



Uhamka
FAKULTAS AGAMA ISLAM

Prophetic
Teaching
University

**LAPORAN KEGIATAN
GLOBAL DIALOGUE
FOR INTERNATIONAL COMMUNITY SERVICE ON
ISLAMIC PROPERTY RIGHTS FOR WOMEN**

**FAKULTAS AGAMA ISLAM
UNIVERSITAS MUHAMMADIYAH PROF. DR. HAMKA
JAKARTA 2022**

BERITA ACARA
Global Dialogue,
for International Community Service on Islamic Property Rights for Women

Fakultas Agama Islam Universitas Muhammadiyah Prof. DR. HAMKA (FAI UHAMKA) mengikuti kegiatan Webinar Internasional melalui *via zoom meeting* pada 31 Agustus 2022, yang dihadiri oleh Dekan FAI UHAMKA sebagai Panel Speakers, Prof. Alimatul Qibtiyah yaitu Commissioner National Commission on Violence against Women Indonesia sebagai Moderator, Umar Nyanzi yaitu President Muslim Center for Justice and Law Uganda, dan Muhammad Hassanow Ali Health Project Coordinator Supreme Council of Kenya sebagai Narasumber.

Webinar on Advancing Women Property Rights in Islam, yang diselenggarakan oleh Faith to Action Network-Nairabi bekerjasama dengan Kenya, Uganda, Universitas Al-Azhar-Mesir dan Muhammadiyah Indonesia.

Agreement

between

Faith to Action Network
P.O. Box 2438 – 00202 | Nairobi -Kenya
Hatheru Road – Hatheru Court | Lavington, Kenya

and

Muhammadiyah
Address: Jalan Menteng Raya 62, Jakarta Pusat, DKI Jakarta
INDONESIA

For the implementation of

**GRANT AGREEMENT FOR THE PRODUCTION OF THEOLOGICAL PAPERS ON
WOMEN'S RIGHTS IN ISLAM**

funded by the

**the Ministry of Foreign Trade and Development Cooperation in the Netherlands
Government**

Agreement Number: F2A/GG/02-2021

Project period: August 23rd, 2021 to January, 30th, 2022

Bank account:

Account Name: Pimpinan Pusat Muhammadiyah

Bank: BANK MANDIRI

Account Number: 1230001050741

Swift Code: BMRIIDJA





This grant agreement is between **Muhammadiyah** (hereafter referred to as the 'Grantee') and **Faith to Action Network- F2A** (hereafter referred to as F2A) whose business address is Hatheru Court, Hatheru Road (Lavington), Nairobi, Kenya, P.O. Box 2438-00202.

1. Scope of work

1.1 The Grantee agrees to complete the activities described in the attached Appendix A ('The Terms of Reference') hereby incorporated into this agreement, within the time frame specified therein.

2. Duties and obligations

2.1 The Grantee agrees to implement the activities described in the attached Appendix A ('The Terms of Reference') which forms an integral part of this agreement.

2.2 F2A shall make payments to the Grantee in accordance to the provision of this agreement.

2.3 Only performance of the specific roles and activities spelt in the agreement is binding on Faith to Action Network.

2.4 Once implementation of the agreement has commenced, the Grantee shall reply and implement the activities in accordance with all terms and conditions laid in the agreement.

2.5 The Grantee shall perform the duties/roles/responsibilities as outlined/stated in the agreement to the highest professional standards.

2.6 The Grantee shall not subcontract or sublicense any activities hereafter without the written consent of Faith to Action Network. The Grantee shall use their best endeavours to promote the interests of Faith to Action Network.

2.7 The Grantee hereby represents and warrants that it has full capacity and authority and all the necessary licenses, permits and consents to implement the activities under this agreement.

3. Effective Date and Duration

3.1 This agreement shall be effective on the date of signatures of the last signing party (hereinafter referred to as 'the commencement date') and the agreement will end on January 30th 2022 unless terminated under the provisions of this agreement subject to satisfactory performance by the grantee.

4. Nature of Agreement

4.1 This is a grant agreement.

5. Termination

5.1 F2A shall be entitled to terminate the grant forthwith without prior notice under any of the following circumstances:

5.1.1 If the Grantee commits any breaches of its obligations herein not capable of being rectified;

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- 5.1.2 If the Grantee commits any serious breaches of its obligations herein and has failed to rectify the same within fourteen (14) days after receipt of a written notice requiring it to do so;
- 5.1.3 If any of the Grantees' directors and/or senior managers is convicted of a criminal offence other than an offence which, in the reasonable opinion of F2A, does not affect the Grantee's operation and obligations;
- 5.1.4 If the Grantee's employees assigned to the activities outlined in this agreement are guilty of any gross misconduct or habitually neglects his/her or their duties as outlined in this agreement;
- 5.1.5 If the Grantee becomes insolvent or applies to a court to be adjudged a voluntary winding up or makes any arrangement with its creditors or if a bankruptcy receivership liquidation or any nature of winding up proceedings is instituted against it;
- 5.1.6 Where the Grantee ceases to carry on business for any reason.
- 5.2 The Grantee shall be entitled to terminate the agreement under any of the following circumstances:
- 5.2.1 Any serious breach of F2A's obligations herein which has not been remedied within fourteen (14) days after written notice requiring the same;
- 5.2.2 If F2A becomes insolvent or applies to a court to be adjudged a voluntary winding up or makes any arrangement with its creditors or if a bankruptcy receivership liquidation or any nature of winding up proceedings is instituted against it.
- 5.3 Both parties can terminate this agreement by giving Five (5) working days' notice in writing to the other and neither party shall be required or be under any obligation to assign any reason for such notice.
- 6. Payments**
- 6.1 As consideration for the planned activities, and upon the submission of monthly invoice, Faith to Action shall pay the grantee a maximum amount of Euro 6,000. This amount is the maximum amount reimbursable under this agreement.
- 6.2 The Grantee shall be solely responsible for the personnel who executes the tasks assigned to him/her.
- 7. Amendments**
- 7.1 Any amendment to the agreement shall be made in writing before fulfilment of all obligations laid out in the agreement.
- 7.2 An amendment may not have the purpose or the effect of making changes to the agreement that might call into question the decision awarding the grant.
- 8. Ownership**
- 8.1 The Grantee shall use Faith to Action Network name or marks only for activities authorised by F2A in writing. All other uses will be deemed infringements of faith to Action Network trademark.



8.2 Activities undertaken by the Grantee will be the shared property of Faith to Action Network and the Grantee.

9. Confidentiality

9.1 The Grantee agrees not to disclose and to use their best endeavours to prevent the disclosure by others any matters of a confidential nature to which they may be or become privy because of this agreement. Upon the expiration or termination of this agreement, the Grantee shall surrender to Faith to Action Network all confidential materials relating to Faith to Action Network in their possession, of whatever origin and including, without limitation, duplicates, facsimiles, models, prototypes and notes relating thereto. The Grantee shall promptly direct all inquiries relating to confidential and proprietary information from the public (whether from an individual, a government agency or official, the media or other sources) Faith to Action Network, except as Faith to Action Network may otherwise provide written instructions to the Grantee.

9.2 This article shall survive any termination or expiration of this agreement.

10. Disrepute

10.1 In pursuant of this agreement the Grantee must ensure that they will not bring Faith to Action Network into disrepute by their behaviour.

11. Communication and Information

11.1 Faith to Action Network shall furnish the Grantee with such information as may be necessary to perform the activities.

11.2 Any communication relating to the agreement or to its performance shall be made in writing. Any communication is deemed to have been made when it is received by the receiving party.

12. No Joint Venture

12.1 The Grantee is an independent institution in respect to F2A. Nothing herein shall be deemed to create a joint venture, agency or partnership between the parties, and neither party shall have the power to obligate or bind the other in any manner whatsoever, except as specifically provided herein.

13. Governing Law; Disputes

13.1 This agreement shall be governed by Kenyan law. F2A may withhold payments due to the Grantee until a settlement has been reached.

14. Notices

14.1 Any notice or other communication required or permitted hereafter shall be delivered in person or sent by email or courier service to the addresses set forth above or such other address as shall be furnished in writing by a party. Such notice or communication shall be deemed to have been given as of the date received by the other party.

15. Entire Agreement

15.1 This agreement contains the entire understanding of the parties hereto with respect to the subject matter contained herein. This agreement supersedes all prior agreements and understandings between the parties with respect to such subject matter and may only be modified or discharged by a written document executed by the parties hereto. No terms hereof may be waived or modified except by written amendment.

16. Severability

16.1 Invalidity of one or more provisions of this agreement shall not invalidate any other provision or the agreement as a whole. The invalid provision shall be replaced by such valid provision which comes closest to the intent and purpose of the parties.

17. Authority

17.1 By the signature below, each signatory hereto warrants that he or she is duly authorised to enter this agreement on behalf of the party he or she purports to represent such that, upon execution and delivery, this agreement shall be a binding legal obligation of such party.

Articles heading herein are included for convenience of reference only and shall not affect the construction or interpretation of this agreement.

IN WITNESS WHEREOF, the parties have duly executed this agreement of 20th August 2021.

Faith to Action Network (F2A)

Muhammadiyah

Name: Peter K. Munene

Name: Prof. Dr. M.Ed Abdul Mu'ti

Title: Chief Executive Officer

Title: General Secretary



Signature:



Signature:

FAITH TO ACTION NETWORK
Date: 20th August 2021
NAIROBI, KENYA
TEL: +254 20 3572302
+254 736 816491

Date: 20th August 2021



Annex A

TERMS OF REFERENCE
Developing Theological Papers on Women's Rights in Islam

Period:

1st August, 2021 – 16th January, 2022

Background

Women's rights: Meeting the Sustainable Development Goal (SDG) 5, gender equality and the empowerment of all women and girls, demands the elimination of discrimination against women and gender-based violence (GBV), as well as the achievement of equality in family laws and social norms. The gaps in terms of women's legal protection frameworks and legal status laws, along with the flaws regarding women's leadership and participation in decision-making are still a persistent problem across different regions and social strata. The United Nations has called the persistence and prevalence of violence against women a *global pandemic*,¹ while the World Health Organization (WHO) refers to it as a *public health problem of epidemic proportions*.² According to UN Women, 35% of women worldwide have experienced either physical and/or sexual intimate partner violence or sexual violence by a non-partner. Violence against women and girls (VAWG) takes many forms and includes intimate partner violence, domestic violence, marital rape, child sexual abuse, 'honour' crimes (dowry-related violence), abuse of older persons and widow abuse, female genital mutilation (FGM), and sex trafficking, among others. These forms of VAWG overlap or intersect with each other, and are at the same time intertwined with discriminatory social norms and legal frameworks. For instance, child early/forced marriage is a risk factor for intimate partner violence.³ Likewise, male domination and control over women, reproduced by patriarchal legal and social norms, are drivers of VAWG in the family. Family laws and/or social norms may impose the duty of obedience and submission from wives to their husbands and therefore justify wife-beating and marital rape. For instance, available data from 70 countries found that 15% of women believe that wife-beating is justified if a woman refuses to have sex with her husband.⁴

Religion and women's rights: Faith is central in women's and men's lives across the world. It influences their life, identity, and behaviour in the following ways:

1. Faith provides people with values which shape how they see themselves as men and women, their social and intimate relationships, and the allocation of power and resources.
2. Faith-based organizations are repertoires of spiritual sustenance and social networks. They play a crucial role in supporting women's daily survival strategies, whether in terms of surviving material hardship or developing the inner spiritual strength to cope with emotionally difficult circumstances.⁵

¹ United Nations (2018, November). "Ending inequality means ending 'global pandemic' of violence against women – UN chief". UN News. Retrieved from <https://news.un.org/en/story/2018/11/1026071>

² WHO (2013). *Global and regional estimates of violence against women: Prevalence and health effects of intimate partner violence and non-partner violence*. Retrieved from https://apps.who.int/iris/bitstream/handle/10665/85239/9789241564625_eng.pdf;jsessionid=232BEC0E104A2C36187291076DEF0868?sequence=1

³ UN Women (2019). *Progress of World's Women 2019-2020. Families on a changing world*. P 124. Retrieved from <https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2019/progress-of-the-worlds-women-2019-2020-en.pdf?la=en&vs=3512>

⁴ *Ibid.*

⁵ Tadros Mariz (September 2010). "Faith-Based Organizations and Service Delivery. Some Gender Conundrums"

3. Psychosocial practices are embedded deeply in the practice of faith communities and can provide support to women and girls: rituals and rites define passages through phases of life, and communities united by belief systems offer mutual support to one another.⁶
4. In many countries, faith-based organizations provide essential public services, such as health services and education. For example, 30% to 70% of the African health infrastructure is owned by faith-based organizations.⁷ Faith-based organizations are specialized in providing access to public services for poor, rural, or marginalized communities. They maintain services during crises and insecurity.

Unfortunately, a worrying increase of conservative interpretations and teachings of religious scriptures and sources has helped legitimize and perpetuate sexist values and practices that reproduce and justify unequal relationships between men and women in different spheres of society.⁸ The obedience of wives to their husbands and the exclusion of women from decision-making in the public sphere and from participating in leadership spaces are frequently encouraged by religious interpretations, cultural legacies, and patriarchal systems that perpetuate women's unequal treatment in their access to public and economic life.⁹

In a regional context where conservative faith actors have been influencing political and legal systems, even forcing women to conform to traditional gender roles, the involvement of faith leaders and faith-based organizations is key to modifying the power structures that legitimize gender roles and restrict women's freedoms. The potential of faith leaders and faith-based organizations to contribute to the transformation of social and gender norms lies in their influential role, in the credibility that they have in society,¹⁰ and in the fact that they operate through organizations and networks that can drive social change worldwide.¹¹ Furthermore, the ability of faith institutions to reach people who cannot be reached through conventional means is a crucial contribution to the overarching prerogative of 'Leave No One Behind'.¹²

Our aims

Faith to Action Network aims at enabling access to credible authoritative theological teachings as well as build consensus on women's rights issues in different faith communities. In advancing women's rights, Faith to Action Network endeavours to support faith actors to address this issue by facilitating dialogues and scripture clarification. This is done through leveraging on the role and responsibility of faith actors in influencing behaviour and decisions of the communities that they serve.

Faith to Action Network will hold a series of consultations through webinars, where the discussion papers on specific topics on Women Rights will be presented and discussed by representatives from institutions of higher learning, civil society organizations and Women Networks.

⁶ Elena Fiddian-Qasmiyeh et al (2013). Local faith communities and the promotion of resilience in humanitarian situations

⁷ WHO (2007). Faith-based organizations play a major role in HIV/AIDS care and treatment in sub-Saharan Africa. Retrieved from <http://www.who.int/mediacentre/news/notes/2007/np05/en/index.html>

⁸ Abu Khalil, A. (2005). *Women in the Middle East*. Retrieved from https://ips-dc.org/women_in_the_middle_east/

⁹ OECD (n.d). *Women in Public Life: Gender, law and policy in the Middle East and North Africa*. Retrieved from <https://www.oecd.org/mena/governance/women-in-public-life-mena-brochure.pdf>

¹⁰ Oxfam (2011). *Gender, Faith, and Development*. Retrieved from <https://oxfamlibrary.openrepository.com/bitstream/handle/10546/144042/bk-gender-faith-development-290911-en.pdf?sequence=3&isAllowed=1>

¹¹ UN Women (n.d). *Religion and Gender Equality*. Retrieved from https://www.partner-religion-development.org/fileadmin/Dateien/Resources/Knowledge_Center/Religion_and_Gender_Equality_UNWOMEN.pdf

¹² WACC (2020). *Bringing gender equality and faith into sustainable development*. Retrieved from <https://waccglobal.org/bringing-gender-equality-and-faith-into-sustainable-development/>

Objectives of the grant partnership with Muhammadiyah

We aim at producing theological papers on Women's Rights in Islam that will achieve the following:

- Provide increased faith literacy on women's rights in Islam, based on credible and authoritative theological explanations.
- Enrich the readers with understanding of theological arguments that supports women's rights in Islam.
- Develop the readers capacity for moral reasoning, specifically in terms of the rights of women in Islam.

Scope of the work

Muhammadiyah will appoint a group of scholars to develop 6 theological papers that addresses the issues of Women's Rights in Islam with reference to Islamic sources. These theological explanations will be on the six women's rights topics listed below:

Theological Paper 1: Concept of gender equality in Islam - This paper presents the normative Islamic position on gender equality. It seeks to distinguish between dominant cultural practices that are prevalent among Muslim communities and real image of women in Islam.

Theological Paper 2: The question of women's participation in private, public, and political life in Islam - This paper provides clarification on the concept of women's participation and the Islamic view of women leadership in the family and public sphere.

Theological Paper 3: Position of Islam on violence against women: A critical look at sexual and gender-based violence and domestic violence - This paper seeks to provide clarity on the standpoint of Islam on violence against women. It also presents the role of Islam in preventing sexual and gender-based violence and domestic violence.

Theological Paper 4: Status of women's property rights in Islam - This paper seeks to provide theological clarity on the capacity of women to own, inherit, buy, sell, transfer, and bequeath property in Islam.

Theological Paper 5: Right of custody to children in Islamic law - This paper unpacks the concept of custody in Islamic law with a particular focus on the right of women to child custody from the perspective of progressive Muslim thought.

Theological Paper 6: Women and the right to bodily integrity in Islam - This paper presents progressive Islamic viewpoints on the right of women to bodily autonomy

The papers developed should ensure that there is a true representation of the rights of women as portrayed in different Islamic Schools of thoughts, supported by theological sources.

Each paper should be 2 to 3 pages long. Ideally, the scholars are invited to submit their papers in Arabic or English or Bahasa. If the papers are submitted in Arabic or Bahasa only, Faith to Action Network will ensure that they are translated into English.

Muhammadiyah will also be invited to the consultation process and to present the papers during consultation processes (in Arabic and English). The consultation process will facilitate discussions on women's rights in Islam, between leading Islamic scholars and local Muslim scholars and Imams, civil society organizations and Muslim women's rights networks.

The appointed scholars are:

No	Chapters	Name Authors	Title/s	University Affiliation	Position in Muhammadiyah-'Aisyiyah organizations
1	Concept of gender equality in Islam	Alimatul Qibtiyah	Prof, Ph.D. M.Si. MA	Faculty of Da'wah and Communication, State Islamic University, Sunan Kalijaga Yogyakarta	<ul style="list-style-type: none"> • A Chairwomen of Research and Development at National Board of 'Aisyiyah • Member of Council of Tarjih and Tajdid, National Board of Muhammadiyah
2	The question of women's participation in private, public, and political life in Islam	Siti Syamsiyatun	.Ph.D, MA.	Faculty of Da'wah and Communication, State Islamic University, Sunan Kalijaga Yogyakarta	<ul style="list-style-type: none"> • Member of Research and Development at National Board of 'Aisyiyah
3	Position of Islam on violence against women: A critical look at sexual and gender-based violence and domestic violence	Tuti Alawiyah	MSSW Ph.D	Social Welfare Department, Faculty of Social and Political Science, University of Muhammadiyah Jakarta	<ul style="list-style-type: none"> • Member of the Environment and Disaster Management Division of National Board of Aisyiyah
4	Status of women's property rights in Islam	Ai Fatimah Nur Fuad	Ph.D M.A M.Si	Faculty of Islamic Studies, University of Muhammadiyah Prof. Dr. HAMKA	<ul style="list-style-type: none"> • Member of Islamic Boarding School Division of National Board of Muhammadiyah
5	Right of custody to children in Islamic law	Lailatis Syarifah	Lc., M.A.	Faculty of Business and Economy, State Islamic University, Sunan Kalijaga Yogyakarta	<ul style="list-style-type: none"> • Member of Council of Tarjih and Tajdid, National Board of Muhammadiyah • Member of Cadre Division National Board of Aisyiyah
6	Women and the right to bodily integrity in Islam	Sukendar	M.Ag, MA, Ph.D	Faculty of Theology and Humanities, State Islamic University, Walison go Semarang	<ul style="list-style-type: none"> • Member of Council of Tarjih and Tajdid, Central Java Province of Muhammadiyah
7	Editor and leader of the team	Abdul Mu'ti	Prof. Dr. M.Ed	Faculty of Islamic Education, State Islamic University, Syarif Hidayatullah, Jakarta	<ul style="list-style-type: none"> • General Secretary of National Board of Muhammadiyah

Duration

Faith to Action Network expects to receive the 1st draft of the theological papers by October 30th. The paper will be translated and undergo review before sharing feedback with Muhammadiyah.

Muhammadiyah will be expected to review the changes suggested and share the final draft by January 16th 2022.

Timeframe

Item	Deadline
Faith to Action Network shares Letter of Request and Terms of Reference (TORS).	As soon as possible
Muhammadiyah Seeks Clarification on the TORS and Letter of Request.	As soon as possible
Muhammadiyah presents 1 st Draft of six papers in English, Arabic or Bahasa	October 30 th 2021
Faith to Action Network translates the six papers into English	November 30 th 2021
Faith to Action Network and Muhammadiyah discuss the six papers and provide feedback	December 9 th 2021
Muhammadiyah presents final draft.	January 16 th 2022

Payment

Faith to Action Network will avail a budget as shown below to facilitate the process of writing these theological papers.

Budget item	Total (EUR)
<i>Senior scholars, Muhammadiyah – developing 6 theological papers (2 to 3 pages)</i>	6,000 EUR

This amount will be paid as per the below schedule:

Deliverables	Payment
Draft 1	50%
Final Draft	50%

Islamic View of Property Rights for Women

Ai Fatimah Nur Fuad

Data in various countries with Muslim-majority populations show that men have more *property* than women (O Neil and Toktas, 2015; 2015). This is partly influenced by a patriarchal culture that provides more opportunities for men and less space for women to work. The patriarchal culture indirectly creates a division of labor that places men more likely to get wealth; men work outside the home while women take care of domestic issues such as taking care of children at home. In other words, in a patriarchal culture, men are placed as economic actors. On the other hand, women who are required to take care of domestic problems will have an economic dependence on their husbands. It is not surprising that property ownership in patriarchal culture is the domain of men.

Basically, in the context of developed societies, women's opportunities to work are getting more and more open. Women also get access to higher education which has an impact on the type of work that will be better and guarantee their financial independence (Bishin and Cherif, 2017). Women are able to own houses, vehicles, land, jewellery, and other forms of property with the ownership documents in their own names. Unfortunately, in certain communities, there are still women who do not have full control over the management of their assets. For instance, women in certain Muslim communities who wish to sell, rent, and manage their property must be accompanied by a male witness to testify to their identity or seek permission from their husbands or brothers. The domination of men in the ownership and management of the property is part of a patriarchal culture. This condition shows that although progress in Muslim society has provided many benefits to women such as access to education and employment, the patriarchal culture still places women in a subordinate position.

In Islamic teachings, women are given the same potential as men to work outside the home, get a salary/wages, and own property. Property (*al-maal*) which is mentioned 82 times in the Quran has an important and strategic value in achieving the welfare of the owner's life, both male and female (see QS *Al-Baqarah* [2]: 177, 155, 261-262, 247, QS *Al-Imran* [3]: 186, QS *An-Nisa* [4]: 5, QS *Al-Kahf* [18]: 46, QS *Al-Anfal* [8]: 28). Islam also regulates how men and women can properly own property (QS *An-Nur* [24]: 33, QS *An-Nisa* [4]: 5 and 29), as well as how to collect, manage and transfer ownership (QS *An-Nisa* [4]: 95). These verses are addressed to all human beings (*yaa ayyuhan naas*) without gender discrimination. The hadith of the Prophet reads: "*The best among you are not those who neglect this life for the life to come or those who neglect the life to come for the sake of the present life. On the contrary, each serves as a path to the other*", advising everyone, including women, to work and take care of their worldly affairs. In Islam, managing the property (worldly affairs) is one of the elements of the five principles that must be protected by every human being (*al-dharuriyyat al-khamsah*) namely soul, mind, religion, property, and offspring. This is the goal of the implementation of sharia (*maqashid syari'ah*).

In Islamic history, having wealth and being rich is not solely male-dominated. Prophet Muhammad's wife, Siti Khadija, was a wealthy businesswoman who supported his preaching. Muslim women have enjoyed property rights for centuries. Islam's respect for women's property rights was well known during the Ottoman period that Christian and Jewish women at that time pursued inheritance rights through Islamic courts because their religious law did not provide equal rights (Kuran, 2004).

Islam guarantees equal rights to women and men in the ownership and management of property, whether obtained from work or from marriage and inheritance. In marriage, women have the right to get property both as a dowry and *nafaqah* (subsistence). Women have the right to get a dowry when they get married (QS *An-Nisa* [4]:4). The dowry can be in the form of money, goods, or jewellery; the amount is mutually agreed upon between husband and wife before the marriage contract. Dowry is a woman's property in Islam and she is entitled to its management according to her wishes. In addition to the dowry, women are also entitled to

subsistence from their husbands which she can spend according to the needs of the family (QS An-Nisa [4]:34, QS At-Talaq [65]:7). Subsistence is a basic need that a husband must provide to his wife and children, namely in the form of food, clothing, and a house. However, in a hadith of the Prophet from Sahih Bukhari, it is narrated that Zaynab and a woman from the Ansar tribe actually became the breadwinner for her husband and her family. When they told this to the Messenger of Allah, the Messenger of Allah replied that they got two rewards, namely the reward of relatives (*ajru al-qoroobah*) and the reward of alms (*ajru ash-shodaqoh*).

In contemporary society, we see a similar phenomenon in which some women become the breadwinners and providers for their husbands and children. Research by the KOMNAS Perempuan (National Commission of Women) shows that there is an increasing trend of male households earning less than their wives. Some women also do not get the dowry from their husbands. Some local cultures place women as applicants and require them to bring a certain amount of property that is given to the prospective groom, as in matrilineal customs. In this local culture, descent and kinship are arranged according to the maternal line which places women superior to men, and it is the women (wives) who take the husbands home after marriage.

The two verses regarding dowry and subsistence came down in the context when most women in pre-Islamic times only took care of domestic affairs and did not have economic access so that men were given the responsibility to provide dowry and subsistence to women (Hitti, 1984; Hodgson, 1974). Therefore, the obligation of men to give a dowry and subsistence cannot be separated from the patriarchal culture in Arabia at that time which required women to take care of domestic affairs only. In the spirit of gender equality, when women are allowed to work outside the home, obviously this has implications for subsistence matters, where the living can be both a shared obligation and responsibility between husband and wife, and it can even become the wife's responsibility in certain conditions such as when the husband gets sick or gets laid off.

Another implication is related to women's inheritance. The provision of inheritance 2:1, namely that women inherit half a portion of men (QS An-Nisa [4]:11) is considered fair because the husband is obliged to give dowry and subsistence to his wife. In the interpretation of Al-Qurtubi and At-Tabari, the half portion for women is fair because husbands have greater economic responsibilities than women. Therefore, the principle of justice in the distribution of inheritance certainly needs to be re-read. A religious text cannot be separated from the context at the time of its revelation. In the context of Arab society when the inheritance verse was revealed, the concept of men inheriting twice as much as women were already very progressive and revolutionary because women in pre-Islamic times were deprived of an inheritance. Inheritance to women at that time was abolished because according to Abid Al-Jabiri (2001) it often led to conflicts among tribes. The Arab marriage tradition at that time was a marriage between two different tribes, which caused the woman and property from the origin of the woman's tribe to turn into the property of the man's tribe. The tribe of the woman (wife) feels deprived of their rights because the ownership of their tribal assets such as camels, horses, and others have shifted to the tribe of the man (husband). QS An-Nisa [4] verse 7 and verse 11 came down with the spirit of giving inheritance rights and property protection to women and their tribes. So, the principle of justice is not about half numbers, but in the spirit of giving inheritance and in protecting women's rights.

Early Islamic traditions also show that religious practice is not only built through understanding the text but through understanding the dynamic changing context while maintaining the spirit of Islamic justice as well. For example, Caliph Umar ibn al-Khattab had done *ijtihad* (legal stipulation) *tsulusul baaqi* (one-third remaining) in his time. This *ijtihad* stipulates that women are not obliged to receive half the inheritance from men. Likewise, the distribution of *fai'* property (wealth obtained from non-Muslims by peaceful or voluntary means) and *ghanimah* (wealth obtained from non-Muslims through battle/war) at that time was the result of Umar's *ijtihad* whose distribution was carried out following the needs of the context at that time, and not based on the existing division of the Quran (Hitti, 1984). The consideration of Umar's *ijtihad* was the principle of justice in accordance with the context of his time.



INTERNATIONAL COMMUNITY
SERVICE (PENGABDIAN MASYARAKAT
INTERNATIONAL)
WOMEN'S PROPERTY RIGHTS IN ISLAM

AI FATIMAH NUR FUAD

SELASA, 23 AGUSTUS 2021



CONTENTS

- **Budaya patriarki dan pembagian kerja**
- **Kepemilikan harta dalam Islam**
- **Harta perempuan: Pra-Islam & Masa Islam**

BUDAYA PATRIARKI & PEMBAGIAN KERJA

- Laki-laki memiliki lebih banyak *property* dibandingkan dengan perempuan disebabkan budaya patriarki.
- BP: pembagian kerja public (laki-laki) -domestik (perempuan) yang menempatkan laki-laki lebih berpeluang mendapatkan harta dan menjadi aktor ekonomi.
- kepemilikan harta dalam budaya patriarki menjadi domain laki-laki.

MASYARAKAT INDUSTRI

- Dalam masyarakat industry, kesempatan perempuan untuk bekerja semakin terbuka/banyak sehingga berimbas pada kemandirian finansial mereka.
- Meskipun industrialisasi dalam masyarakat Muslim telah memberikan banyak keuntungan kepada perempuan seperti akses pendidikan dan pekerjaan, namun budaya patriarki masih menempatkan perempuan pada posisi yang subordinatif. Perempuan hrs bawa saksi laki-laki atau minta izin kalau mau jual/sewakan hartanya.

KEPEMILIKAN HARTA DALAM ISLAM

- Islam memberikan perempuan potensi yang sama dengan laki-laki untuk bekerja di luar rumah, mendapatkan gaji, dan memiliki harta. (Al Qur'an & Hadits)
- Dalam sejarah Islam, memiliki harta dan menjadi kaya bukanlah dominasi laki-laki. Istri Nabi Muhammad, yaitu Siti Khadijah, adalah seorang pengusaha perempuan kaya yang menyokong dakwahnya.
- Perempuan Muslimah sudah menikmati hak kepemilikan harta selama berabad-abad lamanya. Bahkan, penghormatan Islam terhadap hak milik perempuan begitu dikenal luas pada masa Utsmaniyah.

HARTA PEREMPUAN

Islam menjamin hak setara kepada perempuan dan laki-laki dalam kepemilikan dan pengelolaan harta baik yang diperoleh dari pekerjaannya maupun yang berasal dari pernikahan dan warisan.

Dalam pernikahan, perempuan berhak mendapatkan harta baik sebagai mahar (QS An-Nisa [4]:4) maupun *nafaqah* (nafkah) (QS An-Nisa [4]:34, QS At-Talaq [65]:7).

Namun demikian, dalam sebuah Hadist Nabi dari Shahih Bukhari diriwayatkan bahwa Zainab dan seorang perempuan dari suku Anshar justru menjadi pemberi nafkah bagi suami dan keluarganya.

Didalam masyarakat kontemporer, kita melihat fenomena serupa bahwa sebagian perempuan menjadi pencari dan pemberi nafkah bagi suami dan anak-anaknya. Sebagian perempuan juga tidak mendapatkan mahar dari suaminya.

KONTEKS PRA- ISLAM

- ✓ Ayat mahar dan nafkah turun dalam konteks ketika sebagian besar perempuan di masa pra-Islam hanya mengurus urusan domestic dan tidak punya akses ekonomi, sehingga laki-laki yang diberikan tanggung jawab untuk memberikan mahar dan nafkah kepada perempuan.
- ✓ Dalam spirit kesetaraan gender, ketika perempuan sudah dibolehkan bekerja di luar rumah, tentu hal ini berimplikasi pada urusan nafkah.

KONTEKS PRA- ISLAM

- ✓ Dalam konteks masyarakat Arab waktu turunnya ayat warisan (An-Nisa II, konsep laki-laki mendapat warisan 2x lebih banyak dari perempuan sudah sangat progresif dan revolusioner karena perempuan pada masa pra-Islam justru tidak mendapatkan warisan samasekali.
- ✓ Warisan terhadap perempuan pada masa itu ditiadakan karena sering menimbulkan konflik antar suku. Tradisi pernikahan Arab waktu itu adalah pernikahan antar dua suku yang berbeda, yang menyebabkan perempuan dan harta dari asal suku perempuan beralih menjadi milik suku laki-laki. Suku perempuan (istri) merasa terampas/hilang hak-hak karena hartanya seperti unta, kuda dan lain-lain beralih kepemilikannya kepada suku laki-laki (suami)-(Al-Jabiri,2001)

TAWARAN ISLAM

- Al Qur'an surat An-Nisa [4] ayat 7 dan ayat 11 turun dengan membawa semangat memberikan hak waris dan perlindungan harta kepada pihak perempuan dan sukunya.
- Maka, prinsip keadilan itu bukan soal angka setengah, tetapi pada semangat memberikan hak warisan dan perlindungan kepada hak-hak harta perempuan.
- Tradisi Islam awal juga menunjukkan bahwa praktek keagamaan tidak hanya dibangun melalui pemahaman terhadap teks tetapi juga pemahaman terhadap perubahan konteks yang dinamis dengan tetap menjaga spirit keadilan Islam & perlindungan perempuan.
- Contohnya, Khalifah Umar bin Khattab sudah melakukan ijtihad *tsulusul baaqi* (sepertiga sisa) di masanya dan pembagian harta *fai'* (harta yang didapatkan dari non-Muslim dengan cara damai atau sukarela) dan *ghanimah* (harta yang didapatkan dari non-Muslim melalui pertempuran/perang).

SUMBER KUTIPAN:

- **AlQur'an/Hadits Bukhari, Tafsir Tabari/al Qurthubi**
- **O Neil and Toktas, 2014**
(Laki2 lebih kaya dari wanita)
- **Bishin and Cherif, 2017** (industrialisasi membuat prp mendpt byk peluang bekerja dan lbh mandiri secara finansial, tetapi blm memiliki control penuh atas hartanya)
- **Hitti, 1984; Hodgson, 1977** (Konteks turun ayat mahar/nafkah)
- **Abid Al-Jabiri, 2001**
(warisan perempuan revolusioner/konflik antar suku Arab-meniadakan warisan)

An Islamic Perspective on Advancing Women's Property Rights

Meet our Panel Speaker - Dr. Ai Fatimah Nur Fuad



- Associate Professor and Vice Dean of Academic Affairs, Faculty of Islamic Studies, University of Muhammadiyah Prof. DR. HAMKA, Jakarta.
- Ph.D and MA graduate on Religion and Public Life, from University of Leeds, UK .
- Holds M.Si and Lc on Islamic Studies from Al Azhar University, Cairo, Egypt and The University of Indonesia.

Date: 31st, August 2022 | Time: 3:00 PM EAT|2:00 PM GMT +2 |7:00 PM WIB
Zoom link available in caption

An Islamic Perspective on Advancing Women's Property Rights

Meet our Panel Speaker - Mohammed Hassanow Ali



- Health Project Coordinator Supreme Council of Kenya.
- Humanitarian specialist with more than 14 years of expertise.
- Expert in project planning, execution, monitoring, and evaluation.
- Possess in-depth knowledge of carrying out interventions from a Muslim perspective.

Date: 31st, August 2022 | Time: 3:00 PM EAT | 2:00 PM GMT +2 | 7:00 PM WIB
Zoom link available in caption

An Islamic Perspective on Advancing Women's Property Rights

Meet our Panel Speaker - Umar Nyanzi



- President, Muslim Centre for Justice and Law, Uganda.
- An Advocate of the High Court of Uganda and a practitioner in Human rights and family law.
- Has Post Graduate Diploma in Legal Practice (LDC), Bachelor's Degree in Law (Makerere University) and training in Corporate Governance.
- Previously managed programs in Access to justice, Human Rights and Peace building

Date: 31st, August 2022 | Time: 3:00 PM EAT | 2:00 PM GMT +2 | 7:00 PM WIB
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An Islamic Perspective on Advancing Women's Property Rights

Meet our Moderator -Prof. Alimatul Qibtiyah



- Commissioner at National Commission on Violence against Women (Komnas Perempuan)
- Professor on Gender Studies at Islamic State University, Indonesia).
- Actively involved at the Center for Women's Studies, Kalijaga Institute for Justice as well as at Center for Islam and Social Transformation.
- She is the founder of Academi Feminis Muslim

Date: 31st, August 2022 | Time: 3:00 PM EAT|2:00 PM GMT +2 |7:00 PM WIB
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GLOBAL DIALOGUE

Dialogue 3

An Islamic Perspective on Advancing Women's Property Rights

Panel Speakers



Dr. Ai Fatimah Nur Fuad
Associate Professor
University of Muhammadiyah
Indonesia



Umar Nyanzi
President
Muslim Centre for Justice and Law
Uganda



Mohammed Hassanow Ali
Health Project Coordinator
Supreme Council of Kenya
Kenya

Moderator



Prof. Alimatul Qibtiyah
Commissioner

National Commission on Violence against Women
Indonesia

Date: 31st August, 2022

Time: 3:00 PM EAT | 2:00 PM GMT+2 | 7:00 PM WIB

Arabic and French Interpretation Available

Zoom link available in caption



Recording View

Participants: Fatmah, Umar, Almatul, Mohammed

Chat: From Beth Gathoni to Everyone
Thank you to our able moderator an...

Zoom Controls: Mute, Video, Chat, Share Screen, Remote Control, Screen, Raise Hand, Poll, Erase, Whiteboard, Leave