize Indonesian Muslim women movement endeavors in the past and a global movement for equality and justice in the Muslim family, Musawah, which consists of approximately 40 countries in the world. As a place of movement, Alimat has a special attention towards family justice in Indonesia as the base of law applied to every citizen, male or female. Alimat's attention is how to ensure family law in Indonesia upholds justice and equality principles, and free of violence against women.

Alimat's organization is managed by Dr.Hj. Badriyah Fayumi (Head), MA Dr. Faqihuddin Abdul Kodir, MA, and Dr.Hj. Maria Ulfah Anshor, Msi. Members of it's executive body are Dr. Nur Rofiah, Bil. Uzm, Dr. Hj. Athitayul Ulya, Dr. Kunthi Tridewiyanti, MA, Dr. Sri Wiyanti Eddyono, AD. Kusumaningtyas, KH. Hilmy Ali, and Nani Zulminarni. Its secretariat is located at Jl. Lapangan I No 2A Kel. Duren Sawit Kec. Duren Sawit, Jakarta Timur 13440 Telp/Fax. 021.86603787, email: alimatjkt@gmail.com.

2. FAHMINA FOUNDATION

Fahmina's presence started from the struggle of youth of *pesantren*. There was some sort of struggle towards social and intellectual ethics that were not presented in *pesantrens*, because of deep and long political penetration. This deviated from the initial purpose of *pesantrens* where they were designed to defend people, to educate and develop intellectuals for people's interest.

The initial initiatives were simple and there was no sustainable commitment for intellectual activities or empowerment programs conducted. Often the issues developed broke and went awry, because there was no sufficient institutional coordination. The youth's struggle, both the intellectual and social ones strongly believed the need for an institution to enable them in achieving their goals.

For this reason, several founders of the forums founded Fahmina institute. In November 1999, Fahmina was founded by KH Husein Muhammad, Affandi

Mukhtar, Marzuki Wahid dan Faqihuddin Abdul Kodir at the residence of KH Husein Muhammad at Dar al-Tauhid Arjawinangun *Pesantren* in Cirebon. They declared this institution to the public in February 2001 at Jl. Pangeran Drajat 15, Cirebon. As an institution, Fahmina is independent, not a branch or subsidiary of other institution, non-government, non-partisan and accepts cross-ethnic, cross-gender, cross-religion and cross-group members.

In 2003, Fahmina was registered as Fahmina Foundation, an umbrella of Fahmina Institute. In 2007 as demanded by people, Fahmina Foundation initiated a higher education institution that is Fahmina Islamic Studies Institute (ISIF) Cirebon.

The executive boards of the Fahmina are KH Husein Muhammad (Head), Marzuki Wahid, Faqihuddin Abdul Kodir, Marzuki Rais, Satori, Dwi Rubiyanti, Rosidin, and Ny. Hj. Afwah Mumtazah. It's secretariat is located at Jl. Swasembada 15 Majasem Karya Mulya Kota Cirebon Jawa Barat 45131 Telp. 0231-8301548. Website: www.fahmina.or.id. email: fahmina@fahmina.or.id.

4. KEBON JAMBU AL-ISLAMY PESANTREN

Kebon Jambu al-Islamy was founded by the late K.H. Muhammad and Nyai Hj. Masriyah Amva on November 20th, 1993 under Tunas Pertiwi Foundation. The current *pesantren*, where the number of students has reached more than 1000 students is located in Babakan village, Ciwaringin district in Cirebon regency. In its history, Babakan is often mentioned as the first chapter of the development of Islamic education in Cirebon area in the 16th century with its first struggle figure *Kyai* Jatira.

The name "*Kebon Jambu*" itself was said to be an effort to perpetuate its geographical history aspect, where long time ago it was really a large garden of guava. The name has a historical similarity as KH Muhammad was a patron of a *pesantren* named "*Kebon Melati*" from 1975 to 1993.

After about 25 years being a patron of a *pesantren* named "*Kebon Melati*," Akang (KH Muhammad) decided to build a *peantren* in the south of Babakan village, which was later named Kebon Jambu. His method of teaching is still the same by teaching the yellow book, the classic books by presenting them the books and teaching them the interpretation to understand the books deeper. The methods are called *bandongan* and *sorogan*, very commonly used in *pesantren* education.

Meanwhile, the name Al-Islamy is not without history. Initially it was Kebon Jambu, and at they receive aid in the form of books and scriptures from a government agency in Jakarta. When the team from Jakarta arrived to deliver the books, they were looking for a *pesantren* named Al-Islamy, which was nowhere to find because there was no *pesantren* in that name. The team asked the village head the whereabouts of the *pesantren* where KH Muhammad is the patron. Since then, Al-Islamy is added in the name so that it is easier for the delivery team to report the donation delivery.

Besides *bandongan* and *sorogan*, Kebon Jambu also does *Madrasah* method, named *Madrasah Tahsinul Akhlak Salafiyah* (MTAS) which began in 1987. The initiator and the first Principal was Ust. Nashir (Lemah Abang, Cirebon). The *Madrasah* was intended for students who are interested in studying the science of Islamic education. This method has existed a long time, since Akang was the patron of Kebon Melati in 1979. Akang's interest in *Madrasah* method was heavily influenced by traditional Islamic education model adoption in the area that was first founded by KH Athohillah, KH Mahsuni in 1943 A.D./1362 H. However, the most important factor in adopting the *madrasah* system is the *madrasah* model executed by Madrasah al-Hikamus Salafiyah (MHS), where akang was a student there in the 60s. Besides that, the founding motivation was influenced by the *pesantren's* responsibility in facilitating the students who are not enrolled in formal schools. This *Madrasah* system is the one that is not influenced by formal education curriculum, they have their own curriculum.

With a high discipline and dynamic pattern, the *bandongan* method (lecture method) and *sorogan* method (private discussion method) in this *pesantren*, the public is paying more attention. The methods are done after all obligatory prayers that are five times a day. *Bandongan* method is done after *Subuh* (dawn) *Dhuhur* (noon) *Ashar* (mid-afternoon) and *Maghrib* (dusk) prayers, and *sorogan* is done after *Isya* (evening) prayer.

The teaching - learning activities are conducted either at the *pesantren's* terrace of inside the mosque. The Islamic science taught varies from *Nahwu* (syntax), *Shorof* (morphology), *tajwid* (punctuation), interpreting, *hadith*, *hadith* science, *fiqh*, *ushul fiqh*, *falak*, *faraidh* and other from the yellow book or classic Islamic literature.

On November 1, 2006 or 9 Syawal 1437 H, the founder of the *pesantren* passed away at Pertamina Hospital in Cirebon. Nyai Hj. Masriyah Amva, the wife, took over the leadership of the *pesantren*. In order to make the organization work more effectively, they formed a Board of Trustees led by KH Asror Muhammad (2nd son) and K. Syafi'I Atsmari (son-in-law), K. Syamsul Ma'arif (son-in-law), K. Shodikin Ali and Muhyidin (senior students) as members. They also formed *Pesantren* Patron Council (MPP) which consists of alumni who lived around the *pesantren* area. The Council's role is to provide guidance and moral direction for the development of education of the *pesantren* in education and non-education matters.

Since the development of management pattern, Kebon Jambu *pesantren* absorbed gradually several education operational changes, without experiencing any change in its core values through their leading extracurricular programs such as The Koran *Qiraat* art, Preaching art, Calligraphy art, *Shalawat* art, musical art, martial art and culture (PTSG). In the past ten years, the *pesantren* has executed a matriculation of primary education programs equal to the completion of middle school.

The formal education program in this *pesantren* is adjusted to the national education curriculum, so that the graduates can continue to higher education level in various higher education institutions in Cirebon (public permit) and other cities (special permit).

This pesantren is headed by a woman ulama, Ny. Hj. Masriyah Amva. It is located at Jln. Kebon Jambu No. 1 Desa / Kelurahan Babakan Ciwaringin Kabupaten Cirebon Jawa Barat 45167. Telp/HP: (0231) 342 259/085324880408. Website: www.kebonjambu.org

H. Jusuf Kalla

Vicer President of Republic of Indonesia

This congress indicates that the role of woman in Indonesia is unlimited, if he is a scholar, teacher, intellectual, professional, minister, and even president, it is open in Indonesia. It is different of that in many countries, especially in Islamic countries. Therefore, pioneering to open opportunities or make a meeting like this congress is certainly very important and the government is very supportive of this event.

Hatoon Al-Fassi

Observer of KUPI from Saudia

I think this congress is a starting point for to join efforts of muslim 'ulamas, female scholars from all over the muslim world in order to present, create a platform so that women could interchange, could exchange actually, their knowledge, their experiences and not to go and re-build or re-create the will but by continue from where the previous scholars have started.

Dr. KH. Said Aqil Siraj

Exucetive Head of PBNU

Congratulation for Indonesin Women Ulama Congress. Hopefully this is a meaningful first step for all of us. Let us spread a moderate and tolerant Islam to world women ulama so that we can transmit the Indonesian way of Islam to the whole world. Namely "Islam Nusantara" that respects culture, Islam that makes culture as infrastructure of religion.

Prof. Dr. KH. Nasaruddin Umar, MA

Great Imam of Istiqlal Mosque

This Indonesian Women Ulama Congress shows the independence of Muslim women because with this congress women have a forum to discuss religious views and opinions within their perspective. This is important to compensate for other religious forums that until now are still more influenced by the perspective of men.

Prof. Dr. KH. Ma'ruf Amin

Head of Ulama Council of Indonesia

I hope this congress will spawn prestigious decisions and positive influences, not only for the activities and development of Indonesian women, but also the development of women in the world.

Prof. Dr. Dien Syamsuddin

Ulama of Muhammadiyah

This congress can be used as a gathering place and learning process among Indonesian female Muslim leaders especially to discuss the role of Muslim women in advancing the life of the nation, and therefore the congress is expected to produce decisions and recommendations and especially to raise Indonesian women.

Alissa Wahid

Coordinator of National Network of Gusdurian

Indonesia and the world need the presence of women ulama. Hopefully KUPI step in Cirebon becomes our first step to contribute to heal the world. And it may produces blessings of Allah SWT..

H. Lukman Hakim Saefuddin

Minister of Religious Affairs of Indonesia

At least, I noted three things of strategic significance from this KUPI: First, it has succeeded in striving for justice through the awareness of the roles and relations of men and women. Secondly, in my eyes that are of course limited, this Congress has also been able to achieve not only recognition or acknowledgment, but also revitalization of the role of women ulama since the era of Siti Aisyah, wife of the Prophet until the present day now in Indonesia. Third, in my eyes, this Congress has succeeded in affirming and emphasizing that the moderation of Islam should always be put forward. A moderate Islam, Islam that is Rahmatan lil 'Aalamiin (bringing grace and prosperity to all in the entire universe), Islam that does not confront the position of women, Islam that spreads benefits for others.

KONGRES ULAMA PEREMPUAN INDONESIA

Pondok Pesantren Kebon Jambu Al-Islamiy Babakan Ciwaringin,
Cirebon, Jawa Barat, Indonesia

