

FEMINIST KYAI, K.H. HUSEIN MUHAMMAD

The Feminist Interpretation on Gendered Verses and the Qur'ān-Based Activism¹

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Abstract

Husein Muhammad, a feminist 'ālim or kyai of Dar al-Taubid Islamic boarding school in Arjawinangun Cirebon, West Java, Indonesia, has written various articles and books on women issues and gender problem. Growing up in a conservative family, and graduating from Al-Azhar University, kyai Husein becomes one of the main proponents of Islamic feminism in Indonesia. Apart from leading a pesantren (Islamic boarding school), in 2000 kyai Husein established Fahmina Institute, an NGO which strives to promote community empowerment and gender justice based on pesantren tradition, and Fahmina Islamic Studies Institute, an Islamic higher education, which aims to build a tolerant and unprejudiced Indonesian Islam. This article discusses his approach in reinterpreting the Qur'ānic verses and Islamic traditions on women issues, and his contribution in the light of the discourse of gender and feminism in Islam as well as in mainstreaming gender in Indonesia.

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[KH Husein Muhammad merupakan ulama feminis, pengasuh Pondok Pesantren Dar al-Tauhid Arjawinangun Cirebon Jawa Barat, yang telah menghasilkan banyak tulisan dan buku terkait persoalan perempuan dan masalah gender. Beliau yang dibesarkan dalam keluarga tradisional dan lulusan Universitas Al-Azhar, kini telah menjadi tokoh utama feminis Islam di Indonesia. Disamping menjadi pemimpin pondok pesantren, beliau mendirikan Fahmina Institute pada tahun 2000 yang merupakan sebuah LSM pemberdayaan masyarakat dan keadilan gender berbasis pesantren tradisional. Selain itu juga mendirikan Fahmina Islamic Studies Institute, sebuah perguruan tinggi Islam yang bertujuan membangun toleransi dan mengikis prasangka Islam Indonesia. Tulisan ini membahas pendekatannya dalam menafsirkan ayat al Qur'an dan tradisi Islam mengenai persoalan perempuan serta kontribusinya dalam pencerahan wacana gender dan feminisme dalam Islam terutama pengarusutamaan gender di Indonesia.]

Keywords: ulama, interpretation, gender, tradition, feminism

A. Introduction

K.H. Husein Muhammad, hereafter referred to as Kyai Husein, as he is usually called, can be considered one of male Muslim feminists in Indonesia.² When discussing Muslim feminism, we usually refer to the reinterpretation of the Qur'an from specifically women's perspective. Following the footsteps of Muslim modernists' works, such as Fazlur Rahman, Asghar Ali Engineer, Khaled Abou el-Fadl, Naṣr Ḥāmid Abū Zayd, among others which he usually quotes and refers to, Kyai Husein examines critically the older interpretations of the Qur'an and fiqh (Islamic jurisprudence), and provides new interpretations which are more in tune to gender equality. He acknowledges that one of the problems, if not the root of the problem in gender inequality, is the male-biased interpretations of the Qur'an and ḥadīth, as preserved in Islamic traditions of tafsīr and fiqh inherited today as being sacred and final. Kyai Husein has argued against the sacredness and finality of the Islamic traditions. Thus, his scholarly works and activism, which will be

² In addition to Husein Muhammad, there are other male Muslim feminists in Indonesia, like Masdar Farid Masudi and Nasaruddin Umar. See the discussion in M. Nuruzzaman, *Kiai Husein Membela Perempuan* (Yogyakarta: Pustaka Pesantren, 2005).

discussed below, can support the attribution of Kyai Husein as a male Muslim feminist.

There are many definitions of feminism, as there are many discussions of the difference between Islamic feminist and Muslim feminist. Margot Badran defines feminism as “the awareness that women were subordinated and often oppressed and deprived of their rights in the family and society as women and it moved to change this.”³ Similarly, Nina Nurmila refers to as “an awareness of the existing oppression or subordination of women because of their sex and as working to eliminate such oppression or subordination and to achieve equal gender relations between men and women.”⁴ In these definitions, as has been noted by Nurmila, the main criteria of feminism is “the awareness” of the existing oppression and subordination, and “the action” to eliminate and change this oppression.

Kyai Husein has strived to protect and defend women from subordination and oppression which, according to him, are caused by religious thought, patriarchal culture and ideology. He also advocates and implements his action to eliminate this subordination through different ways.

The importance of *Kyai* Husein’s works and activism, however, has to be seen in the context of his position as an Indonesian *kyai* (a religious leader) of Islamic boarding school (*pesantren*), which are usually regarded as the “preserver and maintainer of Islamic traditions.”⁵ Ayesha Chaudhry has discussed the various contemporary approaches to gendered verses in relation to the patriarchal Islamic traditions of the medieval period, which she calls “egalitarian-authoritative dilemma.”⁶ So, the main question is how *Kyai* Husein, as a male Muslim feminist, approaches and interprets these verses and respond to the Islamic intellectual traditions which are the main basis of *pesantren*.

³ Margot Badran, “Feminism”, in *The Oxford Encyclopedia of the Islamic World*, ed. by John L. Esposito (New York, N.Y.: Oxford University Press, 2009), p. 245.

⁴ Nina Nurmila, *Women, Islam and Everyday Life: Renegotiating Polygamy in Indonesia* (London; New York: Routledge, 2009), p. 4.

⁵ Zamakhsyari Dhofier, *Tradisi Pesantren: Studi tentang Pandangan Hidup Kyai* (Jakarta: Lembaga Penelitian, Pendidikan, dan Penerangan Ekonomi dan Sosial, 1980).

⁶ Ayesha Chaudhry, *Domestic Violence and the Islamic Tradition: Ethics, Law, and the Muslim Discourse on Gender* (Oxford: Oxford University Press, 2013).

Kyai Husein is explicit about his location as a *kyai* of *pesantren* and his personal concern on the subject of gender inequality in Indonesian traditional *pesantren*. In his recent book, published in early 2016 entitled *Perempuan, Islam & Negara: Pergulatan Identitas dan Entitas*, Kyai Husein devotes the first part of the book to discuss “Women and *Pesantren*,” which consists of the chapters on “*Pesantren*,” “Women in *Pesantren*,” “Women in the Literature of *Pesantren*,” and “Women’s Movement in *Pesantren*.”⁷

Therefore, this article will discuss the contribution of Kyai Husein’s works and activism in the specific context of *pesantren* in Indonesia. The *pesantren* is particularly important since it is designed to prepare future Muslim leaders in local community and in Indonesian society more broadly.

B. *Pesantren, Kitab Kuning and Women Issues*

The *pesantren*, according to Zamakhsari Dhofier,⁸ has five elements to fulfill: 1) *pondok*, a dormitory where the *santri* (students) stay, 2) mosque, as the center of the activities, where the *santri* pray and study, 3) *santri*, 4) the teaching of *kitab kuning*, and 5) *kyai* as the owner and the educator. In *Pesantren* the role of *kyai* is very central. The students or *santri* are dependent of the *kyai* as the source of inspiration and moral support in their lives. They will consult and request guidance from the *kyai*.⁹

There have been many studies on the role of *kyai*. Abdul Hamid in his article “The Kiai in Banten: Shifting Roles in Changing Times,”¹⁰ has summarized three findings: the first, Clifford Geertz who finds *kyai* as a

⁷ Husein Muhammad, *Perempuan, Islam & Negara: Pergulatan Identitas dan Entitas*, Yogyakarta: Qalam Nusantara, 2016), pp. 1–96. His previous books also discuss the issue of gender from *kyai*’s perspective. See, among others; Husein Muhammad, *Fiqh Perempuan: Refleksi Kiai atas Wacana Agama dan Gender*, ed. by Faqihuddin Abdul Kodir (Yogyakarta: LKIS, 2001); Husein Muhammad, *Ijtihad Kyai Husein: Upaya Membangun Keadilan Gender* (Jakarta: Rahima, 2011).

⁸ Dhofier, *Tradisi Pesantren*.

⁹ Nuruzzaman, *Kiai Husein Membela Perempuan*, p. 189.

¹⁰ Abdul Hamid, “The Kiai in Banten: Shifting Roles in Changing Times”, in *Islam in Contention: Rethinking Islam and State in Indonesia*, ed. by Ota Atsushi, Okamoto Masaaki, and Ahmad Suaedy (Jakarta; Kyoto; Taipei: Wahid Institute, CSEAS, Kyoto University; CAPAS, 2010), pp. 421–43.

“cultural broker,” the second, a Japanese researcher, Hiroko Horikoshi, who argues that a *kyai* had also the role as “creative instigators of social change,” and the third, Kuntowijoyo who emphasizes the role of *kyai* as political brokers. What is important in this article is the role of *kyai* as the initiator of social change.

Generally speaking, there are many typologies of *pesantren*,¹¹ but it can be divided into traditional *pesantren* and modern *pesantren*. The *pesantren* is called traditional in terms of the curriculum taught, which is mostly Islamic sciences based on classical books in *kitab kuning*, and the method of teaching, which is called *bandongan*, *sorogan* and *halaqah*. This type of *pesantren* is mostly affiliated with Nahdlatul Ulama, the largest Indonesian Muslim mass-organization, beside Muhammadiyah. The modern *pesantren*, on the other hand, includes in its curriculum “secular” subjects to accommodate public school curriculum, and follow modern method of teaching.

In addition, there are some *pesantrens* with a mixture of female and male students, but there are also segregated/single-sex *pesantren*. They are *pesantren* for the female or girls and *pesantren* for the male or boys. The subject taught at these *pesantrens* (male and female) is almost the same, but the subject on women issues is more highlighted in *pesantren* for women.

It is interesting to see the objectives of the *pesantren*. Eka Srimulyani who has conducted researches on this, finds that the *pesantren* for women is designed “to prepare women for the future who can deal with their maternal duties well, morally and religiously being good wives and good mothers for the future generations.”¹² “To be a good mother and a good wife,” as can be seen above, is the objective. In order to achieve this goal, some specific gender rules are assigned; for example, they have to wear *jilbab* based on their reading of Qur’an, 24:31, and they are not allowed to wear trousers, a practice thought to resemble a man’s outfit, by referring to the Prophetic tradition *La’ana llāhu r-rajula yalbasu lubsata l-mar’ati wa l-mar’ata talbasu lubsata r-rajuli* (Allah curses the man who wears woman’s

¹¹ Muhammad lists more than 5 types of *pesantren*. See Muhammad, *Perempuan, Islam & Negara*, p. 24.

¹² Eka Srimulyani, “Muslim Women and Education in Indonesia: The Pondok Pesantren Experience”, *Asia Pacific Journal of Education*, vol. 27, no. 1 (2007), p. 88.

outfit, and the woman who wears man's outfit).¹³ But, the most important tool to assist this goal is through the teaching of *kitab kuning*.

Kitab kuning has been the main characteristic of learning and instruction in a *pesantren*, especially in traditional *pesantren*. It preserves Islamic intellectual tradition, which is the product of the medieval Muslim scholars, from which the students study Islamic literature, from Qur'ānic interpretation, Prophetic tradition, Islamic law (*fiqh*), Arabic grammar, Islamic history, sufism, and logics. But, the most dominant subject taught in traditional *pesantren* is Islamic law, *fiqh*. From the four schools of Islamic legal thought, the Shāfi'ite school is the preference, especially that which was elaborated and formulated by *Shaikh* Nawāwī al-Bantānī (1813-98),¹⁴ an Indonesian Muslim scholar who taught at Masjid al-Ḥarām and died in Mecca.

Kyai Husein and other Indonesian Muslim scholars who came from a *pesantren* background have highlighted some of the problems pertaining to women's issues in the Islamic literature of some *kitab kuning* taught in *pesantren*. Masdar F. Mas'udi, was the first Indonesian Muslim scholar who pointed to these sexist views.¹⁵ In 1991 he presented his paper on "Perempuan di Antara Lembaran Kitab Kuning" in a Seminar on *Wanita Islam Indonesia dalam Kajian Tekstual dan Kontekstual* held by Indonesian-Netherlands Cooperation in Islamic Studies (INIS) in Erasmus Huis Jakarta December 2-5, 1991.¹⁶ He finds the subordinate views in this literature, such as: women as half of men, women as an object of sex, women as domestic creature, etc. Even though he also finds some other views which position women above men, for example the ḥadīth which states that "the Paradise is under the mothers' feet" (*al-jannatu taḥta aqdāmi l-ummahāt*), or that women have equal position with men, these views are

¹³ Muhammad, *Perempuan, Islam & Negara*, p. 36.

¹⁴ *Ibid.*, p. 17.

¹⁵ Jajat Burhanudin and Oman Fathurahman (eds.), *Tentang Perempuan Islam: Wacana dan Gerakan* (Jakarta: Penerbit Gramedia Pustaka Utama and PPIM, 2004), p. 139.

¹⁶ This paper and other papers have been published in Lies M. Marcoes-Natsir and Johan H Meuleman, (eds.), *Wanita Islam Indonesia dalam Kajian Tekstual dan Kontekstual: Kumpulan Makalah Seminar* (Jakarta: INIS, 1993). See Mas'udi's paper in Masdar F. Mas'udi, "Perempuan diantara Lembaran Kitab Kuning", in *Wanita Islam Indonesia dalam Kajian Tekstual dan Kontekstual*, ed. by Lies M. Marcoes-Natsir and Johan Hendrik Meuleman (Jakarta: INIS, 1993), pp. 155–63.

mostly perceived by many people only to apply in spiritual life and not in the real social life.

Commenting on Mas'udi's paper, Martin van Bruinessen sees that *kitab kuning* has long been the subject of *pengajian* (religious teaching) in *pesantren*, but, with Mas'udi's study, it now also becomes the object of *pengkajian* (critical study).¹⁷ From that time on, *kitab kuning*, especially related to women issues, have been the focus of studies by many Indonesian Muslim scholars.¹⁸ Kyai Husein criticizes also most *fiqh* books, which, according to him, insist on the authority of men over women, based on Qur'an, 4:34.¹⁹ He, for example, refers to al-Suyūṭī's *al-Ashbāh wa al-Naẓā'ir* which lists 100 differences of men's rights to those of women, especially in a chapter called *al-Unthā Tukhālīf al-Rajul fī al-Aḥkām* (Women differ Men in Laws).²⁰

The most frequently criticized *kitab kuning* for promoting hierarchical gender relations is *Kitāb 'Uqūd al-Lujjāyn fī Bayān Ḥuqūq al-Zaujāyn* (Book on Contracts between Couples in Explaining the Rights of Husband and Wife) by al-Nawāwī. According to van Bruinessen, this book stands as a required subject for female *santri*.

Having studied this book, Kyai Husein states that "the content of this book is filled with discriminate views against women, maybe even misogynist. It restricts women's movement and freedom."²¹ According to Kyai Husein, the discourse of husband and wife's relation in *pesantren's*

¹⁷ Martin van Bruinessen, "Kitab Kuning dan Perempuan, Perempuan dan Kitab Kuning", in *Wanita Islam Indonesia dalam Kajian Tekstual dan Kontekstual* (Jakarta: INIS, 1993), p. 165.

¹⁸ Mas'udi has written another book on women's reproductive rights in Masdar F. Mas'udi, *Islam & Hak-Hak Reproduksi Perempuan* (Bandung: Penerbit Mizan, 1997); This book has been translated into English. See Masdar F. Mas'udi, *Islam & Women's Reproductive Rights* (Petaling Jaya, Selangor, Malaysia: Sisters in Islam, 2002); PPIM has conducted several researches on this issue, see for example Ali Munhanif, (ed.), *Mutiara Terpendam: Perempuan dalam Literatur Islam klasik* (Jakarta: Gramedia Pustaka Utama and PPIM, 2002); and Arief Subhan, (ed.), *Posisi dan Peran Perempuan dalam Islam* (Jakarta: PPIM, 2008); On this issue, see the discussion in Jajat Burhanudin and Oman Fathurahman (eds.), *Tentang Perempuan Islam: Wacana dan Gerakan*, p. 132.

¹⁹ Muhammad, *Perempuan, Islam & Negara*, p. 43.

²⁰ *Ibid.*, pp. 43–4. For example: woman cannot lead the prayer for men; she cannot be a *mu'adhdhin*, a caller to prayer; she is not required to perform Friday prayer, etc.

²¹ *Ibid.*, p. 48.

text book contains patriarchal paradigm and perspective. The superiority of men over women covers all aspects: from private domain (conjugal relations) and extends to the public domain. Some of these patriarchal views are: wife has to obey her husband, she has to give in her body whenever her husband needs, she cannot go outside the house except with husband's permission, husband can hit his wife, and so on. In order to support these views, the book quotes the verses of the Qur'ān as well as the Prophetic traditions.

Kyai Husein and other Indonesian Muslim scholars with *pesantren* background, under the name Study Forum for Yellow Books (FK3), led by *Ibu* Sinta Nuriah Wahid—wife of former President Abdurrahman Wahid, have criticized the book and published it in a book called *Wajah Baru Relasi Suami-Istri: Telaah Kitab 'Uqud al-Lujjayn* in 2001. They find that 33% of *ḥadīths* quoted in the book fall in the category of *mauḍū'*, 22% *da'if* (weak), and the rest *ṣaḥīḥ* or *ḥasan*. But, even the sound *ḥadīth* in terms of *sanad* (chain of transmission), they argue, the *ḥadīths* can still be questioned in terms of *matan* (content). They refer to the statement of *ḥadīth* scholars *laysa kullu mā ṣaḥḥa isnāduhu ṣaḥḥa matnahu* (Not all *ḥadīths* whose chain of transmission is sound, the content is sound).²² Furthermore, the authors argue that Nawāwī's argument in favor of wife beating is mostly influenced by his personal prejudices and local Arabic context, meanwhile many Qur'ānic verses do not condone such beating. The Prophet's behavior himself never beat his wives.

However, even though some scholars have criticized these *pesantren* textbooks, the majority of *kyai* and *pesantren* still regard the sanctity of these works, since they contain Qur'ānic verses and Prophetic traditions. They regard these Islamic intellectual traditions as religion itself, not as the product of Muslim scholars' interpretations (*ijtihād*). In addition, they regard criticizing and questioning the views of the '*ulamā*' as immoral behavior (*sū' al-adab*).²³

C. *Kyai* Husein's Principles and Methodology in Re-interpreting the Qur'ān and Islamic Traditions

The basis of *Kyai* Husein's framework for reconstruction of gender

²² *Ibid.*, pp. 63–4.

²³ *Ibid.*, p. 58.

equality in reading the Qur'ān is the concept of *tauhīd*. As it is known, among the first Muslim scholar who proposed this concept, in relation to gender relations, is Amina Wadud who calls this *tauhīdic* paradigm.²⁴ Kyai Husein, in his book *Ijtihad Kyai Husein*, states that the reconstruction of new understanding on gender relation is the duty in order to uphold the principle of *tauhīd*.²⁵ In another book, Kyai Husein asserts that equality is the logical consequence of *tauhīd*, the unity of God. All humans with all different backgrounds come from the same Source.²⁶ He further asserts that the proclamation of *tauhīd* has individual and social dimension. The latter stresses that all humans are equal before God, all have to obey God and none others.²⁷ Kyai Husein's elaboration of this concept is also supported by the explanation provided by Siti Musdah Mulia.²⁸

“The conviction (of *tauhīd*) that no human equals Allah and that He has no offspring or incarnation has given rise to the principle of the equality of humankind, as all humans are Allah's creatures. No human is superior to any other; all are fundamentally equal. No human may be deified in the sense of being made the source of guidance and support, to be feared, prayed to, and regarded as unquestionably correct. A king cannot be a god to his people, a husband cannot be a god to his wife.”²⁹

The elaborations of Kyai Husein and Mulia that in the declaration of *tauhīd*, or *shahādāt al-tauhīd*, all humans are equal before God, would be sharper for supporting gender equality with further illustration that

²⁴ See Amina Wadud, *Inside the Gender Jihad: Women's Reform in Islam* (Oxford: Oneworld, 2006), pp. 24–32; Amina Wadud, “The Ethics of Tawhid over the Ethics of Qiwwamah”, in *Men in Charge? Rethinking Authority in Muslim Legal Tradition*, ed. by Ziba Mir-Hosseini, Mulki Al-Sharmani, and Jana Rumminger (London: Oneworld Publications, 2015), pp. 256–74.

²⁵ Muhammad, *Ijtihad Kyai Husein*, p. 1.

²⁶ Muhammad, *Perempuan, Islam & Negara*, p. 110.

²⁷ Husein Muhammad, *Spiritualitas Kemanusiaan: Perspektif Islam Pesantren*, ed. by Mansur Zahri (Yogyakarta; Cirebon: Pustaka Rihlah; Fahmina Institute, 2006), p. 5; See also Husein Muhammad, “Konsep Dasar Manusia dan Hakikat Pernikahan”, in *Keluarga Sakinah: Kesenjangan Relasi Suami Istri*, ed. by A. D Eridani and A. D Kusumaningtyas (Jakarta: Rahima, 2008), pp. 1–2.

²⁸ Siti Musdah Mulia, “Tauhid: A Source of Inspiration for Gender Justice”, in *Dawrah Fiqh Concerning Women: Manual for a Course on Islam and Gender*, ed. by Husein Muhammad et al. (Cirebon: Fahmina Institute, 2006), pp. 39–59.

²⁹ *Ibid.*, pp. 41–2.

this concept of *tauhīd*, as Wadud states “remov[es] gender asymmetry, which is a kind of satanic logic or *shirk*, positing priority or superiority to men. Instead, women and men must occupy a relationship of horizontal reciprocity, maintaining the highest place for God in His/Her/Its uniqueness.”³⁰

With this *tauhīdic* paradigm, Wadud would like to replace the patriarchal framework of the relationship between God – men/husbands – women/wives, where God is above men, and women are below men. The latter are the intermediary between God and women, which implies that women need to obey God as well as men, or that in order to obey God, they should go through their husbands’ authority and permission. This patriarchal relationship is described as the vertical relation between men and women, where God is placed above men, and men above women.

Instead of this vertical relation between men and women, the *tauhīdic* paradigm proposes the horizontal and equal relation between men and women, and places God above them. This horizontal relation then suggests that both women have access directly to God without men’s intervention, and the relation between men and women are “of mutual support and reciprocity” between each other, and not of men’s superiority over the other. This relation shows the egalitarian relationship between men and women.³¹

This horizontal relation represents the concept of *tauhīd* where no one is higher than the other before God, and all of them equally obey only to God. The vertical relation of patriarchal framework, on the other hand, is considered as some kind of *shirk* and satanic logic because of the assertion that beside God, there is other creature who is better and superior than the other.

In addition to the principle of *tauhīd*, Kyai Husein bases his ideas of gender equality on the universal values of Islam, such as justice (*‘adālah*), equality (*musāwāh*), tolerance (*tasāmuh*), and peace (*iṣlāh*). In another

³⁰ Amina Wadud, “Engaging Tawhid in Islam and Feminisms” *International Feminist Journal of Politics* vol. 10, no. 4 (2008), p. 437.

³¹ For the diagram of egalitarian relationship, see Amina Wadud, “Islam Beyond Patriarchy Through Gender Inclusive Qur’anic Analysis”, in *Wanted: Equality and Justice in the Muslim Family*, ed. by Zainah Anwar (Selangor, Malaysia: Musawah, 2009), pp. 108–9; Wadud, “The Ethics of Tawhid over the Ethics of Qiwwamah”, pp. 270–71.

occasion, he includes in these universal values the five fundamental rights, a well-known *al-Kullīyyāt al-ḵams* (the Five Principles) proposed by al-Ghazālī, namely the right to religion (*ḥifẓ al-dīn*), the right to physical well-being and life (*ḥifẓ al-nafs*), the right to knowledge or opinion (*ḥifẓ al-aql*), the right to descendent/reproductive rights (*ḥifẓ al-nasl/al-ʿird*), and the right to wealth/social welfare (*ḥifẓ al-māl*).

These are, according to *Kyai* Husein, the universal values of Islam, which he identifies as the main messages of Meccan verses of the Qurʾān. He states that “Texts from the Meccan period are mostly concerned with describing and defining *tawḥīd* [*sic*] and various universal human values, such as equality, justice, freedom, plurality and human dignity.”³² The Medinan texts, on the other hand, deal with the practical rules and regulations for society as it existed in Medina at the time, for the people who were already converted to Islam as well as those who adhered to their respective other religions.

Here, it is clear that *Kyai* Husein divides the verses of the Qurʾān into the verses with universal aims, which he refers to as Meccan verses or *muḥkamāt* verses, and particular verses which are confined to specific context, that is Medinan context. These verses, he categorizes as *mutashābihāt* verses, which are interpretable.³³ Masʿudi, before *Kyai* Husein, also distinguishes these two types of Qurʾānic teachings in his *Islam & Women's Reproductive Rights*.³⁴ Recently, Asma Lamrabet in her article “An Egalitarian Reading of the Concepts of *Khilafah*, *Wilayah* and *Qiwamah*” divides three kinds of Qurʾānic verses: 1) verses with universal aims, 2) temporary verses that are confined in their application to the context of revelation, and 3) verses that need reinterpretation in new social contexts.³⁵ Masʿudi and *Kyai* Husein, I would suggest, combine the second and the third verses into particular verses.

³² Husein Muhammad, “Re-Reading the Qurʾān: The Relation between Text and Context”, in *Dawrah Fiqh Concerning Women: Manual for a Course on Islam and Gender*, ed. by Husein Muhammad et al. (Cirebon: Fahmina Institute, 2006), p. 82.

³³ Muhammad, *Perempuan, Islam & Negara*, pp. 123–25.

³⁴ Masʿudi, *Islam & Women's Reproductive Rights*, p. 5.

³⁵ Asma Lamrabet, “An Egalitarian Reading of the Concepts of *Khilafah*, *Wilayah* and *Qiwamah*”, in *Men in Charge? Rethinking Authority in Muslim Legal Tradition*, ed. by Ziba Mir-Hosseini, Mulki Al-Sharmani, and Jana Rumminger (London: Oneworld Publications, 2015), p. 68.

Since the verses with universal values become the basis of the Qur'ānic message, the particular verses have to be interpreted in the light of universal verses. Here *Kyai* Husein supports his statement by quoting Abū Ishāq al-Shāṭibī who states:

“General rules or legal universals are certain, while particular or specific rules are relative/probable and, therefore, the generals or universals ought to prevail. ... Specific rules should not limit or specify general rules but may constitute a circumstantial exception to the legal universals.”³⁶

Beside dividing the Qur'ānic verses into universal verses and particular verses, *Kyai* Husein also points to two types of Qur'ānic narrations: the informative or descriptive narration (*ḵabari*) and the prescriptive narration (*ṭalabi*).³⁷ The descriptive narration is God's information about the facts and realities in a specific context, while the prescriptive is God's command to perform or not to perform an action. This division proves very essential for *Kyai* Husein, as can be seen later in this article, in understanding a specific verse, whether it is *describing* the reality or *prescribing* the action.

Another important principle of *Kyai* Husein's methodology in Qur'ānic interpretation is his principle of the gradual phase of Qur'ānic verses. This concept, which he refers to Asghar Ali Engineer, argues that the whole Qur'ānic verses progress toward the universal values, such as justice and equality for all humans. *Kyai* Husein states that in response to the patriarchal culture of the seventh-century Arabia, the Qur'ān and the Prophet Muhammad intended to construct a new social culture which is more egalitarian and just.³⁸ This new construction, however, could not be realized through revolution and at once, but through evolution and gradual phases. According to *Kyai* Husein, this process is called *tadriji* or *taqlili* in the classical Islamic literature.

With these principles, which are actually not new because other Muslim feminists have discussed and used them, and also with the

³⁶ Muhammad, “Re-Reading the Qur'ān: The Relation between Text and Context”, p. 91. He refers to al-Shāṭibī, *al-Muwāfaqāt*, III:261-271.

³⁷ Muhammad, *Ijtihad Kyai Husein*, p. xvii.

³⁸ *Ibid.*, p. xxxix.

historical contextual and intra-textual readings of the Qur'ān,³⁹ Kyai Husein reinterprets the verses of the Qur'ān which have been used for gender inequality and to justify man's superiority over women. Qur'ān, 4:34 is often referred to for this justification and also to justify the right of husband to hit his wife.

The translation of the verse as follow:

Men are *qawwāmūn* over women according to what God *faddala ba'dahum 'alā ba'd* (has favoured some over some others) and *bimā anfaqū* (according to what they spend) from their wealth. Righteous women are *qānitāt* (obedient) guarding the unseen according to what God has guarded. Those [women] whose *nushūz* (rebellion) you fear, admonish them, and abandon them in bed, and *idribūhunna* (strike them). If they obey you, do not pursue a strategy against them. (Qur'an, 4:34)

When discussing this verse, Kyai Husein refers to the classical exegesis of al-Zamakhsharī, al-Rāzī, Ibn Kathīr, as well as to the modern *tafsīr* of Muḥammad 'Abduh, Ibn 'Āshūr, al-Ṭabāṭabā'ī and finds that all of them argue for male's superiority because of his inherent natural quality.⁴⁰ Kyai Husein is not as comprehensive as Omaima Abou-Bakr in discussing the evolution of patriarchal construct of *qiwāmah* in Islamic tradition, from al-Ṭabarī to the modernist *mufasssīr*, which according to her consists of four discursive states.⁴¹ The first stage which starts with al-Ṭabarī was the transformation of the descriptive notion of *qiwāmah* into the prescriptive and normative conception of *qiyam*. This means that starting with Ṭabarī, *qiwāmah* was understood as men's task of *ahl al-qiyam*, that is to watch over the women. The second stage was identified with al-Zamakhsharī, al-Rāzī and other *mufasssīrs* in their period who list a number of reasons and justifications for the divinely ordained superiority

³⁹ Aysha A. Hidayatullah has discussed Muslim feminists' (especially women) different approaches to the Qur'ān in her works. See Aysha A. Hidayatullah, "Feminist Interpretation of the Qur'ān in a Comparative Feminist Setting", *Journal of Feminist Studies in Religion*, vol. 30, no. 2 (2014), pp. 115–29; Aysha A. Hidayatullah, *Feminist Edges of the Qur'an* (New York, NY: Oxford University Press, 2014).

⁴⁰ Muhammad, *Fiqh Perempuan*, pp. 8–10.

⁴¹ Omaima Abou-Bakr, "The Interpretive Legacy of Qiwamah as an Exegetical Construct", in *Men in Charge? Rethinking Authority in Muslim Legal Tradition*, ed. by Ziba Mir-Hosseini, Mulki Al-Sharmani, and Jana Rumminger (London: Oneworld Publications, 2015), pp. 44–64.

of men. In the third stage, the explanation of men's superiority expands from the domestic to the public sphere. Ibn Kathīr, for example, by using the ḥadīth *lan yuṣṭliha qawmun wallathum imra'atun*, argues against women's leadership. He and other *mufasssirs* of *ma'thūr* method, also strengthen their justification of men's superiority with many *ḥadīth*. Finally, in the modern period, the *mufasssirs* add the justification of men's superiority with the ideology of domesticity and scientific explanation of biological difference between men and women.

Kyai Husein does not extensively discuss these different interpretations, but he is in agreement with the scholars' findings that these *tafsīrs* are the reflection of the patriarchal culture of the community, or to use the term of Ayesha Chaudhry "the patriarchal cosmology"⁴² and worldview of the *mufasssirs* as well as the community of that period. It might be added that all of these *mufasssirs* are male, who might very well be influenced by their maleness.

The present context and culture, however, have changed. *Kyai* Husein, for example, finds that many of the present-day women are superior over men in terms of their intellectual reasoning or even physical strength. This changing reality occurs because the culture provides opportunities, even though still limited, for women to develop and actualize their capacities.⁴³ Therefore, according to *Kyai* Husein, the verse 4:34 has to be classified as "particular verse" which is confined to a specific context, and has to be interpreted in the light of other verses with universal aims, such as Qur'an, 49:13, *Innā khalaqnākum min dhakarīn wa unthā wa ja'alnākum shu'ūban wa qabā'ila li-ta'ārafū*, which asserts equality of human beings regardless of their sex, race and ethnicity, and Qur'an, 9:71, *wa l-mu'minūna wa l-mu'minātu ba'duhum awliyā'u ba'd*, which lays the ground for gender relation and mutual assistance between men and women.⁴⁴

This Qur'an, 9:71 and other verses with universal values which urge equality between men and women, according to Lamrabet, unfortunately "have been marginalized in Islamic thought. They are rarely cited and are even at times completely overlooked in favor of other verses that are more difficult to interpret or whose application was contingent on

⁴² Chaudhry, *Domestic Violence and the Islamic Tradition*.

⁴³ Muhammad, *Fiqh Perempuan*, pp. 11–12.

⁴⁴ Muhammad, *Perempuan, Islam & Negara*, p. 238.

the time of revelation.”⁴⁵

Using his other principles in Qur’ānic interpretation, *Kyai* Husein further argues that Qur’an, 4:34 has to be qualified as an informative verse, which *describes* the social reality of the seventh century Arabia associated with the patriarchal culture.⁴⁶ This verse informs the reality of women’s subordination through men’s being *qanwām*. But this text, *Kyai* Husein insists, is not *prescribing* and justifying the subordination of women. It is rather accommodating and speaking about the social reality during the Qur’ānic revelation.⁴⁷ *Kyai* Husein’s classification of descriptive and prescriptive verses of the Qur’ān, and his inclusion of Qur’an, 4:34 as descriptive verse, seems to echo other Muslim scholars’ statement. Amina Wadud, for example, in her article “The Ethics of *Tawhid* over the Ethics of *Qiwamah*”, writes: “It is my contention that verse 4:34 may *describe* a scenario popular at the time of revelation, but that it does not *prescribe* it as an irrefutable and irreplaceable commandment that must be encoded in the law and practiced by all who adhere to Islam as their way of life.”⁴⁸

Having argued for the informative narration of Qur’an, 4:34, *Kyai* Husein further analyzes the reason of men’s superiority. The verse gives two reasons: *bimā faḍḍala llāhu ba‘ḍahum ‘alā ba‘ḍ* and *bimā anfaqū min amwālihim*. The first reason is that God has favored some of them over the others. *Kyai* Husein finds that the Qur’ān does not state explicitly what God’s preference or favor is. It is the exegetes who interpret this to mean men’s superiority because of their physical and intellectual superiority.⁴⁹ In addition, *Kyai* Husein refers to the word *ba‘ḍ* which indicates that the superiority is not absolute and universal. Some people (men or women) excel over some other people. To illustrate his point, *Kyai* Husein takes the examples of ‘Ā’ishah and Khadījah as factual facts for women’s intellectual superiority. Therefore, according to *Kyai* Husein,

⁴⁵ Lamrabet, “An Egalitarian Reading of the Concepts of Khilafah, Wilayah and Qiwamah”, p. 71.

⁴⁶ Muhammad, *Ijtihad Kyai Husein*, pp. xvii–xviii.

⁴⁷ Muhammad, *Perempuan, Islam & Negara*, p. 179. See also p. 241.

⁴⁸ Wadud, “The Ethics of Tawhid over the Ethics of Qiwamah”, p. 268. Italics is mine.

⁴⁹ Muhammad, *Perempuan, Islam & Negara*, p. 241.

this superiority is not inherent, absolute and universal.⁵⁰

As for the second reason of men's superiority, the Qur'ān states because of what they (men) spend from their wealth. For *Kyai* Husein, this verse describes men's "functional responsibility" to meet the need of women and their families.⁵¹ Since the men acted as the breadwinner in the patriarchal society, it is their responsibility to provide the wealth. It is interesting to note that *Kyai* Husein uses the term "responsibility." Lamrabet seeks to show further that financial responsibility is not a privilege given by God, but rather a duty;⁵² it is not an honor but a responsibility that has to be undertaken by the breadwinners.

Therefore, in this interpretation, *Kyai* Husein agrees with other Muslim feminists' views that the authority and superiority in Qur'an, 4:34 is "conditioned *qiwamah*,"⁵³ which rejects the inherent and permanent right of authority, either to men or women.

The second issue which has been fiercely debated by many scholars is the second part of Qur'an, 4:34, which is the issue of the husband's right to physically hit the wifely *nushūz*. Chaudhry has comprehensively discuss this issue in her *Domestic Violence and Islamic Tradition*, comparing the monolithic patriarchal interpretation of the *mufasssirs* in medieval period with the diversity of patriarchal-egalitarian approaches to the Qur'ān in modern period.⁵⁴ She classifies the modern approaches into traditionalist, neo-traditionalist, progressive, and reformist based on the criteria 1) which worldview – patriarchal or egalitarian – is held, 2) whether the pre-colonial or medieval Islamic tradition is still upheld or

⁵⁰ Lamrabet would further argues that the text is without a gender specification. If there had been a gender specification, the verse would have been *bimā faḍḍala llāhu ba'ḍahum 'alā ba'ḍihinna*. See Lamrabet, "An Egalitarian Reading of the Concepts of Khilafah, Wilayah and Qiwamah", p. 82.

⁵¹ Muhammad, *Perempuan, Islam & Negara*, p. 241.

⁵² Lamrabet, "An Egalitarian Reading of the Concepts of Khilafah, Wilayah and Qiwamah", pp. 82–3.

⁵³ Omaima Abou-Bakr, "The Interpretive Legacy of Qiwamah as an Exegetical Construct", p. 58; Rahman, "The Status of Women in the Qur'ān"; Asghar Ali Engineer, "Islam, Women, and Gender Justice", in *What Men Owe to Women Men's Voices from World Religions*, ed. by John C. Raines and Daniel C. Maguire (Albany: State University of New York Press, 2001), pp. 109–28.

⁵⁴ Chaudhry, *Domestic Violence and the Islamic Tradition*.

rejected, and 3) is it permissible for a husband to hit his wife.⁵⁵

Kyai Husein as can be seen from his discussion above, as well as, in this issue, could not be classified as the traditionalist or neo-traditionalist for his insistence on egalitarian approaches to the Qur'ānic verses and Islamic tradition. I posit him to belong to the progressive side since he does not and could not depart from the Islamic tradition, as has been implemented by the fourth group, i.e., reformists. As Chaudhry explains, the difference between the progressive and the reformist approaches is that while the former prefers the egalitarian worldview by asserting "the minority or imagined opinions" of the Islamic tradition which support the egalitarian view in order to "retain authority in mainstream religious community," the latter, on the other hand, is willing to reject any tradition to maintain the egalitarian worldview.

In his interpretation of Qur'an, 4:34, *Kyai* Husein refers to the story of Ḥabībah bint Zayd who was hit by her husband. In the story, the Prophet himself was inclined to give the right of retaliation to the wife, but God willed differently. From this story, *Kyai* Husein stresses that this verse of the Qur'ān actually progresses towards justice, by outlining some steps before hitting the wife. Even in this last step *wa 'dribūhunna*, the Prophet preferred justice by giving the right to retaliate. But, since God willed differently, the Prophet advised the punishment should not result in bodily injury. Here, *Kyai* Husein refers to Naṣr Ḥāmid Abu Zayd's statement: "For sure, the Prophet's rejection of this husband's behavior shows his firm belief in justice and equality. But because the audience at the time was not able to understand, let alone support this principle, God have us with this text."⁵⁶ In his final analysis, these steps, for *Kyai* Husein, prove the gradual change to move toward discouraging the beating, and gradually abolishing it.

Furthermore, as has been discussed above, this Qur'ānic verse belongs to the informative text (*ḵabari*) that describes the context of the revelation. It must not, *Kyai* Husein warns, be taken to mean normative

⁵⁵ *Ibid.*, pp. 139–40.

⁵⁶ Naṣr Ḥāmid Abū Zayd, *Dawā'ir Al-Khaṣf: Qirā'ah Fī Khitāb Al-Mar'ah* (Beirut: al-Markaz al-Thaqāfi al-'Arabī, 1999), p. 212. Muhammad, "Re-Reading the Qur'ān: The Relation between Text and Context", p. 90.

and prescriptive for all times.⁵⁷

With these principles, *Kyai* Husein reinterprets the Qur'ānic verses. As a believing Muslim, he insists that the Qur'ān is absolute, the interpretation of the Qur'ān, on the other hand is relative. That is the reason he blames the persisting gender inequality in Islam to the biased patriarchal interpretation of the Qur'ān, and not to the Qur'ān itself. In *Kyai* Husein's view, the Qur'ānic particular verses which describe particular contexts – some scholars call this “anti-women”,⁵⁸ “hierarchical and androcentric”⁵⁹, and “hierarchy”⁶⁰ verses, have to be interpreted historically and contextually in the light of verses with general values.

As can be seen, *Kyai* Husein's ideas and methodology of interpretation have similar ideas with the existing gender egalitarian approaches in interpreting the Qur'ān. However, *Kyai* Husein does not end his discussion with the reinterpretation of the Qur'ān. His other main concern and analysis are also with *fiqh*, the traditional Islamic jurisprudence, which lays the support for gender hierarchy. Kecia Ali has warned progressive Muslims not to ignore jurisprudence. She invites them to analyze the rules and methods of traditional jurisprudence, especially the framework and the assumptions behind this *fiqh*⁶¹, and *Kyai* Husein has ventured to discuss that.

He states clearly that the *fiqh* on women issues are the product of patriarchal culture.⁶² To prove his point, he, for example, takes the definition of marriage (*nikāḥ*). The four schools of *fiqh* define *nikāḥ* as a transaction which legalizes the ownership of women's body by men. It states *Inna 'uqd al-nikāḥ waḍa'ahu al-shāri' li-yartab 'alayhi intifā' al-ḥanj bi-buḍ'*

⁵⁷ Muhammad, *Ijtihad Kyai Husein*, p. 208.

⁵⁸ Asma Barlas, “Secular and Feminist Critiques of the Qur'an: Anti-Hermeneutics as Liberation?”, *Journal of Feminist Studies in Religion*, vol. 32, no. 2 (2016), p. 112,

⁵⁹ Kecia Ali, *Sexual Ethics and Islam Feminist Reflections on Qur'an, Hadith, and Jurisprudence* (London: Oneworld, 2006), p. 152.

⁶⁰ Hidayatullah, “Feminist Interpretation of the Qur'an in a Comparative Feminist Setting”, p. 46.

⁶¹ Kecia Ali, “Progressive Muslims and Islamic Jurisprudence: The Necessity for Critical Engagement with Marriage and Divorce Law”, in *Progressive Muslims: On Justice, Gender and Pluralism*, ed. by Omid Safi (Oxford: Oneworld, 2003), p. 159.

⁶² Muhammad, *Perempuan, Islam & Negara*, p. 169.

al-ḡanjah wa sā'ir badanihā min ḥayth al-taladhdhubh (the marital contract is ordained by God (*al-Shāri'*) to provide the right of husband to benefit from the wife's vulva and all her body for sexual pleasure).⁶³ In this definition, *Kyai* Husein finds that the marriage is understood as *tamlīk*, ownership. Because of this definition, not only are the wives deprived from the sexual right over their husbands, but they are also dispossessed over the control of their bodies.⁶⁴ In another book, *Kyai* Husein argues that this definition of marriage shows that man can have sexual pleasure at any time and the wife has to perform her duty. The sexual pleasure is the husband right, and the wife's duty.⁶⁵ This contract (*'aqd*) of ownership (*milk*) that is granted to the husband over the wife is the framework which Ali has criticized as the root of the problem in husband and wife relation. This ownership is realized through the payment of the dower (*mahr*) by the husband. In legal texts, the dower or *mahr* is the price. Ali refers to the definition of al-Shāfi'i which states that the dower is a price for the woman's vulva (*thaman al-bud'*).⁶⁶

Consequently, through this ownership, Ali argues that the husband has a control and authority over the wife: the husband has the right to derive sexual pleasure from his wife and the wife has to provide her sexual availability. The husband "could restrict his wife's movement in order to keep her available to himself, including forbidding her to go the mosque or to visit her parents."⁶⁷ Because of the same reason, the wife could not fast without his permission. There is a prophetic ḥadīth which is cited by al-Shāfi'i "It is not lawful for a woman to voluntarily fast a day if her husband is present except with his permission." The reason for this prohibition is to ensure the wife's sexual availability.⁶⁸ Conversely, if the wife refuses to have sex, she can be considered as *nāshizā*, wifely *nushūz*.

⁶³ *Ibid.*, p. 45.

⁶⁴ *Ibid.*, p. 169.

⁶⁵ Muhammad, *Ijtihad Kyai Husein*, p. 14.

⁶⁶ Kecia Ali, *Sexual Ethics and Islam Feminist Reflections on Qur'an, Hadith, and Jurisprudence*, p. 4.

⁶⁷ Kecia Ali, "Progressive Muslims and Islamic Jurisprudence: The Necessity for Critical Engagement with Marriage and Divorce Law", p. 170.

⁶⁸ Kecia Ali, *Marriage and Slavery in Early Islam* (Cambridge, Mass.: Harvard University Press, 2010), p. 194.

In legal *fiqh* texts, in addition to the wife's refusal to have sex with her husband, the *nushūẓ* results from her departure from the house without her husband's permission.

It is quite understandable from this framework then that the assumption behind the subordinate views in Nawāwī's *Uqūd al-Lujjāyn*, which command the wife to obey her husband, to give in her body whenever her husband needs, not to go outside the house except with husband's permission, and even command the husband to hit his wifely *nushūẓ*, is that the wife has been owned (*milk*) by husband in exchange with dower (*mahr*) payment legalized in marital contract, and therefore, she has to be sexually available at any time.

It is for this reason that *Kyai* Husein does not regard *mahr*, dower as a price of woman.⁶⁹ Furthermore, he and other progressive Muslims have proposed that marriage or, specifically, marital contract, *aqd al-nikāḥ*, – is not a form of religious covenant or worship (*ʿibādah*), as has been so long traditionally held, but as *muʿāmalah*, a contract based on agreement of both parties. In addition, they recommended that the dower/dowry (*mahr*) may be given either by male or the female.⁷⁰ This proposal, which is known as Counter Legal Draft of Kompilasi Hukum Islam (CLD-KHI), will be discussed further.

These are some of *Kyai* Husein's reinterpretation of Qur'ānic verses and Islamic jurisprudence (*fiqh*) concerning women issues, which demonstrate his effort to criticize and change the oppressive and subordinate views against women. These ideas are considered radically progressive in the context of *pesantren*. His important role is even more visible, when we take into account his activism.

⁶⁹ Muhammad, *Fiqh Perempuan*, p. 128.

⁷⁰ See the discussion and the list of the proposed articles of Counter Legal Draft of Kompilasi Hukum Islam in Marzuki Wahid, "Reformation of Islamic Law in Post-New Order Indonesia: A Legal and Political Study of the Counter Legal Draft of the Islamic Law Compilation", in *Islam in Contention: Rethinking Islam and State in Indonesia*, ed. by Ota Atushi, Okamoto Masaaki, and Ahmad Suaedy (Jakarta: Wahid Institute-CSEAS-CAPAS, 2010), pp. 77–120.

D. *Kyai* Husein's Feminist/Gender Activism⁷¹

Kyai Husein is not only a scholar, but also involves in gender activism to apply his gender equal Qur'ānic interpretation, confront it with the traditional patriarchal understanding and "the lived realities of Muslim women"⁷² specifically in *pesantren* and in Indonesian Islam in general. Nelly van Doorn-Harder calls this activism "Qur'ān-based activism,"⁷³ where the Qur'ān with its gender equal values becomes the basis of the activism.

Following Badran who has identified three modes of feminist expression,⁷⁴ the last part of this article will discuss *Kyai* Husein's works and activism based on the second and third modes. The first mode, which is in the form of feminist writing, has been discussed above in relation to *Kyai* Husein's ideas and work on feminism.

The second and the third modes of feminism are in the forms of the everyday activism in social services, education and professions, and also in organized movement activism. Being a Muslim scholar and a *kyai*

⁷¹ The more comprehensive discussion on this activism can be referred to Nelly van Doorn-Harder, *Women Shaping Islam: Indonesian Women Reading the Qur'an* (Urbana (Ill.): University of Illinois Press, 2006).

⁷² This term is from Amina Wadud, "Can One Critique Cancel All Previous Efforts?", *Journal of Feminist Studies in Religion*, vol. 32, no. 2 (2016), p. 131; These lived stories of Muslim women become the basis of Musawah's Global Life Stories Project. See Mulki Al-Sharmani and Jana Rumming, "Understanding Qiwwah and Wilayah through Life Stories", in *Men in Charge? Rethinking Authority in Muslim Legal Tradition*, ed. by Ziba Mir-Hosseini, Mulki Al-Sharmani, and Jana Rumming (London: Oneworld Publications, 2015), pp. 219–55. *Kyai* Husein and other Indonesian Muslim feminists are also involved in this Musawah's Project.

⁷³ Pieterella (Nelly) Van Doorn-Harder, "Translating Text to Context: Muslim Women Activists in Indonesia", in *Women, Leadership, and Mosques: Changes in Contemporary Islamic Authority*, ed. by Masooda Bano and Hilary Kalmbach (Leiden: Brill, 2012), pp. 413–35; Julianne Hammer's article in the same volume describes it as "embodied tafsir." See Julianne Hammer, "Activism as Embodied Tafsir: Negotiating Women's Authority, Leadership, and Space in North America", in *Women, Leadership, and Mosques: Changes in Contemporary Islamic Authority*, ed. by Masooda Bano and Hilary Kalmbach (Leiden: Brill, 2012), pp. 457–80.

⁷⁴ Badran, "Feminism"; The identification of the three modes is from Sa'diyya Shaikh, "Transforming Feminism: Islam, Women and Gender Justice", in *Progressive Muslims: On Justice, Gender and Pluralism*, ed. by Omid Safi (Oxford: Oneworld, 2003), p. 157.

of *pesantren*, *Kyai* Husein has been involved in women/gender movement in *pesantren* community. Since 1995 he has been a regular resource person with the activism of P3M (Center for the Development of *Pesantren* and Society). According to *Kyai* Husein,⁷⁵ P3M was the first institution which advocates women's rights in Islam targeted specifically to *pesantren*, because of its central role in community development. The main program of P3M is called *Pelatihan Fiqh al-Nisa untuk Penguatan Hak-Hak Reproduksi Perempuan*, in many *pesantrens* in the regions of Java and Madura. Here, *Kyai* Husein presents and discusses his new reinterpretation of the Qur'ān and *fiqh* on women issues with *pesantren* leaders (*kyai* and also *bu nyai*, the wife of *kyai*) and teachers.

The involvement of respected Muslim scholars, such as *Kyai* Husein in this women movement program is very crucial since it can provide “credibility and authority to activists’ calls for new reinterpretations,”⁷⁶ because previously, women movement was mainly led and conducted by women activists. In addition, in order to avoid of being labelled as Western feminist program, the training uses the language and idioms of Islam, or even Arabic, for example, instead of saying “women’s rights” they used the Arabic term *ḥuqūq al-ummahāt*.⁷⁷ As is common knowledge, *kyai* and *pesantren* mostly utilize *kitab kuning* which is written in Arabic, therefore, in order for the training to be successful and for attracting their participation, the training program has to utilize Islamic language and idiom.

The issues discussed in P3M training cover Islam and gender, women’s rights, including women’s reproductive rights. This training presents views which argue against the existing discourse in Islamic tradition (*fiqh*) on husband-wife relationship by emphasizing women’s reproductive rights.⁷⁸ The result of this training is Mas’udi’s *Islam dan*

⁷⁵ Muhammad, *Perempuan, Islam & Negara*, p. 71.

⁷⁶ Clarissa Adamson, “Gendered Anxieties: Islam, Women’s Rights, and Moral Hierarchy in Java”, *Anthropological Quarterly*, vol. 80, no. 1 (2007), p. 12.

⁷⁷ Rosalia Sciortino, Lies M. Marcoes-Natsir, and Masdar F. Mas’udi, “Learning from Islam: Advocacy of Reproductive Rights in Indonesian Pesantren”, *Reproductive Health Matters*, vol. 4, no. 8 (1996), pp. 86–96.

⁷⁸ See further discussion in Nina Nurmila, “Indonesian Muslims’ Discourse of Husband-Wife Relationship”, *Al-Jāmi’ah: Journal of Islamic Studies*, vol. 51, no. 1 (2013), pp. 61–79.

Hak-hak Reproduksi Perempuan published in 1997, and *Menakar 'Harga' Perempuan: Eksplorasi Lebih Lanjut atas Hak-hak Reproduksi Perempuan dalam Islam*, edited by Syafiq Hasyim and published in 1999, which consists of papers presented at the training.

It is important to note that this training of women *fiqh* then was taken over by Rahima, the Center for Education and Information on Islam and Women's Rights, which was founded in Jakarta in 2000. The establishment of this Center was caused by the departure of some members from P3M, since its head, Mas'udi, practiced polygamy. According to them, this practice betrays gender movement and marginalizes women. The Rahima Center was established by Muslim scholars and Muslim women activists, including *ibu* Shinta Nuriyah Abdurrahman Wahid, Husein Muhammad, Lies Marcoes-Natsir, Farha Ciciek, etc.

In addition to provide Women *Fiqh* training, Rahima holds a program to prepare and produce Female '*Ulamā'*'. The participants are graduates of *pesantren* who can read *kitab kuning*. During the program, they will be equipped with critical reading methodology and gender analysis, and hopefully, according to Kyai Husein, at the end of the program "they are able to have [argumentative] debate with male '*ulamā'*' in *Baḥṭh al-Masā'il*, discussion forum, of NU, either in local or national level."⁷⁹

In 1998, Kyai Husein, together with other Muslim scholars from Forum Kajian Kitab Kuning (FK3: Association of *Kitab Kuning* Studies), under the leadership of *ibu* Sinta Nuriah, commented and evaluated (*ta'liq wa takehrīj*) the book by *Shaikh* al-Nawāwī, entitled *Kitāb Sharḥ 'Uqūd al-Lujjāyn*, which represents the most prerequisite textbook in *pesantren*. The book, as has been discussed previously, contains misogynistic views and has been transmitted to the students for a long period. As the result, in 2002, they published their findings in a book called *Ta'liq wa Takehrīj 'alā Sharḥ 'Uqūd al-Lujjān*. The book is written and published in Arabic, for the consumption of *kyai* and *pesantren*. Later in that year, the book was also published in Indonesian language, entitled *Wajah Baru Relasi Suami-Istri*.⁸⁰

⁷⁹ Muhammad, *Perempuan, Islam & Negara*, p. 81.

⁸⁰ According to Nurmila, in addition to *Wajah Baru Relasi Suami-Istri*, they also publish *Kembang Setaman Perkawinan: Analisis Kritis Kitab 'Uqūd al-Lujjāyn* in 2005, and Faqihuddin Abdul Kodir published *Mamba'us Sa'adah*. Unfortunately, I could not access these books. See Nurmila, "Indonesian Muslims' Discourse of Husband-Wife Relationship", p. 74.

Kyai Husein himself has discussed Nawāwī's *Kitāb 'Uqūd al-Lujjayn*, for example in his two books: the last part of his *Fiqh Perempuan* published in 2001, and Chapter Three on "Perempuan dalam Kitab-Kitab Pesantren" of his *Perempuan, Islam & Negara* published in 2016.

In addition to Rahima and FK3, *Kyai* Husein involves with Puan Amal Hayati Foundation, which is also under the leadership of *bu* Sinta Nuriyah. Puan is the abbreviation of Pesantren untuk pemberdayaan perempuan (*Pesantren* for women empowerment), meanwhile Amal Hayati stands for "harapan kehidupan" (hope for life).⁸¹ This NGO was established on July 3, 2000 in Jakarta and serves as women's crisis center. It has a network with more than 10 *pesantrens* in Java and outside Java, but, as van Doorn-Harder describes it, the total number is "a mere drop in the ocean of Indonesia's 14,000 registered *pesantren*."⁸²

These three institutions: Rahima, FK3 and Puan Amal Hayati, are related with *pesantren* and work to empower *pesantren*. According to Farha Ciciek, woman activist who is involved in these three NGOs, that they have distributed their job description quite fairly. FK3 is more concerned with religious discourse in terms of critical study and reinterpretation of *kitab kuning* texts which discriminate women, Rahima, on the other hand, is more concerned with the socialization of women discourse with gender perspective through training, seminar, and publications. Puan Amal Hayati, in its turn, stands as women's crisis center to give counseling for women victims of public or domestic violence.⁸³

Besides his involvement with these three NGOs in Jakarta, *Kyai* Husein also establishes the Fahmina Institute, an NGO, which aims at promoting social and gender justice in Cirebon in 2001. The programs of Fahmina cover Islam and democracy, Islam and gender and Islam and community empowerment. The program is held in many *pesantren* in West Java in the form of critical studies of religion through training and discussion. They have also held training on Islam and Gender for

⁸¹ Muhammad, *Perempuan, Islam & Negara*, p. 81.

⁸² Van Doorn-Harder, "Translating Text to Context: Muslim Women Activists in Indonesia", p. 421.

⁸³ See the interview with Farha Ciciek in Jajat Burhanudin and Oman Fathurahman (eds.), *Tentang Perempuan Islam: Wacana dan Gerakan*, (Jakarta: Gramedia Pustaka Utama and PPIM, 2004), p. 126.

women activists who lack of Islamic knowledge on gender issues. Because of this training, Fahmina publishes *Dawrah Fiqh Perempuan*, a training manual for women's *fiqh* directed for secular gender activists.⁸⁴ Beside *Dawrah Fiqh Perempuan* manual, Fahmina publishes a book called *Fikih Anti Traficking: jawaban atas Berbagai Kasus Kejahatan Perdagangan Manusia dalam Perspektif Hukum Islam*, as a response to women and children trafficking in Indonesia.

Apart from *pesantren* community, *Kyai* Husein regularly becomes a resource person in gender trainings and workshops in women's studies centers of some universities. According to Alimatul Qibtiyah, at the beginning, the main objectives of these centers which were established during the late 1980s is to provide research data on women issues, such as women's rights, and women's needs for the government. Since 2000, the centers, especially in Islamic universities, started to conduct researches on misogynist Islamic texts and provide new egalitarian interpretation of gender in Islam.⁸⁵ The goal is not only "to infuse the universities' curricula with gender awareness,"⁸⁶ but also to the mainstream gender within the policies of Islamic universities.

In addition to actively participate in gender training in *pesantrens* and Islamic universities, in 2004, *Kyai* Husein, together with a group of Muslim scholars and activists from Lembaga Kajian Agama dan Jender (The Institute for Religious and Gender Research), led by Musdah Mulia, formulated the Counter Legal Draft of Kompilasi Hukum Islam. The group criticize the discriminatory clauses of the existing Indonesian marriage law No. 1/1974 and Presidential Decree No. 1/1991 on KHI relating to age at marriage, the stipulation of male household heads, the requirement for a *wali* to be a male, differential divorce rights, and the continued legal support for polygamy. They also want to revisit unequal

⁸⁴ The book is written and published in Bahasa Indonesia in 2006, and then also translated into English with a "Foreword" from Ziba Mir-Hosseini in 2006. See Husein Muhammad et al., (eds.) *Dawrah Fiqh Concerning Women: Manual for a Course on Islam and Gender* (Cirebon: Fahmina Institute, 2006).

⁸⁵ See the discussion in Alimatul Qibtiyah, "Women's Studies and Gender Studies Centres: How They Contribute to Feminism", *Pakistan Journal of Women's Studies: Alam-E-Niswan*, vol. 19, no. 2 (2012), p. 170.

⁸⁶ Van Doorn-Harder, "Translating Text to Context: Muslim Women Activists in Indonesia", p. 422.

inheritance. The group would like to propose “a set of formulations on Islamic law which upholds values of humanity, respects women’s rights, spreads wisdom and kindness, and achieves wellbeing for all of human kind.”⁸⁷ Their proposal is very progressive, departing from the traditional views. They list 18 changes in marriage law, including the permissibility of woman to be a *wali* in the marriage, the prohibition of polygamy, and the permissibility of inter-religious marriage. They also propose the equal portion of inheritance 1:1 or 2:2 between male and female.

Kyai Husein argues that the Indonesia Marriage Law mostly base their stipulation on *fiqh* books that are still discriminative to women. He therefore proposes family law which is more protective and just for women from the Islamic tradition itself, through the process of selection (*intiqā’i*) and contextualization (*ijtihādī*).⁸⁸ The first strategy is to search and find selectively, either from the four schools of Islamic law or outside these schools, the views which respect women’s rights. He finds, for example, that in Mālikī school as held by the Family Law of Marocco, Mudawwanah al-Usrah, the minimum age at marriage is 18 years old for both male and female, through the consideration of their reproductive health, psychological readiness and intellectual maturity. He admits, however, that this strategy is very eclectic and not the ideal one. The preferred one is the contextual interpretation of the Islamic traditions. As has been proposed by Fazlur Rahman’s “double movement,”⁸⁹ the contextual interpretation starts by studying the socio-cultural, historical and political context⁹⁰ behind the formulation of these *fiqh* texts in order to find the *ratio legis* (moral ideal) of the specific issue. This moral

⁸⁷ Wahid, “Reformation of Islamic Law in Post-New Order Indonesia: A Legal and Political Study of the Counter Legal Draft of the Islamic Law Compilation.”

⁸⁸ Muhammad, *Perempuan, Islam & Negara*, p. 156.

⁸⁹ Fazlur Rahman, *Islam and Modernity: Transformation of an Intellectual Tradition* (Chicago: University of Chicago Press, 1982), pp. 6–7. Kyai Husein does not state explicitly that he quotes or refers to Fazlur Rahman, but it is quite clear that this contextual interpretation belongs to Rahman’s.

⁹⁰ Abdullah Saeed calls this “macro context.” See Abdullah Saeed, *Reading the Qur’an in the Twenty-First Century a Contextualist Approach* (New York, N.Y.: Routledge, 2014), p. 5.

objective is then to be embodied to the present socio-historical context.⁹¹

Finally, *Kyai* Husein's involvement in activism against women's oppression becomes more influential when he was elected and served as a Commissioner in National Commission on Violence Against Women (Komnas Perempuan), for two terms 2007-2014. The KP, Commission, deals with basic human rights of women in Indonesia, on all sorts of violence against women. Specifically, its objective is to prevent, handle, and abolish all forms of violence against women. *Kyai* Husein and KP, for example, criticizes the "institutionalization of discrimination" (*pelembagaan diskriminasi*)⁹² against women in many governmental policies and regional regulations throughout Indonesia.

In 2009, they found that 64 out of 154 regional policy/legislations discriminate women,⁹³ in the form of restricting women's right of freedom of expression with the regional policy on dress code, reducing their rights of legal protection and certainty due to the criminalization with the regional policy on prostitution, eliminating their rights of legal protection and certainty with the regional policy on *kehalwat* (intermingling between men and women), and neglecting their rights of protection with the regional policy on migrant workers. They further recommend to the government to abolish these discriminate policies because they contradict human right and also women's right. *Kyai* Husein, as a Muslim scholar, further complements the argument from religious and especially Islamic tradition perspective.

After the completion of his two terms in KP, *Kyai* Husein continues his daily activism in *pesantren*, higher education institutions, as well as in organized women movements. For his service, he has been granted many awards regionally, nationally and internationally. Regionally, he was awarded "The Figures of Women's Empowerment" by the Regent of Cirebon district in 2003. Internationally, he was awarded "Heroes to End Modern Day-Slavery" by the US Department of State in 2006 for his

⁹¹ I am afraid that *Kyai* Husein mistakenly states that the ratio legis might become irrelevant because of the changing contexts. See Muhammad, *Perempuan, Islam & Negara*, p. 159. It is not the ratio legis that changes but the legal provision.

⁹² This term is from Kamala Chandrakirana, the founder and the past Chairwoman of KP. See *Ibid.*, pp. 133–4.

⁹³ *Ibid.* For the KP's report see, <http://www.komnasperempuan.go.id/atas-nama-otonomi-daerah-pelembagaan-diskriminasi-dalam-tatanan-negara-bangsa-indonesia-2/>.

fight against human trafficking.⁹⁴ His Fahmina Institute in Cirebon was the finalist for “Humanitarian Award for Faith Based Entrepreneurship: Opus Prize” in Georgetown University, Washington DC in 2013.⁹⁵ These awards prove the contribution of *Kyai* Husein’s works in his engagement with human, especially women empowerment in Indonesia.

E. Concluding Remarks

In addition to the positive reception, for sure, there are negative responses to *Kyai* Husein’s ideas and activism. His ideas have stirred debates and controversies among religious leaders, *kyais*, of *pesantren*. *Kyai* Husein was summoned to *Pesantren* Lirboyo Kediri East Java, his almamater, to take account of his ideas to his senior *kyais*. He has been questioned and examined by these senior ‘*ulamā*’. *Kyai* Husein presented his ideas on gender equality based on his understanding of the Qur’ān supported by Islamic intellectual tradition, *kitab kuning*. At the end, most of the *kyais* could receive his ideas, but with a reservation that he could not disseminate his ideas to the wider public.

The publication of the critical study of *‘Uqūd al-Lujjāyn* has also stimulated some negative response from traditional ‘*ulamā*’ in East Java. They published a book, entitled *Menguak Kebatilan dan Kebobongan Sekte FK3 dalam Buku Wajah Baru Relasi Suami-Istri: Telaah Kitab Uqūd al-Lujjān*. They accused the authors of the book to have been influenced and invaded by Western thought and have distorted Islam.⁹⁶ The proposal of CLD KHI was also rejected because of its radical progressive views.

Some group of Muslim with fundamentalism leanings furthermore came to forcibly lock the office of Fahmina Institute in May 2006,⁹⁷ because they accused Fahmina Institute for disseminating deviant views which are contradictory to Islam.

These are some negative responses of Indonesian conservative Muslims towards *Kyai* Husein and women/gender activist movement

⁹⁴ See “*Kyai* Husein Muhammad - U.S. Department of State Trafficking in Persons Report Heroes”, n.d., <http://www.tipheroes.org/kyai-husein-muhammad/>.

⁹⁵ “Opus Prize Awards Ceremony”, n.d., <https://berkleycenter.georgetown.edu/events/opus-prize-awards-ceremony>.

⁹⁶ Muhammad, *Perempuan, Islam & Negara*, pp. 82–3.

⁹⁷ *Ibid.*, p. 91.

in *pesantren*. The influence of *Kyai* Husein and this feminist movement in *pesantren*, however, is very significant. Many graduates of women *fiqh* training continue their networks to gender mainstreaming in *pesantren* and also in local community. They establish many women movement and also crisis women centers in *Pesantren*. *Kyai* Husein admits that it is difficult to change the patriarchal views in *pesantren* because these views have been deeply rooted and transmitted through generations. It is even more difficult to change if the *kyais*, the religious leaders of *pesantren*, have conservative and exclusive understanding of Islam. *Kyai* Husein believes that the success of gender mainstreaming in *pesantren* depends on the role of *kyai*, because he is the most authoritative in *pesantren*. The openness of *kyai* with new ideas will pave the way for social change in the community.

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