AN ANALYSIS OF ISLAMIC FEMINISM IN INDONESIA:
Reconstruction of Islamic Legal Issues on Gender Relations

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Abstract

Artikel ini mendiskusikan gerakan feminisme Islam dalam masyarakat Indonesia kontemporer. Gerakan ini merupakan respons terhadap ketidakadilan gender yang dialami oleh para perempuan Muslim Indonesia. Ketidaksetaraan ini tidak saja didukung oleh penelitian psikologis dan antropologis, tetapi juga oleh interpretasi tradisional terhadap Islam yang dikodifikasikan dalam "kitab-kitab kuning" dan disebarluaskan oleh pesantren-pesantren. Ini kemudian masuk ke dalam kesadaran orang Islam dan diambil sebagai ajaran Islam yang "benar". Selanjutnya, ajaran ini menguat melalui proses hegemoni dengan cara "kesepakatan" (consent), sehingga sulit bagi perempuan untuk menjauhinya. Bagaimanapun juga, kemunculan intelektual Muslim untuk mendekonstruksi interpretasi-interpretasi tradisional terhadap Islam yang bias gender dan merekonstruksi sebuah penafsiran yang lebih adil adalah sebuah fenomena yang tidak dapat dipisahkan dari kesadaran perempuan tentang ketertindasan mereka di dalam dunia Muslim. Mereka menasfsirkan teks-teks tersebut dengan menggunakan metodologi dan pendekatan yang berbeda termasuk, di antaranya, pendekatan lingusitik, hermeneutic, *qath'î-zannî*, dan metode *takhrîj* dan *ta'lîq*.

Key Words: **Islamic feminism, gender relation, hermeneutics, *qath'î-zannî, takhrîj, ta'lîq***

Introduction

Discourse on gender relation has attracted many scholars from different backgrounds such as sociology, anthropology, history, theology, politics, and feminist studies. They basically agree with the

difference of sex and gender in terms of meaning. Sex usually refers to something that is given by God. Meanwhile, gender is socially and culturally constructed in particular societies. Ann Oakley (1972: 158) defines sex as a biological term, while gender has psychological and cultural connotations. This means the fact that human beings are born as male and female is divinely ordained, while having masculinities and femininities is socially and culturally constructed. The same is also true of the assignment of particular jobs to man and woman. For instance, in traditional societies, women are associated with childrearing and doing domestic jobs, while men are linked with hunting and power.

This difference does not make any problem as long as the biologically given is not utilized as an ideology to subordinate women in myriad aspects of life, such as social, economic, and political. However, in fact, women experience inequalities, not only in public spheres but also in domestic ones. Such cases as torture and violence against women in family, and rape in marriage are still common phenomena in Indonesian contemporary society, in which patriarchy is still deeply rooted. In public life, for instance, sexual harassments and violence often occur in the workplaces, female workers are paid less than male workers, and women are frequently hampered to occupy certain positions.

The biological difference that leads to gender inequality is supported by scholars from fields of psychology and anthropology. For instance, women are perceived as emotionally expressive and submissive. They are also regarded as more affectionate than men. All of these lead to the belief that the most appropriate job for women is domestic job, such as childcare and doing housework. On the other hand, men are more associated with public jobs, which they have a total control in economy. This separation, according to Rosaldo (1974: 24-5), is a basis for universal denigration of women activities, which in turn subordinates women.

In addition, biological determinism assumes that women are subordinate and under control of men because of biological sex. This factor is perceived as natural, eternal and unchangeable. Changes in human life are socially and culturally determined by their biological sex. For example, female reproduction determines space and time for women's activities. Pregnancy and childbearing automatically and

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constantly narrow women's activities in public, however, these can widen their time in domestic sphere doing childrearing and housework. Hormonal changes and menstruation influence women's emotions, which often cause them less able to control and manage their behavior. Meanwhile, men have stronger physical appearance than women, therefore, are appropriate with such jobs as hunting and power. This biological example is used to justify sexism in history.

Religion is also seen as playing a role in bringing about gender inequality, even the Sacred Books and their interpretations are often perceived as perpetuating this inequality in society and as a source for the origin of female subordination (Turtle, 1987: 272; Kelly, 1981: 95). In general, religion refers to systems of belief. Among feminists, there is an assumption that the institutionalized systems of belief dominating modern worlds are sexist. Language and interpretation concerning women in the sacred books are believed as a primary source for women's inferiority. Therefore, it is necessary to make a more just interpretation in order that women are not disadvantaged and discriminated.

Recently, there is a trend from some Muslims in Indonesia, as counter-hegemony, to deconstruct a gender-biased interpretation and reconstruct a more just interpretation of Islam. They are, as Gramsci calls, "organic intellectuals" who are aware of injustice that is experienced by women and make a great effort to eliminate inequalities by reinterpreting a more equal interpretation of Islam. The questions are: How have the traditional interpretations of Islam that are gender-biased penetrated into Muslim community? How did Muslim feminists do the reinterpretation?

Pesantren, Kitab Kuning and Gender Relations
There is no doubt that religious perceptions have significant impacts on people behaviors and attitudes in their relations with other people and their environment. In Islam, authority to interpret religious texts is at the hand of the *ulama* (religious scholars) since they are regarded as having skills and competence in understanding religious texts. The privileged position of *ulama* is mostly occupied by men. In the tradition of interpretation, it frequently occurs that the masculinity of male *ulama* has great impacts on interpreting Islam, particularly on gender relations. The symbols and texts that are established by male

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ulama, contain patriarchal thought and subjectivity that disadvantage women (White, 1995: 87).

The objective and psychological conditions of the interpreter also play a role in affecting him in interpreting religious texts and symbols. In addition, as Edward Said (1981: 154) points out, one's interpretation is situational in the sense that it is influenced by social, cultural and political contexts in which the interpreter lives. Islamic teachings on gender relations, which are in the "yellow books", are established in the periods which patriarchy is strongly rooted in the community. Therefore, it is possible that there is an effort to re-position women in subordinate, which, in the period of the Prophet, women were promoted their status. This has occurred for so long that it is difficult to distinguish normative Islam from the interpreted Islam. Here, it is appropriate to use the concept of power-knowledge developed by Michel Foucault. Every text, particularly on women, is a power. There is no knowledge inseparable from power, which has political interests. This means that women's reality is built and established on male's points of view that have patriarchal interests.

Islamic teachings on gender relations in the "yellow books" are representation from women's reality. According to Franscois Lyotard, representation is a text which social reality is built upon relations between texts. This representation is perceived as women's nature (*kodrat perempuan*). In social sciences, there is no natural representation. Every representation is culturally and socially constructed. Therefore, all representations are human-made and open to criticize and to deconstruct. In this case, texts on women are socially and culturally constructed. If the texts are not relevant anymore in current situation, deconstruction of the texts is necessary.

These interpretations are codified in so-called "yellow books" (*kitab kuning*) ranging from *tafsir* (Qur'anic exegeses), Hadith literature, and *fiqh* (Islamic law). In this case, *Pesantren* (center for learning traditional Islam) and *madrasah* (Islamic schools) play an important role in spreading Islamic interpretations that are in the "yellow books" into Muslim community in Indonesia. Thus, the community take this interpretation for granted and perceives it as the "true" Islam. Muslim communities accept this without any force, but through what Gramsci calls "consent". From here, the instillation of

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traditional interpretation of Islam runs effectively. This becomes hegemony and makes it difficult for women to get rid of it.

The spread of Islam in Indonesia, which, to a large extent, is done by *pesantren,* is mystical or *tasawuf* (Shihab, 2001) and *fiqh-*oriented. In field of *fiqh* (Islamic jurisprudence), most of Muslims in Indonesia are more affiliated with Shafi'ite School than the other schools of Islamic jurisprudence. Shafi'ite thoughts, which tend to be "traditional" and "less liberal"*,* have intensively penetrated into Muslim minds, particularly in cases, such as *'ibâdah* (religious observances)*, mu'âmalah* (transaction)*,* and *munâkahât* (marriage). It is this kind of Islam that has penetrated into Muslim community in Indonesia.

In all *pesantrens* in Indonesia, it is estimated that only 20 % (180) of 900-kitab *kuning* is books on Islamic jurisprudence based on Shafi'ite School of Islamic law. In comparison with other classical books, this kind of books has the greater portion in *pesantren* tradition. According to Martin van Bruinessen (1995), in general, Shafi'ite books of Islamic jurisprudence which have been widely used in all *pesantren* in Indonesia are the creation of three significant books, that is, *al-Muharrar* by Imam Rafi'i (d. 1226 AD), *al-Ghâyat wa al-Taqrîb* by Abu Syuja al-Isfahani (d. 1512 AD), and *Qurrat al-'Ayn* by Zainuddin al-Malibary (d. 1567 AD). The first book, *al-Muharrar*, is commented by Abu Zakariya Yahya al-Anshari (d. 1277 AD) in *Minhâj al-Tâlibîn*. This book is given commentaries by so prominent *ulama* as Ibn Hajar al-Haytami (d. 1565-6 AD) in *Tuhfat al-Muhtâj*, Syamsuddin al-Ramli (d. 1559-60 AD) in *Nihâyat al-Muhtâj*, Jalaluddin al-Mahally (d. 1460 AD) in *Kanz al-Râghibîn*, and Zakariya al-Anshari (d. 1520 AD) in *Fath al-Wahhâb*. Fath al-Wahhab is elucidated in detail in *Hâsiyat al-Bujairimî* (d. 1806 AD) and *Hâsyiyat al-Jamâl* (d. 1789-90 AD).

The second book, *al-Ghâyat wa al-Taqrîb*, is commented by three scholars, such as al-Khatib al-Syarbini (d. 1569 AD) in *al-Iqnâ'*, al-Dimasyqi (d. 1426 AD) in *Kifâyat al-Akhyâr*, and Ibn Qasim (d. 1512 AD) in *Fath al-Qarîb*. *Fath al-Qarîb* is thus explained in detail in *Hâsyiyat al-Bâjûrî*. The third book, *Qurrat al'Ayn*, which is written by Zainudin alMalibary, is given commentaries, first, by the same author in his book *Fath al-Mu'în* and secondly, by Syaikh Nawawi al-Bantani in *Nihâyat al-Zain*. The book *Fath al-Mu'în* is explained by

Sayid Bakri (d. 1893 AD) in *I'ânat al-Tâlibîn* and Alwi al-Saqqaf (d. 1916 AD) in *Tarsyîḫ al-Mustafîdîn*. In addition to these books, the most well known *kitab kuning* written by Indonesian *ulama*, which is used in most *pesantren* is *'Uqûd al-Lujjain* written by Syaikh Muhammad bin Umar al-Nawawi al-Bantani (1314 H.). This book is perceived as disadvantaging women since it assumes that women are under the control of husbands.

Traditionally interpreted Islam, which is in *kitab kuning* particularly on gender relations, treats women as the second sex and as an object. It assumes that women like a half of men. This can be found such cases as the women's creation, polygamy, witness, inheritance, female leadership, and regulation on female sexuality. This, in turn, leads to female subordination and oppression in both private and public lives.

Islamic Feminism: Methodology and Approach

Reconstruction is an effort to give an explanation concerning particular issues, which have been previously elucidated but are not relevant to the current situation. Reconstruction usually begins with deconstruction of the texts. This is based on the fact that there are vested interests in previous texts. It is argued that the texts, which are established, are inseparable from patriarchal subjectivity. Therefore, the texts are open to be criticized and deconstructed.

Furthermore, reconstruction is necessarily done in order to get a more just interpretation of Islam on gender issues, such as the creation of women, polygamy, female leadership, female circumcision, inheritance, witness, divorce, veiling, and so on. In doing reconstruction, there is a slight difference in methodology and way Muslim feminists do. However, they have something in common in understanding the essence of Islam.

First, Islam is a religion that is concerned about justice and equality. There is no difference between the haves and the have-nots, the White and the Black, and men and women. The most important thing is the quality of *taqwâ* (al-Hujurat: 13). There are some verses (*âyât*) indicating that justice and equality is the basis and spirit of Islam (al-Nahl: 97; al-Nisa: 124; al-Mu'min: 40). If there is an interpretation that is in contradiction with this spirit, it should be reinterpreted in order to be in conformity with this spirit.

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Secondly, Islam is a liberating religion. The arrival of Islam is, in part, a response to capitalist-patriarchal power that subordinated and disadvantaged women. For instance, Islam gives women the right to inherit in the society that did not give inheritance, but were inherited. The same is true of female witness, which Arabic society did not recognize the concept of witness for woman. Islam also encourages slaughtering one goat for a born-female baby (*aqîqah*), as a sign of thanking for welcoming female baby, in the society that frequently did female infanticide. These points are the basis for reconstructing gender issues among Muslim feminists in Indonesia.

In doing reconstruction, they need methodologies and approaches. This is intended to give a firm basis for their thoughts. Without approach and methodology, it is possible that a reconstruction will be weak and unclear. In this regard, Muslim feminists take different ways and approaches. The object of the reinterpretation is Quranic verses, Hadith, and legal opinion of the *ulama.*

The first is *semantic approach*. This is an analysis to the meaning of the word, its origin and changes in meaning. As Noam Chomski points out, semantic is an integral part of grammatical analysis; or the meaning of the sentence should be given a similar attention as it is in semantical structure (Bagus: 1996, 982). Therefore, the focus is analysis of each word, its meaning, and its change. In Islamic tradition, this can be included into science of *mufradât* (words) in *Ulûm al-Qur`ân* (Science of Quran).

This approach is taken by some feminists in the Muslim worlds, such as Amina Wadud Muhsin (1994) in *Wanita di Dalam Al-Quran* and Riffat Hassan (1991: 86-96) in *the Issue of Woman-Man Equality in the Islamic Traditions*. Amina employs linguistic approach in analyzing the Quranic verses on woman. For instance, in terms of the verse on the creation of woman (Eve; *Hawa*), [al-Nisa: 1], Amina analyses such words as *khalaqa*, *min*, *nafs wahidah*, and *zauj*. These words are key terms to be analyzed in order to prove whether or not Hawa (woman) was created from Adam (man). From such analysis, Amina comes to conclusion that Adam and Hawa are created from the same substance (*min nafs wâḥidah*).

Among Indonesian Muslim feminists, this approach is also employed by Nasaruddin Umar. Nasaruddin Umar gives an analysis to the words *al-rijâl* and *al-nisâ* in the verse *al-rijâl qawwâmûn 'alâ al-*

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nisâ bimâ faddhala Allâhu ba'dhahum 'alâ ba'dh (al-Nisa: 34), as well as *al-dzakar* and *al-untsâ*. The first words (*al-rijâl/ al-nisâ*) are gender terms meaning that they are used to describe the moral and cultural quality of human beings, while *al-dzakar/ al-untsâ* refers to biological sex (Umar, 1999: 144-50). In addition, the word *qawwâmûn* is given the same analysis since in Arabic this word has multiple meaning; the leader, protector, maintainer, and in charge of. Nasaruddin prefers to "maintainer or protector" in giving the meaning of *qawwâmûn* since if this term refers to "leader or in charge of," this leads to structural connotation meaning that there is a hierarchical position. Meanwhile, if it refers to "maintainer," it has a functional connotation meaning both husband and wife are partners in family life, as well as man is not superior over woman.

The second approach is *hermeneutic*. Hermeneutic is from Greek "hermeneus" which means interpreter or translator. This theory is particularly used to explain classical texts and to elucidate what the author or interpreter does in his or her life. Text is first seen as coherently integral, thus, it is given an exegesis. Furthermore, the action of the author or interpreter is explained based on historical materials. Therefore, a text can be understood and elucidated. A reader must be able to enter into social and cultural context in which the author or interpreter lives, fully understanding social, cultural, and geographical situation (Umar, 2002: 26-7). In Islamic tradition, this theory is almost the same as *asbâb al-nuzûl* in science of Qur'an (*Ulûm al-Qur`ân*).

For instance, while speaking about the law of veiling in the current situation, Hussein Muhammad (a *kiayi* from the *Pesantren Darut Tauhid*, Arjaningun, West Java) comes to conclusion that Islamic veiling (*berjilbab*) is not compulsory (*wâjib*). This is due to the fact that, Hussein Muhammad argues, *jilbâb* (Islamic veil) is situational and conditional. Hussein looks through the reason why this *âyat* was revealed. As Ibn Saad states in his book *al-Tabaqât*, the Prophet's wives went out in the evening to meet their needs. At the time, the hypocrites (*munâfiq*) teased and harassed them. They reported this case to the Prophet. When the Prophet told to the hypocrites not to harass the women, they said that they think that the women were the slaves. Then, this *âyat* (al-Ahzab: 59) was revealed. According to Hussein Muhammad, this *âyat* indicates that veil (*hijab,*

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jilbab) is only a symbol of identity to distinguish the Prophet's wives from slaves. Because slaves are not available in the current situation, the practice of veiling is not compulsory anymore (Muhammad, 2001: 39-40). Musda Mulia (1999) also employs this approach while speaking about polygamy. She argues that polygamy is something that had been widely practiced in Arabic society for thousands of years before Islam came along. What the prophet Muhammad did at the time, according to Musdah, was to restrict the number of wives a man can have from unlimited to as many as four. The verse on polygamy during the Prophet Muhammad's life shocked Arab men, many of whom had hundreds of wives at the time. So radical was the change that some tribal leaders decided not to convert to Islam because they just could not see being married to only four wives.

The third approach is employing the concept of *qath'î-zannî* in *ushûl al-fiqh* (methodology of Islamic jurisprudence). This is intensively used by Masdar F. Mas'udi in his book *Islam dan Hak-hak Reproduksi Perempuan: Dialog Fiqih Pemberdayaan*. In the Qur'an, according to Masdar (2000: 31-2), there are two doctrines, universal (*kulliyât*) and particular (*juz'iyyât*). The universal doctrine is not limited by space and time. This is known as *muhkamât* or *qath'î* (absolute), such as doctrines on liberty, freedom and individual responsibility (al-Zalzalah: 7-8); equality before Allah (al-Hujurat: 13); justice (al-Nahl: 90); equality before law (al-Ma'idah: 80); no harm to others (al-Baqarah: 279); social control (al-'Ashr: 1-3; al-Ma'idah: 78-79); keeping a promise (al-Baqarah: 177); cooperation in righteousness and piety (al-Ma'dah: 2); protection of the miserable (al-Nisa: 75); consultation in all matters (al-Syura: 38); equality between wife and husband in family (al-Baqarah: 187); and living together in a friendly manner [al-Nisa: 19]. Meanwhile, the particular (*juz'iyyât*) is limited by time and space. This is known as *mutasyâbihât* or *zannî* (relative). For instance, justice, which is a universal, absolute principle (*qath'î*), is necessary to be achieved in the community, therefore, the instrument to realize this principle is also necessary. This can be realized by establishing the state. However, to formulate the form of the state and system of the administration depends on people (*ijtihâdiyah*) as long as the principle of justice is concerned. Since it is *ijtihâdiyah,* it is relative (*zannî*) and subject to be criticized.

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The other approach is method of *takhrîj* (derivation) and *ta'lîq* (commentary) of the *hadith* of the Prophet. The first, *takhrîj*, is a method that is in the science of Hadith (*Ulûm al-Hadît*s) to find out the authenticity and the availability of the *hadith*, who narrates it, when and where it is transmitted, and in what context the *hadith* emerges. The example is an analysis of the *hadith* on female leadership, "the nation has never been successful if their affairs are entrusted to a woman." This hadith is narrated by Abu Bakrah. Most of Muslim feminists give their firm critics to this narrator employing historical and sociological approaches. For instance, they analyze who is Abu Bakrah. Like Fatima Mernissi, Nasaruddin Umar comes to conclusion that the transmitter of the *hadîth* is distrusted his credibility since, as reported in history, he accused a Muslim of committing adultery, but was not able to bring four witnesses. According to Al-Quran, such a person is denied his witness forever and ever, including narrating the *hadith*.

Meanwhile, *ta'lîq* is a method of giving a commentary to the *hadith* particularly if the quality of the *hadith* is valid and authentic (*shahîh*). Feminists give other meanings and interpretations in order to be in harmony with the spirit of the Quran that is very much concerned about justice and equality. Both methods are intensively employed by Sinta Nuriyah Wahid, along with women and academics, in Study Forum for Yellow Books (F3K, *Forum Kajian Kitab Kuning*). This forum attempts to analyze and reinterpret some classical texts that are used widely in *pesantren* in Indonesia including, among others, *Uqûd al-Lujjain.* As a result, this forum launched a controversial book that criticized relations between husband and wife, *Wajah Baru relasi Suami-Isteri: Telaah atas Kitab 'Uqud al-Lujjain*, which was published by LKiS, Yogyakarta. From the research, it is argued that from 90 hadiths in the book, there are 50 hadiths that are in trouble. In addition, it is concluded that 9 hadiths are fake and other hadiths are almost fake or no support (Kompas, 26 November 2001).

These are methods that Muslim feminists employ in reinterpreting gender issues in Islam. In this case, there is a close link with other Muslim feminists in the Islamic world, such as Qasim Amin, Fatima Mernissi, Azizah al-Hibri, Riffat Hassan, and Ashgar Ali Engineer.

Conclusion

From the above discussion, it can be concluded that a movement of Muslim feminists in their effort to give a more equal interpretation of gender issues in Islam is inseparable from the rising consciousness of gender imbalance in the social world, which is, in part, supported by the traditional interpretation of Islam. Such issues as women's creation, polygamy, divorce, female leadership, female genital mutilation, female sexuality are examples that indicate that women are seen as an object and treated as a second sex.

The methodology that Muslim feminists in Indonesia employed has continuity and close link with other Muslim feminist in Islamic world, such as semantic, semiotic, hermeneutic, method of *takhrij* and *ta'liq*, concept of *qath'iy* and *zanniy* in *ushul al-fiqh* (methodology of Islamic jurisprudence).

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