

Studies on Islamic Cultural and Intellectual History

1

Indonesian and German views on the Islamic legal discourse on gender and civil rights

Edited by
Noorhaidi Hasan and Fritz Schulze



Harrassowitz Verlag

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Volume 1

2015

Harrassowitz Verlag · Wiesbaden

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Cover illustration: Mesjid Gedhe Kauman, the royal mosque of Yogyakarta
(Photo: Fritz Schulze).

Bibliografische Information der Deutschen Nationalbibliothek
Die Deutsche Nationalbibliothek verzeichnet diese Publikation in der Deutschen
Nationalbibliografie; detaillierte bibliografische Daten sind im Internet
über <http://dnb.dnb.de> abrufbar.

Bibliographic information published by the Deutsche Nationalbibliothek
The Deutsche Nationalbibliothek lists this publication in the Deutsche
Nationalbibliografie; detailed bibliographic data are available on the internet
at <http://dnb.dnb.de>.

For further information about our publishing program have a look at our
website <http://www.harrassowitz-verlag.de>

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Printed on permanent/durable paper.

Printing and binding: Hubert & Co., Göttingen

Printed in Germany

ISSN 2364-7884

ISBN 978-3-447-10512-5

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Introduction

The articles of this volume are a collection of twelve selected and revised contributions of two conferences which were realized within the framework of cooperation between the Department of Arabic and Islamic Studies of the Georg-August-Universität Göttingen and the Sharia and Law Faculty of the State Islamic University Sunan Kalijaga in Yogyakarta. The cooperation project runs over three years and is titled “Islamic law, gender and civil society in Indonesia and Germany” (Islamisches Recht, Gender und Zivilgesellschaft in Indonesien und Deutschland). It is funded by the German Academic Exchange Service DAAD within its program “Higher Education Dialogue with the Muslim world” (Hochschuldialog mit der islamischen Welt).

Both joint conferences of the first year took place in 2013, the first from 22 to 24 May in Göttingen and the second from 19 to 21 November in Yogyakarta. The topics of the conferences were „Islamic gender discourse and legal thought,“ and „Religious Diversity and Identity: Negotiating State Order and Civil Rights“ respectively. These interrelated topics were examined in depth during the conferences. Concern has been expressed with regard to Muslim women’s legal status by reference to the rights to freedom from discrimination. Besides the issue of discrimination of women, that of the freedom of religion for Muslims has also stirred participants’ concern. The main issue relates to criminalization of apostasy and legal status of minority groups in Muslim societies. The title of this volume mirrors debates surrounding these topics although putting emphases on gender discourse and civil rights.

Although most of the articles focus on issues related to Indonesia and Indonesian Islam the topics are not confined in terms of time and place. Articles on [analogous] discourses in and on other countries and societies as Iranian, Lebanese, Malaysian and German broaden the picture on contemporary Islamic gender discourses and civil rights and laws.

The authors’ scholarly approaches are manifold. They comprise theological approaches (Hamim Ilyas, Syafiq Hasyim and Saifuddin), social sciences (Claudia Derichs, Siti Ruhaini Dzuhayatin, Muhrisun Afandi), discourse studies (Irene Schneider, Noorhaidi Hasan, Fritz Schulze, Imen Gallala-Arndt) and law (Friederike Wapler, Gunnar Duttge). Of course, these approaches cannot be separated absolutely, and we can find many interfaces between two or even more of them.

Hamim Ilyas discusses the question whether the literal understanding of provisions given by the Qur’an and the Prophet concerning gender issues is a valid approach or not. Since gender provisions are widely believed to be an indispensable part of the Islamic sharia, the understanding and interpretation of sharia takes centre stage. Hamim Ilyas argues that shari’a must be seen in the wider context of the reli-

gion as a whole and may not be reduced to a static and uncontextual *fiqh*. The concrete provisions have to be seen as a tool to achieve the ultimate goals of a religious and prosperous society and are therefore prone to changes in time and place. Provisions which had been beneficial in the 7th century for an Arabic traditional society must not necessarily be useful and just in a modern 21st century Muslim society in Indonesia. Hamim Ilyas calls this understanding of sharia *sharī'a min al-'amr* which is directed to religion as “mercy for the universe” (*rahmatan li-al-'ālamīn*).

Syafiq Hasyim points out a similar direction when questioning the development of Qur'anic and prophetic *tafsīr* concerning gender questions. According to his opinion this was hampered in history by a male bias. Patriarchic societies produce patriarchic interpretations. Interpretations of the Qur'anic verses are no exception to this. Male-oriented provisions based on such interpretations of gender issues (*fiqh al-'abawī*) have to be replaced by a woman-oriented interpretation (*fiqh al-nisā'*).

Siti Ruhaini Dzuhayatin analyzes the Muhammadiyah's attitudes towards gender issues by contextualizing them in time and place. She draws a line from the founding of the organization until modern times. Muhammadiyah's views on women's role in family and society were determined by the social context of its Javanese constituency. At the time of founding it was the *santri-priyayi* environment of Yogyakarta which was crucial for the formation of Muhammadiyah's Islamic religious ideology. This attachment to social structures remain true until the modern times.

Fritz Schulze points out that some modern '*ulamā'*' in Indonesia, namely Hamka and Quraish Shihab, produce some kind of Islamic counter discourse. They are well aware of the contemporary discussion on gender equality which is heavily determined by human rights issues. Nevertheless, they obviously don't accept the involved arguments and put the traditional *fiqh* arguments pertaining to polygamy, *qawwām* and *nushūz* against and above them, detached from time and place. By doing this they separate the two spheres of discourse, Islamic and national, whereas these two discourses should be intertwined to develop a national dialogue without creating unbridgeable cleavages in society.

Noorhaidi Hasan discusses Indonesia's marriage law of 1974. This law has created much controversy. The law itself was some kind of compromise between secular and religious interests. As such it left many questions open. Several attempts to revise the law have failed so far although the need for change is imminent. Some regulations are obviously not in harmony with modern human rights issues including among others the questions of interreligious marriages, divorce, the minimum age of marriage and so on. The reform of the law is difficult because the positions of some proponents remain incompatible.

Muhrisun Affandi's article touches on a related topic. Apostasy as valid ground for dissolution of marriage and child custody disputes in Indonesia is very much linked to positions on marriage, family and custody. Apostasy is often used as a reason for divorce. It is an often used practice to get married because to be properly married both grooms have to be of the same religion. In case of divorce it is easy to blame the spouse not to be a “real” Muslim. The judge of the Islamic Court will

easily annul the marriage based on this assumption. Usually the children of such couples will be given to the Muslim partner. This practice shows that in child custody cases it is not the best interest of the child that matters, rather the religion of the parents. To ensure the religion of the child is the most important consideration. In this respect the Indonesian judicature is often at odds with human rights and modern secular influenced legislation.

Saifuddin uses a theological approach when discussing the *fatwa* of the Indonesian Ulama Council (MUI) on Ahmadiyah. In 2005 the MUI declared the Ahmadiyah as heretical. Saifuddin argues that the decision of the MUI is not right because the doctrines of Ahmadiyah are not against Islam and Islamic sharia. According to Saifuddin the MUI politics has only created harm not only for the Ahmadiyah adherents but also for the Muslim community at large as well as social peace in the country. In his view the MUI acted in its own interest or under the influence of Wahhabis. The worst affected are the women and children of the Ahmadiyah who are harassed just because of their religious affiliation.

Claudia Derich's article leads us to one of Indonesia's neighbours, i.e. Malaysia. The year-long debate on the usage of the word Allah by Christians and at last its prohibition is much more than a quarrel over a specific term. It tells us even more about the development of the reason of the Malaysian state. The policy of the Malaysian UMNO-government to abolish the usage of this word for its Christian community is one step on Malaysia's way to an Islamic state where other religious minorities have to succumb to the interests of the Malay-Islamic majority. By this the plurality of the Malaysian society is put at stake.

Irene Schneider describes and discusses the contemporary Iranian debate concerning women's rights and human rights vis-à-vis international conventions and the international discourse. She analyzes how the global discourse is translated into the Iranian context. Such a translation is without any doubt true for every contextualization. But within the Iranian framework it is interesting how the usage of specific wordings is adapted to the values, concepts and frames of the nowadays dominant Islamic-Shiite elite of the country. By redefining core terms it is possible to reject the very heart of the conventions and manipulate its contents.

Imen Gallala-Arndt provides an inside view into the Lebanese personal status law. The situation in Lebanon is clearly very specific and in parts dates back to Ottoman times. It is characterized by a high autonomy of diverse religious communities of the country. This bears some problems for the modern nation state because it results in a fragmentation which makes it very difficult for the state to exercise and even create its authority vis-à-vis the communities.

With Friedrike Waplers article we turn to the situation in Germany. Although a secular state with a Christian past, German law is concerned with Islamic law as well. In cases of personal law the German judiciary is obliged to use principles and regulations of the law of the home countries of foreign citizens. That means in cases of divorce, for instance, German judges use Iranian law and so on. This is a complicated task because the foreign regulations may not violate the German *ordre public*.

For judges this means a high degree of understanding foreign law systems and their compatibility with German *ordre public*.

Gunnar Duttge shows that medical law has religious implications as well. The ethical provisions of religious communities may cause ethical problems when touching the borderline between the right of self-determination, the obligation of the physician to help, and *raison d'état*. This problem came into the spotlight when a German judge judged the circumcision of a young male as unlawful. Such a surgical intervention would be outlawed because of the lack of medical indication. Nevertheless, the German parliament paved the way by establishing a new law although parts of the German public were against because they interpreted it as a special law for the Jewish and Islamic communities.

The framework and rich material assembled in this volume will broaden our understanding of Islamic gender discourse and relevant legal issues among Muslims across the world. It offers a comparative framework of how the discourses are at work to inform the dynamics of sharia *via-à-vis* national laws in different – political, social, and cultural – contexts.

Noorhaidi Hasan
Fritz Schulze

Yogyakarta und Göttingen, August 2015

Gender as a social regime in the Islamic context – a case study of the Muhammadiyah

Siti Ruhaini Dzuhayatin

This paper aims to examine the gender dimension in the official pronouncements of the Muhammadiyah, the second largest Islamic organization in Indonesia. Gender as a social regime is a relatively new field in gender studies outside its hitherto focus on politics. Based on the works written by R. W. Connell who defines gender regime as gender order¹ and by Biku Parekh who outlines a collective identity upheld by race, ethnicity, class and gender², this paper explores how gender is constructed within the Muhammadiyah and how gender issues are contested in its official pronouncements. It begins with a brief description of Muhammadiyah's history since its inception in the colonial era, and continues to analyse its dynamic growth after Indonesia's independence and the latest challenges it faces in the aftermath of the collapse of Soeharto's regime in 1998. This account reflects how gender has become the "swinging pendulum" of Muhammadiyah's reorientation somehow towards conservatism.

The Muhammadiyah: a brief historical background

The Muhammadiyah is the second largest Modern Muslim organization in Indonesia with a membership claimed to be around 30 million people.³ The Nahdlatul 'Ulama (NU), the guardian of the Islamic tradition is the largest Muslim organization with a membership of around 40 or 50 million followers.⁴ The debate between the modernists and the traditionalists centres on the Islamic structures they employ within their organizations. The Nahdlatul Ulama which was established a decade after the Muhammadiyah by a group of *kiai* (traditional Islamic scholars) aimed at preserving the Islamic classical framework as developed by the four Sunni schools. Their inclusive

1 Connell 1987.

2 Parekh 2008.

3 Interview with prominent central board leaders such as Haidah Nashir, Rosyad Sholeh, Yunahar Ilyas from January – March 2011 in Yogyakarta.

4 No exact information on membership can be obtained for both organizations. This is only an estimated member pronounced by the elites such as Abdurrahman Wahid who roughly estimated the adherents of NU as twice as those of Muhammadiyah.

framework is reflected in their adoption of older local practices which harmoniously amalgamated with Hindu elements handed down for generations. This tradition evolved around the so-called *pesantren* (boarding schools), the Hindu preserved-school system adopted by the nine prominent Islamic scholars believed to have spread Islam into the Archipelago in the early 9th Century. The owner and head of a *pesantren* is a *kiai*, the respected teacher where many *santri* (students) come to for to acquire Islamic knowledge. The *pesantren* and the *kiai* are like a fountain where *santris* gain the flow of knowledge that will last for their entire lives. For the *santri*, a *kiai* is not merely a teacher but he is able to discharge blessing because of their pious and distinctive spiritual capacity which is considered higher than that of ordinary people. A *kiai* is thus a charismatic leader where people seek religious, social and even political guidance.⁵

Muhammadiyah which literally means “followers of Muhammad” (the Prophet of Islam) is one of the modern Islamic organizations that emerged in the early twentieth century following the introduction of the Ethical Policies that were adopted by the Dutch colonial administration which allowed the indigenous people to enjoy modern education. Although intended pragmatically to produce local clerics, mass education unintendedly raised nationalism among indigenous intellectuals. As Jayawardena has highlighted, the nationalist movements at the turn of the twentieth century in the Third World like in India, Sri Lanka, Malaysia and Indonesia had two objectives: exorcising colonial power and gaining a modern identity through dismantling the pre-colonial structures of the ruling dynasties as well as the religious orthodoxies. Modern education produced significant modalities and ideological bases for social reform which were materialized in the proliferation of political and social organizations, with secular as well as religious outlooks. The secular or so-called nationalist organizations mainly address democracy, liberty and equality by reforming and dismantling feudal practices.⁶

The Muhammadiyah as the largest modern Islamic organization which recently celebrated its one hundredth anniversary (1912–2012) is not the first modern Islamic organization. There were many forerunner organizations which had been the inspiration for the Muhammadiyah such as Jamiat Kheir founded by Arab descendants in 1905. There was also an Islamic organization established by prominent Muslim business circles in Laweyan, Surakarta namely Syarikat Dagang Islam (Islamic merchant organization) which appeared to be more political than associated with Islamic orthodoxy. This organization used Islam as the political identity of “the indigenous” against the colonial others through addressing economic domination, labor exploitation and other forms of social ills.⁷ The Syarikat Dagang Islam, otherwise known as SDI, immediately attracted many urban young Muslims, including

⁵ Dhofier 1985: 1–5.

⁶ Jayawardena 1986: 3.

⁷ Noer 1973: 4.

the founder of the Muhammadiyah, Ahmad Dahlan. It provided the modalities for establishing a modern society.⁸

There was also the more progressive Islamic organization Wal Fajri which was established in the same decade as the Muhammadiyah but lasted no longer than another decade. Susan Blackburn marked its progressiveness in the first women congress 1928 where its women's wing advocated for women's right on divorce and banning polygamy.⁹ Similarly, the SDI suffered from a severe internal conflict between the Muslim and the Communist faction which tragically curtailed its existence even before Indonesian independence in 1945. The shattered SDI marked the decline of Islam as a political force which was subsequently taken over by secular political groups initiated by Javanese intellectuals such as Budi Utomo whose birth is commemorated as the national awakening day.¹⁰

Unlike the SDI, the Muhammadiyah largely focused on social services to protect the poor from embracing Christianity as promulgated by the Zending (mission). This organization adopted the model of the Zending such as by providing modern religious education, health services, orphanages and economic activities for the poor.¹¹ Together with his wife, Siti Walidah known as Nyai Dahlan, Ahmad Dahlan established an independent women organization Sopo Tresno (Those who care) to provide women with economic empowerment and religious teachings. Subsequently, health centers were established along with the orphanages by emulating the Christian mission and simultaneously aiming at curbing its growth. The non-political way of operation demonstrated by the Muhammadiyah gained strong support from many Muslim donors who preferred to adopt so-called "soft politics" as opposed to the "hard politics" exhorted by the SDI. The colonial authorities were also in favour and provided subsidies for its schools and its social activities under the scheme of improving indigenous life. It eventually created tension between the Muhammadiyah and other Islamic organizations, particularly the Sarekat Islam, the later name of the SDI, accusing the former as cooperating with the colonial authorities.¹² Ahmad Dahlan and the other founders including his wife were denounced as agents of the colonial authorities and Christians who tended to weaken Islam internally.

Gender dimension in Muhammadiyah structure: social basis for gender regime

As Jayawardena rightly pointed out, women's emancipation had been a package of social reform and nationalist struggle in the Third World, including Indonesia

8 Noer 1973: 4.

9 Blackburn 2007: xxxiv.

10 Alfian 1989: 8–10.

11 Shihab 1998: 126–127.

12 Ibid.: 111.

whereby women were seen as “the barometer of modernization”. As argued earlier, local educated reformers pursued a new social order by confiscating foreign influences, concurrently dismantling the feudal monarchies and modernizing the religious structure. She argued that during the time of the ethical policy, male bureaucrats, missionaries and other reformers were among the prominent figures who advocated modernity through modern education and women’s emancipation. However, she cautions that women’s emancipation was initially not intended to fully advocate women’s rights as perceived by Western feminism but rather to serve the interests of male reformers in creating the image of educated wives for the modern families. The main purpose of educating women was not intended to give them equal rights to men but rather to prepare them to become the educators of a great nation. She argued further that the advocacy of women’s emancipation was to strengthen the intended social structure rather than to shift gender relations as the basis for equal partnership which she suspected was the in-built conservative bias in social reforms.¹³

Until recently, the above perspective has prevailed even among the majority of women in Indonesia by merely referring to the early work of Kartini, an upper class woman who advocated education for native women to turn them into modern mothers and educators of a great nation. People tend to ignore that what had been initiated was only the start of emancipation and Kartini asserts that “Java was just awakening when Holland was ready to run”.¹⁴ This statement implies that in the future women’s emancipation in Java (and Indonesia) might reach the same equal rights as in Europe.

Nevertheless, the major theme in women’s emancipation which was subsequently to take place in Indonesia never went beyond Kartini’s preliminary initiative. The establishment of women’s organizations was mostly to serve better domestic roles and social services for women’s practical needs rather than initiating women’s strategic and political interests. Feminists who struggled for political and legal rights in divorce and the prohibition of polygamy remained a minority with limited support from so-called independent women such as Putri Mardika (1912) and Isteri Sedar (1929).¹⁵ Many young nationalist men advocated that a modern nation could only be achieved by equal partnership between men and women and by abolishing polygamy which induced frustration among women.¹⁶

In Scanzoni’s account on the shift of family relations, the ideal for women in early modern Indonesia was the shift from women’s position in the property owner and head complement family into the senior-junior complementary.¹⁷ Independence became the new image of the Javanese middle-upper class family of secular *priyayi* which heavily relied on the sole financial support of the husband in their positions as

13 Jayawadana 1986: 9.

14 Pane 1939: 52.

15 Vreede-De Stuers 2008: 73.

16 Ibid.: 94.

17 Scanzoni 1981: 315.

local bureaucrats, lawyers and educators which fitted into the bourgeois concept of the male breadwinner and the female housewife roles.¹⁸ Nevertheless, this kind of image did not portray all the women in Java who were culturally segregated into various groups such as pious Muslims otherwise known as *santri* as opposed to nominal Muslims or *abangan* and Muslim merchants or *wong dagang*, as opposed to the *priyayi* (bureaucrats) and the aristocrats, and the peasants in the villages; a wide economic spectrum.¹⁹

Each group represented its particular gender construction which fitted into its own socio-economic context. In the *wong dagang* circle, for example, gender relations were arranged in divergent settings where women's social status derived from their economic roles while men's social status originated from their social and political activities. By contrast, the *priyayi* were typically patrilocal and their social status was largely determined by the public and economic position of the husband as the head of the family. The *wong dagang* conversely had a matrilineal character with women's major role in the home-based industry of the fabrication of garments and silver and gold ware which significantly dictated the market. Businesswomen, *mbokmase*, were in control of the economy and family affairs, including inter-family marriages which were virtually business networks. The combination of the domestic and economic spheres seems to have been alien to capitalist terminology which assumed a permanent association between economics and the public domain.²⁰

Within the discourse on Javanese society, the Muhammadiyah has a distinctive position among the social groups of the *priyayi*, *santri* and *wong dagang*. The *Kauman* people in Yogyakarta, as the social basis of Muhammadiyah, were uniquely characterized as *santri-priyayi* who were culturally and politically related to the Javanese Royal House of Yogyakarta as pious bureaucrats in charge of religious affairs. The *Kauman* was named after the reputation of the *kaum iman* (pious Muslims) for generations.²¹ Their structural position, however, was not economically adequate to support their families which urged *Kauman* women to engage in small home industries and economic activities. Unlike Laweyan's *mbokmase* whose economic role was central, the *Kauman* women's economic activities were merely considered additional to their husband's income although some of them earned more.

The comparison between Laweyan Surakarta and *Kauman* Yogyakarta rested upon both their efforts in giving birth to prominent social organizations despite their social differences. As argued earlier, *Kauman* people were *priyayi-santri* while the Laweyan largely represented the *wong dagang-santri* which distinctively contributed to the different type of social organizations they created. The *wong-dagang santri* of Laweyan were known as an independent group who distanced themselves from any association with the monarchy and later, with the Dutch colonial authori-

18 Jayawardena 1986: 15.

19 Geertz 1985: 6.

20 Brenner 1998: 9.

21 Darban 2000: 9.

ties. With their superior economic position, the Laweyan and particularly *mbokmase* tended to display an antagonistic stand towards the royal court, especially through the common practices of polygamy and having concubines.²² *Santri* attributes such as being *haji* were loosely adopted to reaffirm their indigenouness and as a means of political resistance against the Western colonialists.

Members of the Muhammadiyah, on the other hand, purposely adopted *santri* as its identity as they were pious Muslims who persistently observed basic Islamic teachings. They derived their *priyayi* outlook from their structural position with the Yogyakarta monarchy circles. The ideal *priyayi* woman was a good housewife who was protected at home and who contentedly received financial support from her husband. Women who were wandering off outside their houses to the markets or to the fields were seen as discourteous and lacking spiritual capacity.²³ However, gender relations in the Kauman were slightly different from those of the *priyayi* majority. It was partly because the Kauman *priyayi* were ranked as middle to lower so that women were urged to work. Woman seclusion, which was a common practice among the *priyayi* was mostly found in the Kauman.

The spectrum of gender relations Scanzoni developed adequately fitted into the Javanese families. The gender hierarchy among Javanese mainly rested upon the lack of economic roles for women. It was clear that the larger the economic contribution women made the more equal gender relations they enjoyed as indicated in the case of the *mbokmase* in Laweyan. The absence of *mbokmase* in the Kauman was a consequence of the *priyayi* bias which tended to consider the male's structural position as the parameter of social status over women's economic roles. Nevertheless, the economic contribution of women in the Kauman had slightly shifted the senior-junior complement into a senior-junior partnership which was not elaborated in Scanzoni's typology.

The above expounded gender relations seemed to have been the backbone structure of the Muhammadiyah and appeared to be a model for subsequent Muslim organizations including the Nahdlatul Ulama which was founded a decade later in 1926. During the inception period, Kiai Dahlan and his wife founded two separate organizations, one for men and one for women. The Muhammadiyah accommodated the male activism while the 'Aisyiyah represented female social engagement. The organizations, named after the Prophet Muhammad and his wife, 'Ā'isha, intentionally indicated a husband-wife relationship.²⁴ It is a clear indication of the expansion of the 'senior-junior partnership' of the Kauman into the public domain of the Muhammadiyah and 'Aisyiyah. 'Aisyiyah was established as an independent organization named "Sopo Tresno" which worked closely with Muhammadiyah in providing education and social services for girls and women.

22 Soedarmono 2006: 112.

23 Brenner 1998: 140.

24 Van Doorn-Harder 2006: 72.

The amalgamation of Sopo Tresno or 'Aisiyiah into Muhammadiyah's structure in 1922 was, somehow, subordinating its very existence. It was perfectly reflected in the bourgeois nuclear family which was arranged according to gender and age hierarchy in its structure.²⁵ Besides, the substitute name Sopo Tresno raised a pertinent question of why 'Ā'isha was selected rather than Khadija, the first wife whom the prophet adored most and with whom he remained in a monogamous marriage for over 18 years, or Fatimah, his beloved daughter? According to prominent 'Aisiyiah members the name of the organization was 'Ā'isha to signify the new image of Muslim women who are intelligent, smart and socially engaged. Kuntowijoyo asserted that Fatima was intentionally excluded in order to disconnect this organization from the Shiah movement where Fatima had been made a central figure.²⁶ When looked at from Denzau and North's perspectives on the shared mental-model which subsequently shapes the ideology in a given institution, 'Ā'isha reflected the ideal type of a Kauman woman while Khadija with her major economic role perfectly reflected the *mbokmase* type in Laweyan.²⁷ In other words, Khadija was not part of the "shared-mental model" of the Kauman people as it was in Laweyan. The shared-mental model is the collective body of knowledge in Berger's account which is constructed, reproduced and transmitted within social institutions.²⁸

The symbolic order of the Muhammadiyah and 'Aisiyiah somehow secured the gender ideology of the senior-junior partnership of the Kauman community. The later creation of the youth organization Pemuda Muhammadiyah for boys and Nasyiatul 'Aisiyiah for girls secured the concept of the nuclear family in the public domain. The persistence of this structure over a century proves Haevey's idea that the basic structure of a social system in the formative period tends to be institutionalized in such a way that it shapes its future existence and is perceived as fixed and permanent by the next generation. This basic social structure creates a space within the social institution where social interaction is taking place.²⁹ The senior-junior partnership as the basic structure of the Muhammadiyah eventually domesticated 'Aisiyiah with women and family matters and subsequently detached them from political issues. The Muhammadiyah holds the authority to represent the subsidiary organizations within its structure, including 'Aisiyiah. Every decision made in the subsidiary organizations should be endorsed by the Muhammadiyah but not the other way around.

The increasing discourse on gender equality in the earlier 1990s raised the consciousness among the younger generation against existing structures and the unequal share of the resources and assets within this organization. Nevertheless, proclaiming themselves as independent organizations has not been the choice of 'Ā'isha and Nasyiatul 'Ā'isha for they are unwilling to be uprooted from the historical context.

25 Spain 1992: 16.

26 Kuntowijoyo 1993: 130.

27 Denzau/North 1993: 2.

28 Berger/Luckman 1979: 15.

29 Heavey 2009: 13–14.

In 2000, 'Aisyiyah gained wider autonomy to manage schools, health centers and even universities which were previously controlled by the Muhammadiyah as the patron organization. Only in the recent national congress in 2012 in commemoration of the one hundred year anniversary, the Muhammadiyah halfheartedly accommodated the petition memo sent by 'Ā'isha demanding female involvement in the Muhammadiyah's leadership. The head of the central board of 'Ā'isha is officially appointed as one of the thirteen members of the Muhammadiyah Central Board. This decision should subsequently be adopted by the leaderships at the provincial and district levels. This achievement can be seen as substantive progress of this organization in the second millennium.³⁰

Gender issues in the official pronouncement

In more practical issues, the official pronouncement enunciated in the national congress every five years is considered the highest consensus of the Muhammadiyah (*keputusan muktamar*) which Gramsi defines as a historically organic ideology which is structurally secure and reproduces its basic values, vision and mission.³¹ After gaining wider autonomy, 'Ā'isha is capable of launching its own pronouncements not only on women and family matters but also on wider political and social issues. The pronouncements are equally weighted as the highest consensus binding to all members of the Muhammadiyah and its subsidiary organizations.³² As far as its recording system is concerned, the Muhammadiyah has a relatively adequate record system of its pronouncements which can be traced back to 1923, the year of its first national congress. In that period Indonesia as a nation state was not politically known. It is unlikely that 'Ā'isha followed a similar record system because the documents that could be found dated from around 1932 to 2012.

Below are series of official pronouncements related to gender issues which are arranged according to the decade in which they were made except for the early inception period which is arranged according to a two-decade period:

The cultural movement in the inception stage (1912–1930)

1912 marked the newly born organization and Mulkhan, the prominent and influential Muhammadiyah member, considers its development until 1923 as the cultural movement in which the Muhammadiyah demonstrated its tolerant, inclusive and receptive character, not only towards Javanese syncretism but more obviously towards Western modernization as well as to Christian missionary activities.³³ In this

30 Interview with Prof Siti Chamamah Soeratto, the head of national board of 'Aisyiyah, 19 February 2010.

31 "Keputusan Muktamar Muhammadiyah ke 45 tentang Anggaran Dasar", in: Pimpinan Pusat Muhammadiyah (n.d.): 573.

32 Larrain 1982: 81.

33 Munir Mulkhan 2010: 57–58.

period, the gender dimension was addressed in a relatively neutral manner whereby men and women were granted equal access to education and leadership. Ahmad Dahlan, the founder, had only little to say about women's issues in his few personal messages. He was known as the man of action as opposed to Muḥammad 'Abduh, his Egyptian inspiring scholar, the thinker who productively articulated modernization in the Islamic world. During the first congress held in 1923 Dahlan reaffirmed his mission in providing modern education to men and women to improve the Islamic Umma.³⁴

The second tenet was the necessity to foster dynamic as opposed to conservative Islam to accommodate modernization and social change, and to be responsive to marginalized groups and evince respect to humanity. His statement that 'any one can follow' indicated equal access and participation of men and women in the Muhammadiyah.³⁵ In 1927, the Muhammadiyah emphasized the need to promote modern Islam by adequate education and through economic support in order to prevent the Muslims from lapsing into other faiths due to their absolute poverty and illiteracy.³⁶ Moreover, the mission was directed to strengthen the nascent organization to turn modern and become equally responsive to men and women in education and other social activism.

The Sharia Oriented Period (1930–1940)

This period is considered the sharia regime because the organization was dominated by figures with a shariah background who initiated the establishment of the fatwa section (Majelis Tarjih).³⁷ It was a turning point whereby the Muhammadiyah shifted from a social organization of modern Muslims to an Islamic organization which much more heavily relied on theological and normative guidance than ever before. The fatwa section holds the utmost authority to direct the organization's activities.³⁸ This time gender was systematically settled and segregated. Women and family issues were entirely confined to the 'Ā'isha's domain while the Muhammadiyah was in charge of theological and political interests.

Only a decade after the demise of its founder, Ahmad Dahlan, the gender dimension had mostly targeted women while men seemed to be 'omnipresent' in the embedded masculine structure.³⁹ This modern organization had inevitably fallen into what Berque counts as embedded masculinity in Islamic collective leadership.⁴⁰ Gender issues were mostly directed toward controlling women which was para-

34 "Kesatuan hidup manusia: pesan KH Ahmad Dahlan, 1923", in: Munir Mulkhan 1990: 223–230.

35 Ibid.: 231–235.

36 Ibid.: 244–245.

37 Interview with Abdul Munir Mulkhan in Yogyakarta, 18 February 2010.

38 Munir Mulkhan 2010: 77.

39 Fatima Mernissi used the word to explain masculinity and patriarchy to control women's bodies in: Mernissi 1991: 4.

40 Jacques Bergue: "Pengantar dalam Bahasa Inggris", in: Vreede-De Stuers 2008: xviii.

mount in the publication of the Islamic guidance for being a good wife (*Toentoenan mendjadi isteri jang berarti*) which was for the largest part far from being progressive as initially intended. This pocket book largely depicted women as passive and submissive wives who were confined within the four walls of their houses and whose main duty was serving their husbands and educating their children. It was contradictory to the real life of women in the Muhammadiyah who were socially active and economically empowered as reflected by the life of Siti Walidah, Kiai Dahlan's wife and founder of 'Aisiyiyah. Kuntowijoyo asserted that the publication of this book was 'irrelevant to the context' of 'Aisiyiyah's progressive spirit during the first 20 years after its inception.⁴¹ However, this guide book was relatively progressive compared to the Javanese literature on women such as *Serat Condrorini* and *Serat Piwulang Isteri* which were generally misogynist⁴² as well as the book *Sharh 'uqūd al-lujjayn fī bayān huqūq al-zawjayn* (husband and wife rights in Islam) which was largely taught in *pesantren* of Nahdlatul Ulama.⁴³

The other progressive movement was the *Tabligh* school for girls aimed at producing female preachers which conservative groups resisted as they believed that preaching was the male's natural competence. A female magazine was concurrently published to support the *Tabligh*'s mission and more especially to serve the modern-educated audience among women's *priyayi*.⁴⁴ In 1933, the young female organization, Nasyiatul 'Aisiyiyah (NA), was established for un-married young girls.⁴⁵

Despite the masculine atmosphere discussed above, a controversial pronouncement which created further social unrest was the approval of women to teach a male audience with reference to 'Ā'isha, the brilliant wife of the Prophet from whom Muslims acquired Islamic teachings. Equally controversial was the consent for women to travel alone in pursuing knowledge and to engage in other activities permitted by sharia. Women were discouraged to participate in street marches which were commonly organized by the Sarekat Islam. The theological justification for this was that the Prophet allowed women to do so only in celebrating Ied festivals.⁴⁶ This pronouncement aimed at disconnecting the Muhammadiyah from any association with the Sarekat Islam which was frequently organizing public demonstrations of workers against the colonialists.

In the legal domain, the Muhammadiyah supported the colonial regulation to abolish child marriage in 1937 but, on the other hand, the initiated marriage registration was rejected.⁴⁷ Vreede-De Stuers indicated that the organization finally

41 Kuntowijoyo 1993: 131.

42 Sukri/Sofwan 2001: 49.

43 *Sharh 'uqūd al-lujjayn fī bayān huqūq al-zawjayn* was translated and revised by the Forum Kajian Kitab Kuning (FK3) with the new title of *Wajah baru relasi suami-istri; Telaah Kitab 'Uqūd al-Lujjayn* (Yogyakarta 2001: FK3 and LKiS).

44 Kuntowijoyo: "Menghias Islam". Introduction to Munir Mul Khan 2010: 19.

45 Pimpinan Pusat Muhammadiyah (n.d.): 101–103.

46 Jainuri 2002: 146.

47 "Kepoatoesan Conggres Muhammadiyah XXVI, 6–13 October 1937 di Yogyakarta", in: Pim-

joined the other Islamic organizations such as the Sarekat Islam and the Nahdlatul Ulama in refusing the policy which was considered a form of political control over family law.⁴⁸ Vreede-De Stuers argued further that this rejection was partly because the colonial authorities were trying to accommodate the demands of secular-independent women groups, including Isteri Sedar dan Putri Budi Sedjati for the abolishment of polygamy.⁴⁹ The late response of the Muhammadiyah to this issue was seen as a form of cooperation with the colonial ruler. The organization had been suffering from severe criticism from the Sarekat Islam as being too close to the colonial power due to the educational subsidy they received.⁵⁰

Political uprising and ideological contestation (1940–1960)

In 1945, Indonesia gained political independence which significantly shifted the missions of the Muslim organizations to the newly established nation state. It also shifted the nature of the tensions formerly between indigenous and foreign rulers to internal conflicts among the secular, religious and the communist factions over the national political power which ultimately led to political chaos and the so-called Communist Coup of 1965. Consequently, their organizational pronouncements were largely dominated by political issues.

The gender issues pronounced in this time were heavily politicized and yet domesticated, mainly in response to the political agitation of the Communist Party. During the national congress in 1956, the Muhammadiyah emphasized six pronouncements for women: (a) to encourage women to be good mothers to transfer Islamic teaching to their children and family (b) to intensify their social activism in order to curb the spreading of Communism which was considered detrimental to the Islamic family, *qoriyah tobbiyah* (the ultimate community) of the Muhammadiyah and the Islamic Umma as a whole.⁵¹ Moreover, moral panic seemed to pervade in this organization as indicated below:

- Segregating gender in Muhammadiyah schools, including teachers in response to the existing moral crisis.
- Imposing a Muslim outfit on women in order to prevent sexual arousal and moral crisis;
- Advising the government to segregate sport centers and swimming pools for boys and girls;
- Urging the education section to impose a Muslim outfit on women and to assign senior and married male teachers to teach female students.⁵²

pinan Pusat Muhammadiyah (n.d.): 95.

48 Alfian 1989: 326.

49 Ibid.

50 Jainuri 2002: 146.

51 “Keputusan Mukhtar Muhammadiyah ke 34, 18–23 November di Yogyakarta”, in: Pimpinan Pusat Muhammadiyah (n.d.): 164–165.

52 “Keputusan Mukhtar Muhammadiyah ke 33, 24–29 Juli 1956 di Palembang”, in: Ibid.: 140–142.

Domesticating and targeting women seemed to be a global tendency. As in the Islamic world political decline increased, control over women's bodies tightened. The ultimate maxim signifying women's subordinate position was that women should follow her husband, "either to heaven or to hell" (*swargo nunut, neraka katut*).⁵³ It was in the same manner that the Muhammadiyah responded to the political crisis that followed the banishment of the Masyumi party which was Muhammadiyah's staunch ally in politics, due to the allegation of attempting a *coup* against President Soekarno. Since then, the Muhammadiyah was politically marginalized from core political power which significantly affected its missions.

Political ambivalence in New Order euphoria (period 1960–1990)

The New Order Government which was later known as a military regime took power from Soekarno after the alleged Communist coup of 1965 which led to the permanent ban of the party in Indonesia. The new president declared to secure religious life which had been obliterated by the Communists but refused to restore the Masyumi and other religiously affiliated parties. The national ideology of Pancasila was imposed as the ideological basis of the parties to replace religious sentiments. Many political scientists see this period as 'the honeymoon between Islam and the state', particularly the Muhammadiyah despite the dynamic relations of "ebb and flow" in the years to come.⁵⁴

This optimism revealed a progressive and public-oriented direction as far as gender issues were concerned. One of the milestones of the progressivity was granting 'Aisyiyah organizational autonomy with wider control of its asset and organizational pronouncements'.⁵⁵ The Muhammadiyah fully supported the effort of the Indonesian Government to pass the national marriage law which was generally seen as consistent with the Islamic principles. The government succeeded in bringing together the Islamic and the secular women organizations to obtain consensus on the national marriage law⁵⁶ which was believed to protect the Islamic Umma.⁵⁷

The Muhammadiyah responded positively to the raise of women education and the increase of political and economic roles for women by launching its second guide book in 1972 which complemented the previous one which mainly dealt with domestic matters. Unlike the previous book which was drafted by the Majelis Tarjih (Fatwa Section), the latter was initiated and endorsed by 'Aisyiyah to be structurally binding to all members of the Muhammadiyah. The guidebook was entitled *Adabul mar'ah fil Islam* which literally means 'Guidebook for Woman in Islam'. There is

53 Ibid.: vii.

54 Redaksi Suara Muhammadiyah: "Pasang surut politik Orde Baru dan era sesudahnya", Suara Muhammadiyah, No. 01, 1984: 14.

55 "Keputusan Mukhtamar Muhammadiyah ke 36, tahun 1965 di Bandung", in: Pimpinan Pusat Muhammadiyah (n.d.): 185.

56 See Vreede-De Stuers 2008: 166–167.

57 "Keputusan Mukhtamar Muhammadiyah ke 38, 17–22 Januari 1975 di Padang", in: Pimpinan Pusat Muhammadiyah (n.d.): 257.

no record of the reason for using the Arabic title for this book or a sufficient explanation from Muhammadiyah and 'Aisyiyah elites. The book progressively granted women the highest public positions such as city mayor, director, head of police, medical doctor and judge to which conservative 'ulamā' were opposed. However, Syamsul Anwar argued that the Majelis Tarjih never reached consensus on women's presidency which remained undecided (*mawqūf*) until 2012.⁵⁸ In responding to the population control policy, the Muhammadiyah endorsed the fatwa of the Indonesian Ulama Council (*Majelis Ulama Indonesia*), founded by the New Order mainly to offer religious advises to state policies. The use of contraceptive devices was allowed as the means of population control except UID which should only be undertaken by female doctors and the prohibition of vasectomy which caused permanent infertility.⁵⁹

This vibrant progress on women's public engagement lasted only a decade until in 1984 'Aisyiyah launched its third guidebook entitled *Tuntunan menuju keluarga sakinah* (Guidebook for a Harmonious Family) which feminists considered a huge step back due to its heavy emphasizes on women's domestic roles. According to the head of 'Aisyiyah central board, the *Tuntunan* book was not intended as a substitute but rather as supplementary to the previous books in order to protect the family and children from the negative impact of rapid social transformation and globalization.⁶⁰ Some elite members of 'Aisyiyah denied this by arguing that the book already existed before the policy on the *Program Kesejahteraan Keluarga* (family welfare program).⁶¹ From Gramsci's perspective this book was a form of political hegemony of the New Order to control social organizations concerned with women and the family. The New Order persistently imposed its notion of an ideal woman and ideal family which they made a subject of competition within the framework of the so-called *Sakinah* Award from the district to the national levels. The ideal type represented the upper *priyayi* image of a woman who is married and has a modest career but under no circumstances could a wife's career be higher than that of her husband or could she be equally smart in managing household.

A woman's success is determined by her husband's excellent career and the good education of her children, preferably two, a boy and a girl. In reverse, career women would be blamed and held responsible for family breakdowns and children's low achievement.⁶² This step back also reflected on the efforts of the 'Islamization' of the public sphere. In the National Congress of 1990, 'Aisyiyah strongly encouraged the Muhammadiyah to urge the government to remove the prohibition of wearing the veil in public schools.⁶³ In the same vein, 'Aisyiyah called for gender

58 Interview with Syamsul Anwar, Head of Majelis Tarjih Pimpinan Pusat Muhammadiyah 2005–2010 in Yogyakarta, 26 March 2010.

59 Atho Mudzhar 2003: 134–138.

60 Interview with Chamamah Suratno, 19 February 2010.

61 Sullivan 1991: 64.

62 Dzuhayatin 2001: 261.

63 "Keputusan Mukhtamar Muhammadiyah ke 42, 15–19 Desember 1990 di Yogyakarta", in:

segregation in sports and in swimming pools. Equally compelling was the regulation for female students in the Muhammadiyah schools to be fully covered.⁶⁴

New path for progressivity (1990–2000)

The Muhammadiyah seemed to be more progressive and yet accommodative to the state as Western educated cadres dominated its central board such as Amin Rais, Syafi'i Maarif, Wati Pratiknyo, Syafri Syairin and so forth. The political "honeymoon" with the government was in the most desirable stage when many Muhammadiyah cadres were recruited to work in the central and district bureaucracies. They also became actively involved in establishing the new Islamic intellectual organization (ICMI). The Muhammadiyah claimed to significantly infuse moderate Islam into the bureaucracy and even into the military despite allegations of having been co-opted by the Soeharto regime.

This era can be considered as the Muhammadiyah's second birth which was marked by a shift from having been sharia oriented for over three decades to an intellectual based organization. The most pertinent shift was the wider mandate given to the Majelis Tarjih from issuing normative fatwas to progressing toward the formulation of "comprehensive and contextual Islamic thought". This section was transformed into the Majelis Tarjih and Islamic thought (*Majelis Tarjih dan Pemikiran Islam*) under the guidance of Amin Abdullah, the progressive scholar who had graduated from Turkey. Pluralism, human rights, gender equality, globalization and the environment which all had been alien to and were excluded from fatwas were now vibrantly discussed within the organization.⁶⁵

'Aisiyyah displayed a similar eagerness in response to the global issues of migrant workers and the international conflicts of Palestine, Bosnia, Kenya, Afghanistan and Kashmir.⁶⁶ After having been silent for almost a century, 'Aisiyyah and Nasyiatul loudly raised 'Aisiyyah woman's leadership in the Muhammadiyah which was positively received in the national seminar in 2002 in preparation of the national congress 2005.⁶⁷ It was the first time ever that the issue of women *'imāma* (women leading prayers in front of men) was raised despite the strong refusal from both 'Aisiyyah elite members and more obviously, the Muhammadiyah. Moreover, the concept of equal partnership at home as advocated through feminist activists and which opposed the state ideology on motherhood also gained considerable response

Pimpinan Pusat Muhammadiyah (n.d.): 328.

64 Pimpinan Pusat 'Aisiyyah, Tanfidz Keputusan Multamar 'Aisiyyah ke-41 di Surakarta, 7–11 Desember 1985: 17.

65 "Keputusan Mukhtamar Muhammadiyah ke 43, 6–10 Juli 1995 di Banda Aceh", in: Pimpinan Pusat Muhammadiyah (n.d.): 442.

66 Pimpinan Pusat 'Aisiyyah: Tanfidz Keputusan Mukhtamar 'Aisiyyah ke 43, 6–10 Juli 1995: 36–37.

67 "Keikutsertaan perempuan dalam pimpinan dan permusyawaratan (Konsep Rumusan Dalam ART Muhammadiyah), Tanwir Muhammadiyah di Makassar, 26–29 June 2003", in: Pimpinan Pusat Muhammadiyah (n.d.): 2.

of the young generation. The translation of the works of Muslim feminists such as Amina Wadud, Fatima Mernissi, Laila Ahmed and others inspired local female scholars to raise these sensitive issues. This progress created a dynamic contestation between progressive and conservative factions within the organization. While the progressive faction enjoyed its dominant position in the early 1990s, the conservative group subsequently gained the support of people who suffered from the global monetary crisis and the abusive power of the New Order which led to the reformation movement in 1998.

Tsunami of Salafi incursion (2005–2010)

The collapse of the New Order regime heralded *Reformation* that facilitated a freedom of expression which had been prohibited for over three decades. Not only the pro-democracy proponents took advantage of the movement but also many Salafi groups, who had previously been labeled ‘extreme right-wing groups’ and had been politically curbed in their promotion of the Islamic state, claimed the liberty to do so. The Salafi actively advocated the Islamic state in mosques by offering “spiritual anchors” for the desperate masses. Returning to the sharia and the Islamic state attracted the poor who seemed to be ignorant of the new political elites. Mulkhan rightly pointed out that the advance of Salafi movements constituted a ‘Salafi tsunami hit’ in the national congress 2005 of the Muhammadiyah in which the progressive proponents were wiped out, including Syafi’i Maarif, the head of the central board who had replaced Amin Rais.

The proposed drafts of current issues, including equal gender relations diminished astonishingly, including the demand for female figures in the Muhammadiyah board. It was apparent that within five years the progressive faction had failed to convey its mission to the grassroots. The Salafi silently took over the Muhammadiyah at the provincial and the district levels and eventually also in the central board. It was too late for moderate Muhammadiyah adherents to realize the political agenda of the Salafis who argued against the negative impact of democracy, liberalism, secularism, fundamentalism, radicalism as well as traditionalism.⁶⁸

‘Aisyiyah luckily escaped from the Salafis’ grip and continued working on promoting gender equality in the Islamic framework. It officially adopted the gender concept after having suffered a decade of internal tension following the enactment of Presidential decree no. 9/2000 on gender mainstreaming. ‘Aisyiyah was actively involved in advocating women’s rights with NGOs previously suspected of being Western agents who systematically intended to obliterate Islam and Indonesia. ‘Aisyiyah’s most important achievement in this progressive manner was the publication of the book *Memecah kebisuan: Agama mendengar suara perempuan korban*

68 Interview with Abdul Munir Mulkhan, 18 March 2010. The rejection of democracy, gender equality and human rights was reflected by Pimpinan Pusat Muhammadiyah’s “Keputusan Mukhtamar Muhammadiyah ke 45, 3–8 Juli 2005 di Malang”, in: Pimpinan Pusat Muhammadiyah (n.d.): 533–534.

kekerasan demi keadilan (Breaking the muteness: Religions hear the voices of victims of violence against women in the name of justice) in cooperation with the Indonesian Commission on Women's Rights.

Forging the dawn at the turn of the century (2010 – Onward)

The conservative factions were taking control of the organization from the central to the smallest branches after the national congress in 2005 and many members became active supporters of *Partai Keadilan Sejahtera* also known as PKS (Justice and Prosperous Party) rather than the *Partai Amanat Nasional* (*National Mandate Party*) which was founded by Amin Rais initially to accommodate the political interests of Muhammadiyah members. The central role of the *Majelis Tarjih* (fatwa section) which had been more progressive in the earlier years was replaced by *The Majelis Tabligh* (Preacher section) which was dominated by Salafi supporters. In their response to democracy, gender equality and human rights and pluralism they were hostile and alleged them to be new forms of Western imperialism. This hostile attitude raised severe criticism from external parties but more obviously disturbed the internal moderate group which had been silent during the height of battle between the progressive and Salafist factions.⁶⁹ The moderates urged the central board to adopt a decree in 2008 against the Salafi threat to the Muhammadiyah and for the disengagement with the PKS. Subsequently the mosques, universities and the organization were 'cleansed' from Salafi influences.

The ultimate efforts to disconnect with the Salafi rested on the motto of *melintasi zaman* (to cross the New Millennium) of the national congress in 2010. It saw the return of progressive figures and welcomed the positive engagement with the above-mentioned current issues. There were many historical pronouncements as far as gender equality was concerned. Firstly, the consensus of granting a woman to occupy the position of the highest state leadership such as president which had been disputed for over a century. The second and most astonishing pronouncement was the decision made in the Majelis Tarjih's national congress to allow a wife to act as imam to lead prayers in the family if she has better Qur'anic knowledge than her husband. The head of the Majelis Tarjih admitted that this decision might raise internal tension among the various factions within the organization and that it would need some time in order to be fully adopted as a formal pronouncement by the central board of the Muhammadiyah.⁷⁰ Thirdly, the success of 'Aisyiyah in promoting female leadership in the central board of the Muhammadiyah which had been repudiated at the previous congress. The Majelis Tarjih also confidently adopted monogamous marriage as the basis of the Muhammadiyah and increased the marriage

69 Interview with Munir Mulkhan, former Secretary General of the Muhammadiyah 2000–2005, 18 March 2010.

70 Interview with Syamsul Anwar, the head of the Majelis Tarjih in the national congress in Malang, East Java, 4 April 2010.

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