

Women's Experiences in Fatwa Production: Feminist Practical Reasoning in KUPI's Fatwa on Female Circumcision

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Abstract

Female circumcision remains a contentious issue in many Muslim societies due to its intersection with religious authority, cultural tradition, and women's reproductive health. While previous studies have examined fatwas on women from socio-political, legal reasoning, and gender justice perspectives, limited attention has been given to how women's experiences and scientific knowledge are incorporated into Islamic legal reasoning. This article analyzes the fatwa issued by the Indonesian Congress of Women Ulama (*Kongres Ulama Perempuan Indonesia*, KUPI), which prohibits female circumcision through the Second KUPI Religious Deliberation Decree No. 08/MK-KUPI-2/XI/2022. Using a socio-legal approach based on library research, the study employs Katharine T. Bartlett's feminist practical reasoning as an analytical framework. The findings show that KUPI integrates women's lived experiences, reproductive health knowledge, Islamic legal sources, and constitutional norms in constructing its legal argument. This integration is reflected in the formulation of the problem description (*taṣawwur*), the legal sources (*adillah*), and the process of analytical and interpretative reasoning (*istidlāl*), all of which emphasize the physical, psychological, and reproductive harms experienced by women. The article argues that KUPI's fatwa represents not only a shift in the legal status of female circumcision but also a transformation in the production of Islamic legal authority by positioning women's experiences as a source of legal consideration in practical legal reasoning. This study contributes to contemporary Islamic legal scholarship by highlighting the role of lived experience in shaping fatwa-making and religious authority.

[Sunat perempuan masih menjadi isu kontroversial di berbagai masyarakat Muslim karena berada pada persimpangan antara otoritas keagamaan, tradisi budaya, dan kesehatan reproduksi perempuan. Meskipun berbagai studi telah mengkaji fatwa tentang perempuan dari perspektif konteks sosial-politik, penalaran hukum, dan keadilan gender, perhatian terhadap bagaimana



pengalaman perempuan dan pengetahuan ilmiah diintegrasikan ke dalam penalaran hukum Islam masih relatif terbatas. Artikel ini menganalisis fatwa Kongres Ulama Perempuan Indonesia (KUPI) yang mengharamkan sunat perempuan melalui Keputusan Musyawarah Keagamaan II KUPI No. 08/MK-KUPI-2/XI/2022. Penelitian ini menggunakan pendekatan sosio-legal berbasis studi kepustakaan dan dianalisis dengan kerangka penalaran praktis feminis yang dikembangkan oleh Katharine T. Bartlett. Hasil penelitian menunjukkan bahwa KUPI mengintegrasikan pengalaman perempuan, ilmu kesehatan reproduksi, sumber-sumber hukum Islam, dan norma konstitusional dalam membangun argumentasi hukumnya. Integrasi tersebut tampak dalam deskripsi masalah (taṣawwur), penggunaan sumber hukum (adillah), dan proses analisis hukum (istidlāl) yang menitikberatkan pada dampak fisik, psikologis, dan reproduktif yang dialami perempuan. Artikel ini berargumen bahwa fatwa KUPI tidak hanya merepresentasikan perubahan status hukum sunat perempuan, tetapi juga menunjukkan transformasi dalam produksi otoritas hukum Islam melalui penempatan pengalaman perempuan sebagai sumber pertimbangan hukum dalam penalaran hukum praktisnya. Temuan ini berkontribusi pada pengembangan studi hukum Islam kontemporer dengan menegaskan pentingnya pengalaman hidup dalam pembentukan fatwa dan otoritas keagamaan.]

Keywords: Female Circumcision, Feminist Practical Reasoning, Indonesia, Religious Authority, Women Ulama.

Introduction

Female Genital Cutting (FGC), commonly referred to as female circumcision in many Muslim communities, persists despite longstanding criticism from public health, human rights, and gender justice perspectives.¹ The continuation of this practice is sustained not only by cultural traditions but also by religious legitimacy, which is continuously reproduced through various forms of religious authority.² The World Health Organization (WHO) has consistently affirmed that FGC provides no health benefits and may lead to a range of physical and psychological complications.³ Nevertheless, the United Nations Children's Fund (UNICEF) reports that more than

¹ Jacinta K. Muteshi, Suellen Miller, and José M. Belizán, "The Ongoing Violence Against Women: Female Genital Mutilation/Cutting," *Reproductive Health* 13, no. 1 (April 2016): 44; Francesca Simi and Laura Gentile, "Ending Female Genital Mutilation as a Global Challenge: Community Empowerment and Promoting Change through Dialogue, Education, and Advocacy," *Journal of Sex- and Gender-Specific Medicine* 11, no. 3 (September 2025): 168–71; Kazhan I. Mahmood et al., "Knowledge, Attitudes, and Positions of Religious Leaders towards Female Genital Cutting: A Cross-Sectional Study from the Kurdistan Region of Iraq," *PLoS ONE* 17, no. 11 (November 2022): e0265799.

² Ansari Zartab Jabeen, Nehal Ahmad, and Lubna J. Siddiqui, "Female Genital Mutilation and Islamic Jurisprudence: Deconstructing Religious Misattributions and Advancing Rights-Based Eradication Strategies," *Legal Transformation in Muslim Societies* 2, no. 3 (2025): 61–84; Dania Jemal Mohamed Brhan, "Female Genital Mutilation: Cultural or Religious Obligation? Exploring Perspectives on Female Genital Mutilation Within Communities and Practitioners," in *Muslim Women's Lived Experiences and Intersectional Identities: A Global Perspective*, ed. Puspita Melati Wan, Saiqa Anne Qureshi, and Rosila Bee Mohd Hussain (Springer Nature, 2025), 415–35.

³ Jasjit Beausang and Saifuddin T. Mama, "A Summary of Female Genital Mutilation/Cutting for the Pediatric and Adolescent Care Provider," *Journal of Pediatric and Adolescent Gynecology* 36, no. 2 (April 2023): 97–102.

230 million women and girls worldwide have undergone the practice, with the number continuing to rise.⁴ In several Muslim-majority societies, the relationship between religious authority and the persistence of FGC reveals a complex dynamic. In Egypt, for example, although both Al-Azhar and Dār al-Iftā' have declared that FGC lacks a legitimate basis in Islamic law, medicalized female circumcision continues due to its enduring socio-religious legitimacy at the community level.⁵ In contrast, in Indonesia, the Indonesian Council of Ulama (*Majelis Ulama Indonesia*, MUI) did not prohibit female circumcision but instead regarded it as a permissible practice subject to certain conditions.⁶ These cases suggest that debates surrounding FGC are not merely concerned with public health or religious legality; they are also deeply connected to how religious authority is constructed and mobilized to regulate women's bodies, sexuality, and lived experiences.

The issue is particularly significant in Indonesia due to the high prevalence of female circumcision. A 2021 survey conducted by the Ministry of Women's Empowerment and Child Protection found that 50.5 percent of Indonesian women had undergone some form of FGC, with particularly high prevalence rates reported in several regions of Sulawesi, Kalimantan, and Sumatra. These figures place Indonesia among the countries with a substantial number of FGC cases globally, as noted by UNICEF in 2025. Notably, the revocation of Minister of Health Regulation No. 1636/Menkes/PER/XII/2010 through Minister of Health Regulation No. 6 of 2014 did not eliminate the practice. Instead, female circumcision increasingly shifted into private spheres that are less accessible to state regulation, while local religious authorities continued to serve as the primary reference point for determining its legitimacy.⁷ It was within this context that the Indonesian Congress of Women Ulama (*Kongres Ulama Perempuan Indonesia*, KUPI) issued the Second KUPI Religious Deliberation Decree No. 08/MK-KUPI-2/XI/2022 on the Protection of Women from Harmful Female Genital Cutting without Medical Justification, declaring the practice prohibited (*ḥarām*).⁸ Unlike the dominant positions within classical Islamic jurisprudence and the MUI fatwa that permit female circumcision,⁹ KUPI's ruling places women's reproductive health, bodily integrity, and human dignity at the center of its legal reasoning.

⁴ C. Pallitto et al., "Exploring the Health Complications of Female Genital Mutilation through a Systematic Review and Meta-Analysis," *BMC Public Health* 25, no. 1 (2025): 1–29.

⁵ S. Elnakib et al., "Medicalization of Female Genital Mutilation in Egypt: Trends, Drivers, and Prospects for Elimination," *PLOS Global Public Health* 5, no. 11 November (2025): 1–15.

⁶ Rudi Hartono and Wulan Febriani, "Interpretation of Islamic Law Regarding Female Circumcision in Indonesia: Fatwa Analysis and Ulama Opinions," *Indonesian Journal of Islamic Law* 3, no. 2 (December 2020): 74–90.

⁷ Hamdia M. Ahmed et al., "Knowledge and Perspectives of Female Genital Cutting Among the Local Religious Leaders in Erbil Governorate, Iraqi Kurdistan Region," *Reproductive Health* 15, no. 1 (March 2018): 44; Hamdia M. Ahmed et al., "Religious Leaders' Position Toward Female Genital Cutting and Their Perspectives on the Relationship between the Islamic Religion and This Practice," *Women & Health* 59, no. 8 (September 2019): 854–66.

⁸ "Decision of the Second Religious Deliberation of the Indonesian Women Ulama Congress (KUPI) No. 08/MK-KUPI-2/XI/2022 on the Protection of Women from Harmful Female Genital Cutting and Female Genital Mutilation Conducted Without Medical Justification," November 24, 2022.

⁹ Wahbah al-Zuhaylī, *Al-Fiqh al-Islāmī wa Adillatuh* (Damascus: Dār al-Fikr, 1989), 4:301.

Scholarship on fatwas concerning women over the past several decades reveals at least three major trends. First, a substantial body of literature treats fatwas as products shaped by the social, political, historical, and cultural contexts in which religious authorities operate. From this perspective, variations in fatwas concerning women's leadership, reproductive rights, and female circumcision are understood as outcomes of ongoing negotiations between Islamic normative authority and changing social realities.¹⁰ Second, studies focusing on fatwa methodology have highlighted a shift from approaches grounded primarily in the authority of legal schools (*madhāhib*) and classical legal precedents toward more contextual forms of *ijtihad* (independent legal reasoning) that integrate Islamic legal traditions with contemporary scientific knowledge and social developments.¹¹ Third, gender-oriented scholarship has criticized the tendency of certain fatwas to reproduce patriarchal power relations through legal interpretations that marginalize women's experiences, while also documenting the emergence of alternative forms of religious authority that seek to articulate gender justice within an Islamic normative framework.¹² Taken together, these strands of scholarship demonstrate that fatwas are not merely products of textual interpretation but also sites of religious knowledge production shaped by power relations, interpretive methodologies, and socially constructed understandings of gender.

Despite these important contributions, existing studies have largely focused on the substance of legal rulings, the socio-political factors underlying fatwa production, or the ideological orientations of the institutions issuing them. Comparatively little attention has been given to the processes of legal reasoning through which women's experiences, scientific knowledge, and Islamic legal sources interact in the construction of religious authority. This gap is particularly significant in the context of contemporary fatwas, which increasingly draw upon social realities and scientific evidence alongside textual authority. Addressing this research gap, this article argues that KUPI's prohibition of female circumcision represents not only a shift in substantive legal judgment but also a transformation in the production and

¹⁰ Emine Enise Yakar, "Women's Political Leadership: One Question and Two Divergent Fatwās," *Journal of Law and Religion* 37, no. 2 (May 2022): 332–62; Ilham Mundzir and Yulianti Muthmainnah, "The Progressiveness of Quranic Interpretation in the Fatwa of Muhammadiyah on Female Circumcision," *Indonesian Journal of Islam and Muslim Societies* 12, no. 2 (December 2022): 285–311; Dedi Masri and Randy Putra Alamsyah, "Force Majeure in Abortion: A Review of Ulama Fatwas and Indonesian Health Law," *Malaysian Journal of Syariah and Law* 14, no. 1 (April 2026): 61–76.

¹¹ Nur Hannan et al., "Between Adherence to Madhhab and Adaptation to Context: Fatwās on Female Leadership in Nahdlatul Ulama-Affiliated Islamic Higher Education Institutions," *Journal of Islamic Law* 5, no. 2 (August 2024): 269–87; Arbia Lanani, "Aspects of Maqāsid-Based Renewal and Its Impact on Fatwas Involving Women and the Family by Sheikh Yūsuf al-Qaradāwī," *Journal of College of Sharia and Islamic Studies* 43, no. 1 (2025): 81–105; Siti Hanna et al., "Woman and Fatwa: An Analytical Study of MUT's Fatwa on Women's Health and Beauty," *AHKAM: Jurnal Ilmu Syariah* 24, no. 1 (June 2024): 171–84.

¹² Nor Ismah, "Destabilising Male Domination: Building Community-Based Authority among Indonesian Female Ulama," *Asian Studies Review* 40, no. 4 (October 2016): 491–509; Mohammad Bachrul Falah and Riyanta, "Digital Patriarchy: How Indonesian Islamic Preachers Construct Gender Asymmetry through YouTube Fatwas," *Al-Ahwal* 18, no. 1 (2025): 103–22; Nor Ismah, "Women's Fatwa-Making in Indonesia: Gender, Authority, and Everyday Legal Practice," *International Journal of Islam in Asia* 4, nos. 1–2 (April 2024): 75–97.

legitimization of Islamic legal authority. By integrating women's experiences, reproductive health knowledge, Islamic legal sources, and constitutional norms, KUPI develops a mode of legal reasoning that places the protection of women at the center of determining public welfare (*maṣlahah*). Accordingly, this article examines how women's experiences and reproductive health function as normative sources in KUPI's fatwa on female circumcision and explores how this process reconfigures the relationship between textual authority, lived experience, and the objectives of Islamic law (*maqāṣid al-sharī'ah*) in contemporary Islamic legal thought.

Research Methodology

This study employs a library research design within a socio-legal framework. The socio-legal approach enables the analysis of fatwas not merely as religious legal texts but also as responses to the social contexts that shape their formulation and implementation. The primary data source is the Second KUPI Religious Deliberation Decree No. 08/MK-KUPI-2/XI/2022 on the Protection of Women from Harmful Female Genital Cutting without Medical Justification. Secondary data were drawn from a variety of relevant sources, including books, book chapters, scholarly journal articles, research reports, policy documents, and official publications issued by or affiliated with the KUPI. All data were collected through document analysis to develop a comprehensive understanding of the legal arguments, social context, and knowledge foundations underpinning the fatwa.

The collected data were analyzed qualitatively using Katharine T. Bartlett's framework of feminist practical reasoning.¹³ This framework provides an analytical lens for examining how women's experiences, reproductive health knowledge, social context, and considerations of *maqāṣid al-sharī'ah* are incorporated into Islamic legal reasoning. The analysis focuses on three key components of the fatwa's structure: *taṣawwur* (problem construction), *adillah* (normative foundations), and *istidlāl* (legal reasoning). Through this framework, the study explores how women's experiences and reproductive health considerations function as sources of normative judgment in KUPI's process of *ijtihād* and how these considerations interact with Islamic legal sources and constitutional norms in shaping the fatwa prohibiting female circumcision in Indonesia.

Female Circumcision: Between *Fiqh* and State Law

Within the classical tradition of Islamic jurisprudence (*fiqh*), circumcision (*khitan*) is generally understood as part of *fiṭrah*, a set of practices associated with ritual purity, bodily hygiene, and Muslim religious identity. For males, circumcision refers to the removal of the foreskin covering the *ḥashafah* (glans penis) to maintain cleanliness and facilitate ritual purification. In the case of females, circumcision is commonly understood as the removal of a small portion of tissue from the female genital area, a practice known as *khifāḍ*.¹⁴ Alongside other *fiṭrah* practices, such as trimming the

¹³ Katharine Bartlett, "Feminist Legal Methods," *Harvard Law Review* 103, no. 4 (1990): 829–88.

¹⁴ Al-Zuhaylī, *Al-Fiqh al-Islāmī wa Adillatuh*, 4:301.

nails, using *siwāk* (a natural tooth-cleaning stick), and removing body hair, circumcision occupies a particularly prominent place in classical *fiqh* literature because it is often regarded as a marker of religious identity and membership within the Muslim community.¹⁵

Although Muslim jurists generally acknowledge the normative legitimacy of circumcision within the Islamic tradition, they differ considerably regarding its legal status, particularly in relation to female circumcision. The Ḥanafī and Mālikī schools classify it as an act of honor (*makrūmah*) for women, whereas the Shāfi‘ī school considers circumcision obligatory for both males and females. The Ḥanbalī school, by contrast, regards it as obligatory for males and recommended for females. These differences stem from divergent interpretations of the prophetic traditions invoked as legal evidence, including reports describing circumcision as “a *sunnah* (recommended) for men and an honor for women” and traditions advising that the procedure should be performed only to a limited extent.¹⁶ Consequently, debates over female circumcision reflect not only divergent legal conclusions but also broader epistemological differences concerning the authority of hadith, the scope of legal obligations, and the role of *maṣlahah* in Islamic legal reasoning.

These differences are also evident in discussions concerning the appropriate timing of circumcision. Some jurists recommend performing the procedure on the seventh day after birth, based on reports concerning the circumcision of Ḥasan and Ḥusayn, while others do not consider this timing legally binding. The Ḥanbalī school permits circumcision up until a child reaches puberty (*bulūgh*), provided it does not cause harm, whereas the Mālikī school tends to associate the practice with the age at which children begin observing religious obligations.¹⁷ In contrast, al-Shawkānī argued that no explicit textual evidence establishes either a specific time for circumcision or its obligatory nature.¹⁸ These differing opinions demonstrate that the legal construction of circumcision in *fiqh* is neither fixed nor monolithic; rather, it emerges through ongoing negotiations among scriptural texts, legal reasoning, bodily considerations, and the social practices of Muslim communities.

In contrast to the diverse views found in classical jurisprudence, state regulation in Indonesia has adopted a more definitive stance on female circumcision. Government Regulation No. 28 of 2024, enacted as an implementing regulation of Health Law No. 17 of 2023, identifies the elimination of female circumcision as part of a broader agenda to protect women’s reproductive health.¹⁹ This policy was further reinforced by Minister of Health Regulation No. 2 of 2025, which explicitly prohibits cutting, injuring, or otherwise intervening in the clitoris, labia, hymen, or vagina, whether partially or entirely. Beyond legal prohibition, the

¹⁵ Sayyid Sabiq, *Fiqh Sunnah* (Jakarta: Pena Pundi Aksara, 2008), 59.

¹⁶ Al-Zuhaylī, *Al-Fiqh al-Islāmī wa Adillatuh*, 4:301.

¹⁷ Al-Zuhaylī, 4:301.

¹⁸ Sabiq, *Fiqh Sunnah*, 59.

¹⁹ “Government Regulation No. 28 of 2024 Concerning the Implementing Regulation of Law No. 17 of 2023 on Health,” July 26, 2024, Article 102.

regulation also emphasizes public education, advocacy, and community empowerment as key strategies for the sustainable elimination of the practice.²⁰

Nevertheless, state prohibition has not automatically led to the disappearance of female circumcision from the socio-religious lives of Indonesian Muslim communities. Its persistence continues to be supported by a combination of local traditions, religious authority, and forms of legitimacy derived from classical *fiqh* literature. In some communities, the practice has even been adapted into more symbolic forms, such as nicking, pricking, or ceremonial rituals involving little or no significant anatomical cutting.²¹ This phenomenon suggests that the endurance of female circumcision is shaped not solely by the effectiveness of formal regulation but also by competing claims of authority over the meaning of women's bodies, reproductive health, and religious identity. It is within this contested terrain that fatwas acquire particular significance as sites of negotiation among Islamic legal traditions, state authority, and women's lived experiences.

KUPI and Its Fatwa Prohibiting Female Circumcision

The KUPI is a network comprising religious scholars, academics, activists, and civil society organizations dedicated to advancing gender justice within an Islamic framework, promoting moderate religious engagement, and fostering social peace.²² The emergence of KUPI is closely linked to the development of Islamic feminist discourse in Indonesia since the 1990s, involving organizations such as Alimat, Rahima, Fahmina, and Aman. Unlike conventional religious forums traditionally dominated by male religious authorities, KUPI creates a broader space for the participation of women ulama, women's rights advocates, academics, survivors of injustice, practitioners, and representatives of state institutions in the production of religious knowledge.²³ Through its first congress in Cirebon in 2017 and its second congress in Jepara in 2022, KUPI has consolidated women's religious authority while introducing alternative perspectives to address issues affecting Muslim women.²⁴

One of the most significant outcomes of the Second KUPI Congress was the Religious Deliberation Decree No. 08/MK-KUPI-2/XI/2022 on the Protection of Women from Harmful FGC without Medical Justification. The fatwa declares that any act involving the cutting or injuring of female genitalia without medical necessity and with the potential to cause harm is prohibited. Beyond establishing the legal status of the practice, the fatwa frames the protection of women's bodies, reproductive health, and human dignity as a collective responsibility shared by

²⁰ "Minister of Health Regulation No. 2 of 2025 on the Implementation of Reproductive Health Services," February 20, 2025.

²¹ Mela Lavenia and Widiastuti, "Khitan Perempuan dalam Perspektif Medis, Hukum Islam dan Hukum Negara di Indonesia," *Inovasi Hukum: Jurnal Hukum Progresif* 7, no. 2 (June 2025): 1-13.

²² "KUPI - Beranda," accessed January 11, 2026, <https://kupi.or.id/>.

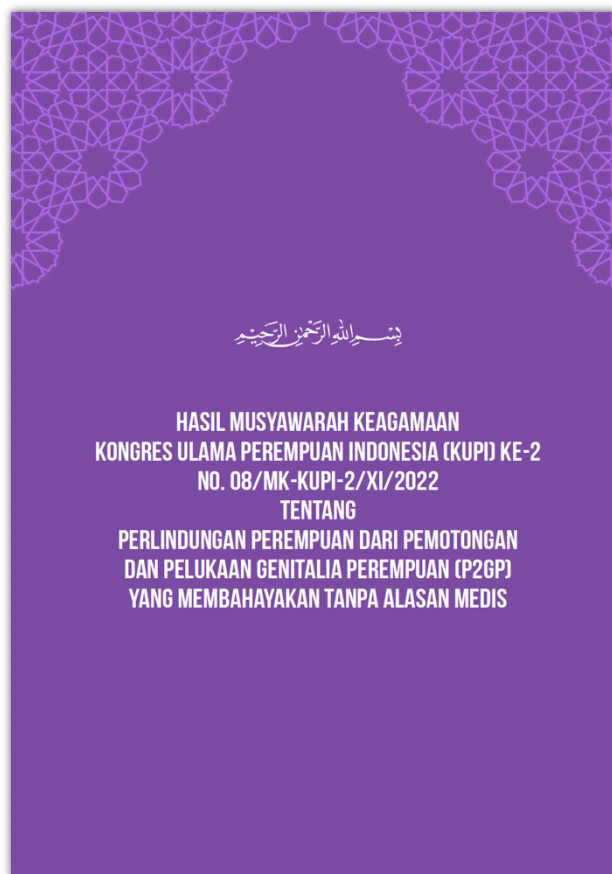
²³ Ismah, "Destabilising Male Domination," 491-509.

²⁴ Arifah Millati Agustina and Nor Ismah, "Challenging Traditional Islamic Authority: Indonesian Female Ulama and the Fatwa Against Forced Marriages," *Journal of Islamic Law* 5, no. 1 (February 2024): 125-46; David Kloos and Nor Ismah, "Siting Islamic Feminism: The Indonesian Congress of Women Islamic Scholars and the Challenge of Challenging Patriarchal Authority," *History and Anthropology* 34, no. 5 (October 2023): 818-43.

families, religious leaders, customary authorities, communities, government institutions, civil society organizations, and the media. According to KUPI, individuals and institutions possessing religious or social authority have an obligation to use their influence to prevent practices that endanger women.²⁵ Consequently, the protection of women is understood not merely as a matter of public health policy but also as a moral responsibility and a religious obligation.

Figure 1

Cover Page of the Second KUPI Religious Deliberation Decree No. 08/MK-KUPI-2/XI/2022 on the Protection of Women from Harmful Female Genital Cutting without Medical Justification



Source: KUPI (2022)

Structurally, the fatwa is organized into seven interconnected components: *taṣawwur* (problem construction), *adillah* (legal sources), *istidlāl* (analytical and interpretive reasoning), the fatwa (religious positions and views), *tazkiyah* (recommendations), *marājiʿ* (references), and *marāfiq* or *mulḥaqāt* (appendices).²⁶ The *taṣawwur* section outlines the anatomical differences between male and female genitalia, the various forms of female circumcision, the harms associated with the

²⁵ "Decision of the Second Religious Deliberation of the Indonesian Women Ulama Congress (KUPI) No. 08/MK-KUPI-2/XI/2022 on the Protection of Women from Harmful Female Genital Cutting and Female Genital Mutilation Conducted Without Medical Justification."

²⁶ Faqihuddin Abdul Kodir, *Metodologi Fatwa KUPI: Pokok-Pokok Pikiran Musyawarah Keagamaan Kongres Ulama Perempuan Indonesia* (Cirebon: KUPI, 2022), 262–69.

practice, and the socio-religious conditions that contribute to its persistence within Muslim communities. The *adillah* section presents the normative foundations of the fatwa, drawing upon four principal sources: the Qur'an, hadith, juristic opinions, and state law. These sources are subsequently examined in the *istidlāl* section, where KUPI develops its legal analysis and reasoning. The fatwa section contains the formal legal ruling, while the *tazkiyah* section offers recommendations directed toward communities, government agencies, and relevant stakeholders. The *marāji'* section lists the references consulted in formulating the fatwa, and the appendices include fatwas from several Muslim-majority countries as well as empirical findings concerning the harmful effects of female circumcision in various regions of Indonesia.²⁷ This structure demonstrates that the formulation of the fatwa extends beyond textual interpretation to incorporate scientific knowledge, empirical evidence, and social realities as integral elements of legal reasoning.

This orientation is particularly evident in the construction of *taṣawwur*, which serves as the foundation of the fatwa's argument. KUPI places women's experiences and reproductive health knowledge at the center of its understanding of female circumcision.²⁸ The fatwa emphasizes that female reproductive organs have biological characteristics distinct from those of males and that cutting or injuring them without medical justification may cause significant physical and psychological harm. At the same time, KUPI recognizes that the practice continues in many regions because it is supported by local traditions, religious identity markers, and specific interpretations of Islamic teachings. Consequently, the fatwa moves beyond debates over the legal status of circumcision in classical *fiqh* literature and instead focuses on evaluating the actual consequences experienced by women.²⁹ Within this framework, the protection of bodily integrity, reproductive health, and women's dignity is positioned as an integral component of the *maqāṣid al-sharī'ah*.

The fatwa was formulated by a drafting committee composed of religious scholars, academics, and women activists from across Indonesia, including KH. Husein Muhammad, Nyai Hj. Badriyah Fayumi, KH. Faqihuddin Abdul Kodir, Nyai Hj. Nur Rofiah, Nyai Hj. Maria Ulfah Anshor, KH. Hamim Ilyas, and Nyai Hj. Hindun Anisah. Its development involved a series of *ḥalaqāt*—participatory forums for religious discussion and deliberation—as well as consultations with various organizations and stakeholders prior to its consideration at the Second KUPI Religious Deliberation held in Jepara, Central Java, from November 24 to 26, 2022. Following extensive collective discussions and successive rounds of deliberation, the decision was formally adopted as an official KUPI fatwa. The involvement of diverse

²⁷ “Decision of the Second Religious Deliberation of the Indonesian Women Ulama Congress (KUPI) No. 08/MK-KUPI-2/XI/2022 on the Protection of Women from Harmful Female Genital Cutting and Female Genital Mutilation Conducted Without Medical Justification.”

²⁸ Faqihuddin Abdul Kodir et al., “Maqāṣid Cum-Mubādalah Methodology of KUPI: Centering Women's Experiences in Islamic Law for Gender-Just Fiqh,” *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 19, no. 2 (2024): 519–45; Ismah, “Destabilising Male Domination,” 491–509.

²⁹ Nabielia Nailly and Achmad Kemal Riza, “Swings and Roundabouts on Gender Issues: Lesson from Female Circumcision Fatwa of KUPI and FMPP,” *Journal of Indonesian Islam* 19, no. 1 (June 2025): 239–62.

actors throughout this process indicates that the fatwa emerged not from the authority of a single individual but through a deliberative mechanism that combined religious knowledge, social experience, and considerations of *maṣlahah*.³⁰

More importantly, the active participation of women at every stage of the fatwa's formulation reflects a significant transformation in the production of religious authority. In this context, women are no longer positioned merely as objects regulated by law but as subjects who actively engage in the construction, interpretation, and legitimization of legal knowledge.³¹ Their involvement in the process of *ijtihad* allows women's lived experiences, reproductive health knowledge, and social realities to occupy a more prominent role in religious reasoning. Consequently, KUPI's fatwa not only introduces a new legal stance on female circumcision but also exemplifies a broader shift in how religious authority is constructed and exercised within contemporary Islam.

Islamic Legal Reasoning in KUPI's Fatwa Prohibiting Female Circumcision

In formulating its fatwa prohibiting female circumcision, KUPI constructs its legal argument by integrating four principal sources: the Qur'an, hadith, juristic opinions, and state law.³² Rather than treating these sources as separate domains of authority, KUPI weaves them into a coherent argumentative framework aimed at safeguarding women's bodily integrity, reproductive health, and human dignity. Qur'anic verses are employed to affirm the sanctity of human life, the prohibition of harmful acts, and the obligation to uphold justice and public welfare. Prophetic traditions reinforce these principles by emphasizing the prohibition of harm, the duty to protect vulnerable groups, and the ethical responsibilities of those who exercise authority. Juristic opinions and Islamic legal maxims (*qawā'id fiqhiyyah*) serve to connect these normative principles with the *maqāṣid al-sharī'ah*, while constitutional norms provide an additional layer of legitimacy through the protection of human rights and women's reproductive health. Taken together, this argumentative structure reflects KUPI's commitment to the protection of life (*ḥifẓ al-nafs*), human dignity, and an expanded understanding of the protection of progeny (*ḥifẓ al-nasl*) that encompasses women's reproductive well-being.³³

Within this framework, the Qur'an serves as the primary normative foundation for KUPI's prohibition of harmful forms of female circumcision. The fatwa cites sixteen Qur'anic verses, which can be grouped into four broad thematic categories. The first category consists of verses affirming the inherent dignity and honor of human beings as God's creation, including Q.S. al-Isrā' [17]: 70, Q.S. al-Nisā' [4]: 19, Q.S. al-Baqarah [2]: 222, and Q.S. al-Aḥzāb [33]: 35. The second category comprises verses prohibiting actions that cause harm, injury, or suffering to oneself or others, such as Q.S. al-Aḥzāb [33]: 58, Q.S. al-Baqarah [2]: 195, and Q.S. al-Shu'arā' [26]: 183.

³⁰ Ismah, "Women's Fatwa-Making in Indonesia," 75–97.

³¹ Kodir et al., "Maqāṣid Cum-Mubādalah Methodology of KUPI"; Ismah, "Women's Fatwa-Making in Indonesia," 75–97.

³² Kodir, *Metodologi Fatwa KUPI*, 262–63.

³³ Masri and Alamsyah, "Force Majeure in Abortion," 61–76.

The third category includes verses emphasizing respect for women, family relationships, and women's biological experiences, including Q.S. al-Nisā' [4]: 9, Q.S. al-Taḥrīm [66]: 6, Q.S. Luqmān [31]: 14, and Q.S. al-Aḥqāf [46]: 15. The fourth category consists of verses encouraging justice, cooperation in promoting good, and the use of knowledge in addressing social problems, such as Q.S. al-Tawbah [9]: 71, Q.S. al-Mā'idah [5]: 2, Q.S. al-Naḥl [16]: 43, Q.S. al-Nisā' [4]: 58, and Āl 'Imrān [3]: 110.³⁴ Through this configuration of Qur'anic evidence, KUPI shifts the focus of the debate from the legal permissibility of female circumcision to the protection of women's bodily integrity, safety, and dignity as fundamental values within Islamic law.

This argument is further strengthened by the use of prophetic traditions organized around three principal themes. The first concerns the prevention of harm, centered on the well-known hadith "*lā ḍarar wa lā ḍirār*" (there should be neither harm nor reciprocating harm), which serves as a normative basis for rejecting practices that may cause physical or psychological injury. KUPI cites this tradition from *al-Muwatta'* (Hadith No. 1435), *Sunan Ibn Mājah* (Hadith Nos. 2430–2431), and *Musnad Aḥmad* (Hadith Nos. 2912 and 2322). The second theme draws upon three hadiths from *Sunan Ibn Mājah* (Hadith No. 1924), *Ṣaḥīḥ al-Bukhārī* (Hadith No. 6061), and *Sunan al-Tirmidhī* (Hadith No. 2043), which emphasize the obligation to treat women and children with kindness and protection. The third theme concerns the ethics of leadership and accountability, drawing on six hadiths from *Ṣaḥīḥ al-Bukhārī* (Hadith Nos. 901, 2448, 2594, 2597, 2789, and 5255) and one hadith from *Ṣaḥīḥ Muslim* (Hadith No. 4826), all of which stress the responsibility of those in positions of authority to protect society from harm.³⁵ Unlike classical juristic discussions that often focus on the authenticity and legal implications of hadiths specifically related to female circumcision, KUPI foregrounds universal Prophetic teachings on human protection as the primary framework for evaluating the practice.

A similar orientation is evident in KUPI's use of juristic opinions and Islamic legal maxims. The fatwa draws upon seventeen juristic opinions from the major legal schools, all of which are mobilized to affirm that the promotion of human welfare constitutes a fundamental objective of Islamic law. Drawing on the works of al-Ghazālī, al-Shātibī, and contemporary scholars such as Yūsuf al-Qaradāwī, KUPI positions *maqāṣid al-sharī'ah* as the principal framework for assessing the legitimacy of social practices. Within this framework, practices shown to cause physical or psychological harm to women are regarded as inconsistent with the *maqāṣid al-sharī'ah*. This position is reinforced through several legal maxims, including "*al-ḍarar yuzāl*" (harm must be eliminated), "*dar' al-mafāsīd muqaddam 'alā jalb al-maṣāliḥ*" (preventing harm takes precedence over securing benefits), and principles of legal caution concerning interventions involving human reproductive

³⁴ "Decision of the Second Religious Deliberation of the Indonesian Women Ulama Congress (KUPI) No. 08/MK-KUPI-2/XI/2022 on the Protection of Women from Harmful Female Genital Cutting and Female Genital Mutilation Conducted Without Medical Justification."

³⁵ "Decision of the Second Religious Deliberation of the Indonesian Women Ulama Congress (KUPI) No. 08/MK-KUPI-2/XI/2022 on the Protection of Women from Harmful Female Genital Cutting and Female Genital Mutilation Conducted Without Medical Justification."

organs.³⁶ Consequently, KUPI's argument is not grounded in a rejection of the juristic tradition itself but rather in a reinterpretation of that tradition through the lens of women's welfare as a central criterion for legal judgment.

In addition to drawing upon religious sources, KUPI incorporates constitutional law into its legal reasoning. The fatwa cites several provisions of the 1945 Constitution of the Republic of Indonesia (UUD 1945), particularly Articles 28A, 28B, 28G, and 28I, which guarantee the rights to life, bodily protection, personal security, and freedom from degrading treatment. The inclusion of constitutional provisions within the fatwa's argumentative structure demonstrates that the protection of women is understood not only as a religious and moral obligation but also as a constitutional right guaranteed by the state.³⁷ Consequently, the prohibition of female circumcision emerges from the convergence of Islamic legal principles and human rights norms embedded within Indonesia's constitutional framework, thereby generating a form of legal reasoning that carries both religious and constitutional legitimacy.

Overall, KUPI's argumentative pattern reflects an effort to construct an integrative and multidimensional model of Islamic legal reasoning. The prohibition of female circumcision is not derived from a single textual proof but emerges from the convergence of multiple authoritative sources that collectively emphasize the protection of life, reproductive health, bodily integrity, and women's dignity. Within this framework, Islamic legal sources, reproductive health knowledge, and constitutional norms are not treated as competing domains of authority but as mutually reinforcing components of legal argumentation. Consequently, KUPI's fatwa does more than issue a legal ruling on female circumcision; it offers a model of Islamic legal reasoning that bridges normative tradition with social realities and the contemporary imperative to protect women from harm.³⁸

Feminist Practical Reasoning in Fatwa Production: Navigating Religious Obligations and Reproductive Health

The findings of this study suggest that the distinctiveness of KUPI's fatwa prohibiting female circumcision lies not only in its legal conclusion but also in how religious authority is constructed through the process of legal reasoning. While classical juristic debates on female circumcision have largely focused on the normative status of hadith and differences among legal schools,³⁹ KUPI shifts the emphasis toward the lived consequences of the practice for women. This shift represents a significant

³⁶ "Decision of the Second Religious Deliberation of the Indonesian Women Ulama Congress (KUPI) No. 08/MK-KUPI-2/XI/2022 on the Protection of Women from Harmful Female Genital Cutting and Female Genital Mutilation Conducted Without Medical Justification."

³⁷ "Decision of the Second Religious Deliberation of the Indonesian Women Ulama Congress (KUPI) No. 08/MK-KUPI-2/XI/2022 on the Protection of Women from Harmful Female Genital Cutting and Female Genital Mutilation Conducted Without Medical Justification."

³⁸ Agustina and Ismah, "Challenging Traditional Islamic Authority," 125-46; Kodir et al., "Maqāṣid Cum-Mubādalah Methodology of KUPI," 519-45.

³⁹ Al-Zuhayli, *Al-Fiqh al-Islāmi wa Adillatuh*, 4:301; Norazam Khair Mohd Ithnin, Ishak Suliaman, and Abdul Halim Ibrahim, "Re-Evaluating the Authenticity of Hadith on the Shariah Ruling of Female Circumcision in Malaysia," *Al-Bayan: Journal of Qur'an and Hadith Studies* 21, no. 2 (2023): 217-42.

transformation in the object of legal consideration. Women's bodies are no longer treated merely as objects of religious regulation but as sites of experience that inform judgments about the legitimacy of a religious practice.⁴⁰ Within this framework, women's lived experiences acquire epistemological significance, allowing social realities and the concrete effects of a practice to become integral components of legal deliberation.

This orientation is evident from the stage of *taşawwur*, where female circumcision is understood not as an isolated legal issue but as a social phenomenon embedded within traditions, gender relations, and religious meaning-making. In many Indonesian Muslim communities, the persistence of female circumcision is sustained not only by juristic legitimacy but also by cultural processes that intertwine religion and custom in ways that are difficult to disentangle.⁴¹ Within such contexts, female circumcision is frequently perceived as a marker of piety, an expression of Muslim identity, and even a mechanism for regulating women's sexuality.⁴² By taking these social realities as its point of departure, KUPI redirects attention from debates over textual permissibility to an assessment of the practice's consequences for women's reproductive health, bodily integrity, and human dignity. This shift suggests that the interpretation of Islamic law extends beyond determining what is legally permitted or prohibited to include questions of who is affected by a legal ruling and how those effects are experienced in everyday life.

Women's experiences are clearly reflected in the fatwa's selection of *adillah* and the construction of its *istidlāl*. The prohibition of female circumcision is not derived from a single textual proof but emerges from the convergence of multiple authoritative sources, including sixteen Qur'anic verses, eight hadiths, seventeen juristic opinions representing different legal schools, principles of *maqāşid al-sharīah*, Islamic legal maxims, and relevant provisions of the 1945 Indonesian Constitution.⁴³ Collectively, these sources are oriented toward a shared normative objective: the protection of life, bodily integrity, human dignity, and women's reproductive health. Within this framework, women's rights are not treated as external values that must be reconciled with Islamic law; rather, they are understood

⁴⁰ Kodir et al., "Maqāşid Cum-Mubādalāh Methodology of KUPI," 519–45.

⁴¹ Rachmah Ida and Muhammad Saud, "Female Circumcision and the Construction of Female Sexuality: A Study on Madurese in Indonesia," *Sexuality & Culture* 24, no. 6 (December 2020): 1987–2006; Muhammad Dachlan et al., "Molubingo Tradition: The Sacred of Female Circumcision on Islamic Ritual Practice, Tradition, and Power in Gorontalo, Indonesia," *Trames. Journal of the Humanities and Social Sciences* 28, no. 3 (August 2024): 261–74.

⁴² Lanny Octavia, "Circumcision and Muslim Women's Identity in Indonesia," *Studia Islamika* 21, no. 3 (December 2014): 419–57; Rusdaya Basri et al., "Female Circumcision in Bugis-Makassar Society of South Sulawesi: Between Cultural Symbolism and the Islamic Law," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 8, no. 3 (August 2024): 1503–25; Aniedi Abasi Okon Ekpatt, "Female Genital Mutilation and the Influence of Traditional Cultural Practices Against Women: Experience From Ibibio, Akwa Ibom State of Nigeria," in *Research Anthology on Advancements in Women's Health and Reproductive Rights* (IGI Global, 2022), 894–912.

⁴³ "Decision of the Second Religious Deliberation of the Indonesian Women Ulama Congress (KUPI) No. 08/MK-KUPI-2/XI/2022 on the Protection of Women from Harmful Female Genital Cutting and Female Genital Mutilation Conducted Without Medical Justification."

as inherent to the *maqāṣid al-sharī'ah*.⁴⁴ Consequently, the prohibition of female circumcision is not merely a response to contemporary medical evidence or human rights discourse but the logical outcome of an interpretation of Islamic law that places the protection of human well-being at its normative center.⁴⁵

Overall, the structure of the fatwa reflects a fundamental transformation in the production of religious authority. In many classical juristic traditions, women have primarily appeared as subjects regulated by legal discourse rather than as active participants in its formation. In contrast, KUPI's fatwa-making process demonstrates the active involvement of women in the production of religious knowledge.⁴⁶ Women's experiences, the voices of those directly affected by the practice, medical evidence, and forms of knowledge emerging from social realities are all given meaningful consideration within the broader process of *ijtihād*. Consequently, legal legitimacy is derived not only from textual authority and juristic precedent but also from the capacity of legal reasoning to address the concrete challenges faced by women in everyday life. In this sense, religious authority is understood not as a fixed inheritance transmitted unchanged across generations but as the outcome of an ongoing negotiation among textual traditions, lived experiences, and evolving social needs.⁴⁷ These findings support earlier studies that identify women's experiences as a significant component of KUPI's legal reasoning and its broader project of producing alternative forms of religious authority.⁴⁸

Conclusion

The Indonesian Congress of Women Ulama (KUPI)'s fatwa prohibiting female circumcision represents more than a shift in the substantive legal status of Female Genital Cutting (FGC); it reflects a broader transformation in the construction and legitimization of Islamic legal authority. An analysis of the fatwa's *taṣawwur* (problem description), *adillah* (legal sources), and *istidlāl* (analytical and interpretative reasoning) reveals that KUPI integrates women's lived experiences, reproductive health knowledge, Islamic legal sources, and constitutional norms into a coherent framework of legal reasoning. Unlike classical juristic debates that primarily focus

⁴⁴ Kodir et al., "Maqāṣid Cum-Mubādalah Methodology of KUPI," 519–45.

⁴⁵ Gusti Muzainah et al., "Female Circumcision in Banjar Culture: Navigating Customary Law, Islamic Law, and Human Rights," *Al-Ahkam* 35, no. 2 (October 2025): 371–400; Norazam Khair Mohd Ithnin, Ishak Suliaman, and Abdul Halim Ibrahim, "Violence against Women: Comparing Female Genital Mutilation and Female Circumcision in Malaysia," *JURIS (Jurnal Ilmiah Syariah)* 22, no. 2 (December 2023): 291–304.

⁴⁶ Kodir et al., "Maqāṣid Cum-Mubādalah Methodology of KUPI," 519–45; Ismah, "Destabilising Male Domination," 491–509.

⁴⁷ Mukhsin Aseri et al., "Negotiating Authority and Knowledge: Religion, Science, and Politics in the Fatwa Transformations of the Indonesian Ulama Council," *Journal of Islamic Law* 6, no. 2 (August 2025): 286–316; Shaheen Whyte, "Are Fatwas Dispensable? Examining the Contemporary Relevance and Authority of Fatwas in Australia," *Oxford Journal of Law and Religion* 11, nos. 2–3 (October 2022): 314–42; Ahmad Musadad et al., "A Maqāṣid Al-Sharī'ah Analysis of the Indonesian Ulama Council's Fatwa on Interfaith Greetings within Contemporary Human Rights Discourse," *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi dan Keagamaan* 12, no. 2 (December 2025): 770–88.

⁴⁸ Kodir et al., "Maqāṣid Cum-Mubādalah Methodology of KUPI," 519–45; Ismah, "Destabilising Male Domination," 491–509; Ismah, "Women's Fatwa-Making in Indonesia," 75–97.

on the normative status of female circumcision, KUPI reorients legal deliberation toward the practice's tangible consequences for women's reproductive health, bodily integrity, and human dignity. This shift positions the protection of women as a central criterion for determining *maṣlahah*, while simultaneously expanding the meaning of the objectives of Islamic law (*maqāṣid al-sharī'ah*)—particularly *ḥifẓ al-nafs* (the protection of life) and *ḥifẓ al-nasl* (the protection of progeny)—to encompass women's reproductive well-being and overall welfare.

This study contributes to the field of Islamic legal studies by demonstrating that contemporary fatwas cannot be understood solely as products of textual interpretation. Instead, they function as sites of religious knowledge production shaped by the interaction of social experience, scientific knowledge, and Islamic normative sources. The findings reveal that women's experiences serve not merely as objects of legal consideration but also as sources of knowledge that actively shape legal reasoning and the legitimacy of religious rulings. In doing so, the article extends current discussions on religious authority in Islam by highlighting how women's lived experiences and reproductive health knowledge are incorporated into the processes of *ijtihād* (independent legal reasoning) to produce legal judgments that are more responsive to gender justice and the protection of human dignity. Although this study focuses on a single fatwa and relies primarily on document analysis, its findings open new avenues for future research on the transformation of fatwa authority, the role of lived experience in Islamic legal reasoning, and the evolving forms of contemporary *ijtihād* that engage with questions of gender, reproductive health, and women's rights across diverse Muslim contexts.

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