

# The co-evolution of sacred and secular: Islamic law and family planning in Indonesia<sup>1</sup>

*Jeremy Menchik*

**Abstract:** While scholars of the Islamic revival have devoted attention to the increased prominence of Islamic law [the *shari'a*] in the once-secular public sphere, less attention has been paid to a countervailing trend. By mapping the evolution of Islamic law over the twentieth century, the author demonstrates that the *shari'a* is a product of decades of negotiations between Islamic institutions and more secular authorities including government ministers, doctors and social movements. This evolution suggests that secular authority and secular forms of knowledge have influenced but not displaced religious authority and religious forms of knowledge. The opposite is also true. This finding raises questions about the binary distinction between secular and sacred authority and suggests the co-evolution of religion and secularism in modern Muslim societies.

**Keywords:** politics; secularism; women; *shari'a*; Islam; Indonesia

**Author details:** Dr Jeremy Menchik is Assistant Professor of International Relations in the Pardee School of Global Studies at Boston University, 152 Bay State Road, Boston, MA 02215, USA. E-mail: menchik@bu.edu.

From 1938 to 2005, the three most prominent Islamic institutions in Indonesia – Nahdlatul Ulama (NU), Muhammadiyah and the Indonesian Council of Ulama [Majelis Ulama Indonesia, MUI] – radically changed their interpretations of Islamic law in favour of increased access to birth control. For example, in 1938 the country's largest Islamic institution, NU, issued a religious edict [*fatwa*] saying that according to Islamic law [the *shari'a*], 'it is forbidden [*haram*] to have any medicine to prevent pregnancy'.<sup>2</sup> Yet 70 years later, NU leaders maintained that intra-uterine devices (IUDs), condoms, injectables, birth control pills, and even some instances of abortion were acceptable according to *shari'a* when used correctly.<sup>3</sup>

What drove NU and the other institutions to change their interpretation of Islamic law? What can the evolution of Islamic institutions on the issue of birth control tell us about the changing relationship between religious law, secular authority and state power in Muslim societies?

This article contends that multiple factors drove their changing interpretations of the *shari'a*. Within NU, the activity of the women's organization, Muslimat

<sup>1</sup> This article has benefited from workshops at the University of Chicago, the University of Wisconsin-Madison, and a presentation at the 2009 meeting of the American Political Science Association. I am grateful for detailed feedback from Luthfi Assyaukanie, Daragh Grant, Paul Hutchcroft, R. William Liddle, Staffan I. Lindberg, Alfred Stepan, Lisa Wedeen and two anonymous reviewers.

<sup>2</sup> Nahdlatul Ulama, 1999, 231/210.

<sup>3</sup> Author interview with Nasaruddin Umar, 24 July 2009. Umar is a member of the central board of NU, a self-described 'Islamic feminist' and director of Islamic community affairs in the Ministry of Religion.

NU, was crucial to shifts in the interpretation of the shari'a during the early period, while regime pressure and incentives led leaders to partner with the state and support its development programmes in the 1970s and 80s. Muhammadiyah, meanwhile, was also pressured by the state, but appears to have been more influenced by its concern for social welfare and by advances in medical knowledge. MUI, as an organization wholly dependent on the state, was most clearly driven to change by pressure from the state. In sum, the organizations changed their interpretation of the shari'a in response to state authority, contemporary scientific knowledge and social pressure.

The changing interpretations of the shari'a have implications that go beyond understanding fatwas. Existing scholarship on the Islamic revival has focused on the growing demand for the incorporation of religious ethics and religious law in the public sphere. Less attention, however, has gone into understanding the content of Islamic law and its evolution over the twentieth century. By excavating the evolution of Islamic law over the twentieth century, I demonstrate that the shari'a is a product of decades of negotiations between Islamic institutions and more secular authorities including constitutions, government ministers, doctors and social movements. This evolution suggests that secular authority and secular forms of knowledge have influenced but not displaced religious authority and religious forms of knowledge. The opposite is also true. In that respect, both modernization theorists and scholars of the Islamic revival have presented an incomplete picture: the sacred and the secular may be mutually constitutive rather than being in diametrically opposed competition.

This article first outlines the literature on the politics of the Islamic revival to highlight areas of oversight. The next section explains the methods, data sources and why Indonesia presents a crucial case for mapping the changing interpretations of the shari'a. The three subsequent sections trace the evolution of NU, Muhammadiyah and the MUI fatwas concerning birth control as well as the tangible ways in which the institutions contributed to increasing women's access to birth control. The conclusion points towards future directions for research on the co-evolution of the sacred and secular.

### **The shari'a and the public sphere**

Early Western scholarship held Islamic law to be a pre-modern, irrational residue of disappearing social and political institutions. An influential Western scholar of Islamic law, Joseph Schacht, argued that Islamic jurisprudence was frozen in the Middle Ages and the consolidated schools of law [*mazhab*]. Secular political rulers developed separate rules for governance while Islamic law was left stagnating.<sup>4</sup> Likewise, a founder of the social sciences, Max Weber, argued that the judicial process in Islamic courts was often arbitrary and irrational, in contrast to the Western-style courts based on procedural regularity and rational reasoning. Weber held that the Islamic judicial system's 'kadi-justice' failed to provide the forms of individual security, property rights and rationality necessary for a modern economy or political system.<sup>5</sup>

Since the 1979 Islamic revolution in Iran, scholars of religion and politics have

<sup>4</sup> Schacht, 1964.

<sup>5</sup> Weber, 1978[1925].

paid increasingly close attention to the shari'a. Focused on Islamic social movements, Islamist political parties whose platform is dedicated to Islamic law, militant groups that justify violence on the grounds that it will help usher in a new caliphate, plus everyday activists trying to align their behaviour with religious ethics, the Islamic revival has brought the shari'a and religious ethics to the forefront of research on religion and politics.

As a result of this focus, scholars have raised strong doubts about Schacht and Weber's depiction of Islamic law. Egypt is home to some of the most creative debates about Islamic law and public life. Article Two of the Egyptian Constitution holds Islamic law to be one chief source of legislation. Yet the Supreme Court has discretion over the interpretation of Article Two and has used that discretion to interpret the shari'a using independent reasoning, argument and modern forms of exegesis.<sup>6</sup> In parallel, Saba Mahmood draws on ethnographic observation with Muslim women's movements to suggest that their efforts to instil an Islamic ethical disposition in everyday life including the virtues of patience, modesty and honesty have transformed the public sphere in ways that are not a reversion to pre-modern values. These transformations may not register as changes in formal political institutions, but they challenge the secular division between public and private and between religion and politics by infusing individuals with modern religious values in all aspects of life.<sup>7</sup>

Focusing on Malaysia, Michael Peletz argues that the Islamic courts are a central part of an effort by Malaysian leaders to craft a state and civil society that is modern, plural, responsive to democratic sentiment and home to a vibrant marketplace.<sup>8</sup> Against Max Weber's claim that 'kadi-courts' are a relic of pre-modern reasoning, Peletz demonstrates that Islamic courts are urban, part of industrialized society and highly bureaucratized. Peletz echoes Talal Asad's contention that contemporary Islamic legal institutions are part of modernity rather than its opposite. Asad argues that modernity is best seen as a project that people in power seek to achieve, rather than a linear process or a stable object. The project aims at institutionalizing a number of principles including secularism, democracy, moral autonomy and market freedom. The notion that these principles constitute 'disenchantment', the unmediated access to reality and disavowal of the sacred is a central component of the modern project, but not an empirical marker of contemporary life in 'the West' or the Muslim world.<sup>9</sup>

The most recent work on this 'Muslim modernity' suggests that Islamic law is being drawn on to address contemporary issues rather than stemming from devotion to unchanging religious traditions or residues from the past. An edited volume by Robert Hefner demonstrates that the demand for the shari'a derives from a desire to address issues such as corruption, crime, economic inequality and poor governance.<sup>10</sup> And Brendon Kendhammer suggests that Islamic reform movements deliberately tailor their appeals for the shari'a implementation to local policy concerns, harnessing popular frustration with weak and ineffective government

<sup>6</sup> Lombardi, 2006, p 253.

<sup>7</sup> Mahmood, 2005.

<sup>8</sup> Peletz, 2002.

<sup>9</sup> Asad, 2003. For defences of a modified version of secularization theory, see Casanova, 1994; Norris and Inglehart, 2004.

<sup>10</sup> Hefner, 2011.

to public hopefulness that the shari'a can force political and religious leaders to provide the 'dividends of democracy'.<sup>11</sup> Instead of being seen as a reaction against modernity, contemporary scholars now view Islamic movements as modern and working to address contemporary issues.

Against this backdrop, this article suggests that the content of contemporary Islamic law is no less a product of modernity than the institutions, political parties and social movements promoting it. Secular knowledge and secular forms of authority have shaped the content of the shari'a so that it is distinctly modern, conducive to the policy interests of the state, and may even be complimentary to the concerns of women's social movements.<sup>12</sup> A diachronic case study of Islamic law in Indonesia regarding birth control shows that reciprocal negotiations between religious leaders and secular authorities including the constitution, government ministers, doctors and progressive social movements have changed the meaning of the shari'a so that it is infused with as much secular content as sacred. Despite correcting Weber and Schact, the influence of secularism on the shari'a is still underappreciated relative to the focus on the influence of Islam in the public sphere.

This unequal focus is due to at least two factors. First is the difficulty of mapping the trajectory and influence of 'the secular'. Secular authority has changed the meaning of the shari'a to contemporary Muslims, a process that must be mapped historically with detailed attention to the varied interpretations of sacred texts by religious actors.<sup>13</sup> Second are scholars' normative concern with the perceived infiltration of Islamic law into the public sphere and its incompatibility with democratic politics. Scholars are still investigating the degree to which commitments to both Islamic law and human rights can coexist in the modern public sphere, and are often ambivalent about accommodating Islamist parties in democratic politics.<sup>14</sup>

In order to understand the role of the Islamic tradition in modern political life, however, scholars must engage both projects: mapping the influence of religious authority on modern secular institutions, and the influence of secular institutions on religious authorities. By doing so, this paper demonstrates that Islamic law and secular authority have co-evolved over the course of the twentieth century: one cannot be understood without reference to the actors and institutions that constitute the other.<sup>15</sup> While secularization theorists contend that religious authority is being displaced, and scholars of the Islamic revival demonstrate that religious leaders are increasingly resurgent, I suggest that the sacred and the secular are mutually constitutive and co-evolve over time rather than being in diametrically opposed competition.

### **Case selection and method**

Indonesia has the largest Muslim population in the world and its institutions present crucial cases for understanding the relationship between religion and politics. The

<sup>11</sup> Kendhammer, 2013. See also Collins, 2008.

<sup>12</sup> Asad, 2003, pp 205–256; Kamil and Bamualim, 2007; Layish, 1978; Mahmood, 2005; Rinaldo, 2008.

<sup>13</sup> Asad, 2003, p 16. This investigation is slowed by the recent 'rediscovery of religion' by political science (Wald and Wilcox, 2006, p 523). Bellin began a review article by noting, 'Religion has long been peripheral to the concerns of most political scientists' (2008, p 315).

<sup>14</sup> There is a vast literature on the inclusion of Islamist parties and Islamic law in democratic politics. Highlights include Bayat, 2007; Hefner, 2000; March, 2009; an-Na'im, 2008; Schwedler, 2011; Tessler, 2002; and Wickham, 2004.

<sup>15</sup> Asad, 2003, chapter 6.

three institutions are an ideological cross section of Islamic society: the reformist Muhammadiyah, the traditionalist NU and the conservative MUI.<sup>16</sup> By obtaining a representative sample of institutions, I avoid selection bias as well as being able to test whether ideology can explain changes in religious doctrine. In other words, I harness Mill's method of agreement; the content of their ideology varies, but the cases are similar in being subject to repeated instances of state pressure.<sup>17</sup> A further advantage of choosing Muhammadiyah and NU is that they are substantively important: 75% of Indonesia's 200 million Muslims identify with them, which is why they 'constitute the "steel frame" of Indonesian Muslim civil society'.<sup>18</sup>

Muhammadiyah was formed in 1912 in Yogyakarta, Central Java, by self-proclaimed reformists influenced by the Egyptian modernist Muhammed 'Abduh. Muhammadiyah's founders sought to integrate religious education with Western scientific education and methods of social reform.<sup>19</sup> Their educational commitment to the welfare of their members, alongside their ideological commitment to rational exegesis, has continued to motivate Muhammadiyah behaviour. Muhammadiyah has a decentralized, rational-bureaucratic structure and 25–30 million members based primarily in urban areas and engaged in both social and formal political activities. Its women's wings are called Aisyiyah and Nasyiatul Aisyiyah.

NU was formed in 1926 in East Java in order to promote traditionalist Islam in accordance with the authority of classical Islamic scholarship. Now believed to be the largest and one of the most influential Muslim institutions in the world, NU has approximately 35–40 million members.<sup>20</sup> NU is hierarchically structured around charismatic religious scholars [*ulama*] and its members are rooted in a vast network of Islamic boarding schools [*pesantren*]. NU has two women's organizations, Fatayat and Muslimat. Muslimat is for women over the age of 40 and is organized at the national, provincial, district and subdistrict levels of government, with leaders in more than 14,000 villages as of 2004. Fatayat NU is for women between the ages of 20 and 40 and has nine departments at each level: organization and management, leadership and education, economic and cooperative activities, health and sports, religious propagation and information, advocacy and legal affairs, cultural activities, research and development, and foreign affairs.<sup>21</sup>

<sup>16</sup> 'Reformers' or 'modernists' are part of the global movement to revitalize Islamic societies through scientific education and social reform, based on the ideas of Mohammad Abduh and Rasyid Ridha. A 'traditionalist' is someone who identifies with practices of Islam laid down in the Syafii school of jurisprudence. A 'conservative' is someone who favours strong communal norms, group rights and orthodox interpretations of religion over individual rights and liberal freedoms, but does not adhere to a specific religious doctrine (Ichwan, 2013; Menchik, 2007).

<sup>17</sup> George and Bennett, 2005; Ziblatt and Slater, 2013; Gerring, 2001, pp 212–214. As I will show, the institutions also vary along the other key variables of institutional structure and regional origin.

<sup>18</sup> In 2004, 42% of Indonesians claimed themselves to be part of the NU community and 12% part of the Muhammadiyah community. Another 17% felt themselves very close to NU and 4% to Muhammadiyah (Mujani and Liddle, 2004, p 120).

<sup>19</sup> Fealy and Hooker, 2007, p 40.

<sup>20</sup> One NU executive board member claims as many as 50 million members (interview with Umar). In the 2009 list of the world's 500 most influential Muslims, seven come from NU backgrounds: former chair of NU Dr K.H. Achmad Hasyim Muzadi, former NU chair Abdurahman Wahid, PBNU Secretary Professor Dr H. Nasaruddin Umar, Muslimat NU chair Siti Musdah Mulia, Muslimat NU board member Lily Zakiyah Munir, Fatayat NU chair Maria Ulfah Anshor, and Professor Dr Tuti Alawiyah (Esposito and Kalin, 2009).

<sup>21</sup> Candland and Nurjanah, 1988, pp 96–97.

MUI was created in 1975 when the Indonesian dictator Suharto created a series of hierarchical consultative councils intended to control political Islam. While MUI historically served as a state tool for manipulating Islamic parties and institutions, it has also opposed the government.<sup>22</sup> Some activists and scholars contend that MUI was specifically created to promote the social programmes of the regime.<sup>23</sup> Since the end of the New Order, MUI has increased its autonomy from the state. Drawing members from a wide array of organizations, MUI purports to represent the entirety of Indonesia's 200 million Muslims.<sup>24</sup>

This article uses the method of process tracing based on archival documents and interviews in order to explain the evolution of Islamic institutions' interpretation of the shari'a.<sup>25</sup> The causal process is the reciprocal and iterated negotiation between the state, medical authorities, religious leaders and activists. The outcome is MUI, NU and Muhammadiyah's interpretation of the shari'a as it relates to birth control.

The chief sources of data for NU, Muhammadiyah and MUI's interpretations of the shari'a are fatwas.<sup>26</sup> A fatwa is an answer to an interrogatory or an issue regarding principles of dogma, and is given by a person or institution trained in Islamic jurisprudence.<sup>27</sup> In crafting a fatwa, religious elites choose from different opinions within a religious tradition and present the matter in a clear way so that the public can act in accordance with the ruling. Fatwas are responsive to political and social pressure, thereby changing faster than the bulwark of Islamic jurisprudence.<sup>28</sup> Fatwas may convey norms, attitudes and self-regulation. They are a crucial mechanism for the transmission of Islamic rules and values from generation to generation and from scholars to the general public.<sup>29</sup>

Since the debates over the Islamic revival and modernity have been fought on the terrain of women's bodies,<sup>30</sup> I have focused on fatwas related to an issue of concern to proponents of modernity and to Islamic authorities: birth control. Birth control in Indonesia includes the practices of withdrawal, female sterilization, male sterilization or vasectomy, abortion, birth control pills, intra-uterine devices (IUDs), condoms, injections and traditional medicines. Free access to tools of reproductive health is considered a fundamental human right by Western feminists. This sentiment has been institutionalized in the 1979 UN Convention on the Elimination of All Forms of Discrimination Against Women, which states that governments are obliged to develop laws that guarantee women's rights 'to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these

<sup>22</sup> Mudzhar, 1996, 2002.

<sup>23</sup> Author interview with Hana Satriyo, 16 July 2009. Satriyo is an activist and currently Director of Gender and Women's Participation at the Asia Foundation. Similarly, Porter notes that from 1975 to 1998, MUI was a mechanism for the dissemination of state ideas and a tool for social management (Porter, 2002, pp 78–83).

<sup>24</sup> Author interview with Maaruf Amin, 2 August 2005. Amin is one of the most high-profile leaders of MUI and a former chair of its fatwa council.

<sup>25</sup> George and Bennett, 2005, p 206.

<sup>26</sup> 'Fatāwā' is the Arabic plural of 'Fatwā'. For the sake of clarity, I eliminate diacritical marks and use the common English terms: that is, fatwa and fatwas (Federspiel, 1995).

<sup>27</sup> Hooker, 2003.

<sup>28</sup> Skovgaard-Petersen, 1997, p 37.

<sup>29</sup> The impact of a fatwa varies depending on the political and social power of the actor. While fatwas in Indonesia are socially influential and inform state policy, they do not constitute state law.

<sup>30</sup> See Mahmood, 2005; Dwyer, 1999.

rights'.<sup>31</sup> While access to birth control was not always considered a human rights issue, gender activists now routinely use the language of rights to articulate their need for access to reproductive health services.<sup>32</sup>

Fatwas from 1926–2005 were collected from the published collections of each institution, while recent fatwas were collected from pamphlets and newspapers. Out of a total of approximately 1,500 fatwas, 25 were related to birth control.<sup>33</sup> In these 25, I focus on whether it was acceptable for women to use birth control. Islamic law contains multiple levels of determination: forbidden [*haram*], detested [*makruh*], permissible [*mubah*, neither forbidden nor commended], permitted [*halal*] and recommended [*mandub*]. In order to understand the changes in Islamic institutions' interpretation of the shari'a on birth control, it is crucial to map out the changing prescriptions for appropriate behaviour.

The next three sections of this paper map the evolution of the shari'a. The first period, from 1938 to 1968, details Islamic institutions' initial opposition to birth control, followed by groups that have pressured Islamic institutions to change: NGOs, women's organizations and the state. The second period, from 1969 to 1992, explains how the state and Islamic institutions renegotiated the goals and means of birth control: a reciprocal process that constrained the state but also reshaped the views of religious leaders. The third period, from 1992 to 2005, describes how female Muslim intellectuals and government concerns over HIV/AIDS began to shape further changes in the shari'a.

### 1938–68: Opposition to birth control

The earliest record of policy on birth control practice was a 1938 fatwa by NU.<sup>34</sup> The questioner asked whether it was permissible to drink medicine to terminate a pregnancy if the woman feared that the child was sick with leprosy. The medicine was most likely a traditional concoction of herbs, yeast or alcohol intended to induce menstruation or miscarriage [*jamu peluntur*].<sup>35</sup> In response, NU stated that pregnancy was part of the normal course of a woman's life and anything preventing pregnancy must have a certain purpose. An uncertain purpose was not condoned and, even with a certain purpose, preventing pregnancy might not be excused. NU gave two citations from *fiqh*: that it was forbidden for a woman to have pregnancy prevention medicine even with the permission of her husband, and that she was forbidden to have *any* medicine to prevent pregnancy.<sup>36</sup>

NU's views changed rapidly in response to social pressure and mobilization by Muslimat NU. Ibu Muhammad Baidawei, head of Muslimat NU in Jombang, East Java, began promoting the use of birth control even before national approval from the NU executive board.<sup>37</sup> The Muslimat NU health clinic in Jombang was one of the first to provide women with access to contraception. It was, therefore, not a radical shock when in 1960 the central board declared that some forms of birth

<sup>31</sup> United Nations General Assembly, 1979, 16.e.

<sup>32</sup> Luker, 1985, pp 966–997.

<sup>33</sup> MUI, 1997; Muhammadiyah, 1995; Nahdlatul Ulama, 1999.

<sup>34</sup> Hooker, 2003, pp 166–167. Nahdlatul Ulama, 1999, 231/1938.

<sup>35</sup> 'Every women knows this remedy [for unwanted pregnancy].' Author interview with Lies Marcoes Natsir, 28 July 2009. Natsir is an activist and a Senior Program Officer at the Asia Foundation.

<sup>36</sup> Citations from hadiths in *Talkhisul Murad Hamisy Bughyah* and *I'anatuth at-thaliban*.

<sup>37</sup> Van Doorn-Harder, 2006, pp 217–218.

control were permissible.<sup>38</sup> Use of the withdrawal technique was considered detested rather than forbidden. Consuming medicine was also detested, and would have included herbal medicines and injectables. Preventing pregnancy entirely was still forbidden. Emergency situations changed NU's determinations based on the principle that the lesser of two evils should prevail; any form of contraceptive was permitted in situations where pregnancy would threaten the life of the mother.

Further changes began after Suharto seized office in a coup d'état in 1965–66. The country's first government-funded family planning programme was launched in 1967 as the Jakarta Pilot Project under the direction of General Ali Sadikin.<sup>39</sup> In February 1967, the Minister of Welfare Kyai Haji Idham Chalid headed a panel discussion to address the feasibility of family planning according to the views of Indonesia's major religious groups.<sup>40</sup> In addition to being Minister of Welfare, Chalid was chair of NU from 1956–84, and his involvement suggests that family planning had support from the highest level of NU despite the fatwa of 1938. Another such leader was Ali Yafie, a representative in the Indonesian parliament from NU and one of the foremost proponents of drawing on Islamic jurisprudence to reconcile divine imperatives and government programmes.<sup>41</sup>

NU leaders like Chalid and Yafie were vital to the success of family planning, while opposition by religious leaders would have doomed the programme. For that reason, Haryono Suyono, the Deputy Head of the National Family Planning Coordinating Board [*Badan Kordinasi Keluarga Berencana Nasional, BKKBN*] from 1973 to 1983 and Head from 1983 to 1998, gathered information on Islamic leaders' reaction to family planning and tweaked the programme in order to minimize offending elites.<sup>42</sup> The state then used the schools, mosques, prayer circles, hospitals and social networks of Islamic organizations to implement the programme.

Religious elites exchanged their support for financial gain and heightened authority. The state created incentives for religious leaders to change their rulings, such as distributing audio-visual material, typewriters, multiplying machines and learning aids through the networks of religious elites. Elites became famous for promoting the programme and received awards from the state for their cooperation.<sup>43</sup> In sum, the regime provided both material and political incentives for religious leaders to change their interpretations of the shari'a.

Islamic leaders were not the only religious elites integrated into the programme. The regime's 1968 publication, 'Views of religions on family planning', proclaimed Islam, Protestant Christianity, Catholic Christianity and Balinese Hinduism's acceptance of family planning. Hull argues that this discussion marked the point when the national consensus around the morality of birth control was turned from negative to positive.<sup>44</sup> Yet, rather than being a tipping point, the discussions of 1967/68 should

<sup>38</sup> Hooker, 2003, p 167; Nahdlatul Ulama, 1999, 283/1960. Citations from hadiths in *Asnal Mathalib*, p 186, *Fatawi Ibnul Ziyad*, p 249, *al-Banjuri* II/93 and *Ahkamul Fuqaha* II/231.

<sup>39</sup> Hull, 2007, p 236.

<sup>40</sup> National Family Planning Coordinating Board, 1993, p 24.

<sup>41</sup> Feener, 2007, p 159.

<sup>42</sup> Author interview with Terence Hull, 10 November 2009. Hull is the John C. Caldwell Professor of Population, Health and Development at the Australian National University and has been involved in and written about the family planning programme since the 1970s.

<sup>43</sup> Author interview with Firman Lubis, 13 November 2009. Lubis is a Professor of Community and Family Health at the University of Indonesia, a medical historian, and director of the health NGO *Yayasan Kusama Buana*.

<sup>44</sup> Hull, 2007, pp 238, 258.

be seen as one instance of negotiation. To this day, BKKBN feels the need to promote its programme with glossy pamphlets and quotes from religious elites.<sup>45</sup>

In 1968, Muhammadiyah laid out its guidelines for family planning. After hearing testimony from executive board members Dr H. Koesnadi and H. Djarnawi Hadikusuma,<sup>46</sup> the Islamic law committee issued a fatwa that sought to balance two values. On the one hand, they noted that Islamic teachings stated that one of the aims of marriage was to gain descendants: 'Preventing pregnancy is *strongly* against Islamic teachings. The same is true for the family planning programme, which is implemented by preventing pregnancy.'<sup>47</sup> Like the NU fatwa of 1938, Muhammadiyah in 1968 interpreted the shari'a as forbidding birth control. Yet Muhammadiyah also backed the state's development goals by noting that Islam warned Muslims not to leave their children in poverty. 'A strong and powerful believer [*mu'min*] is better and loved by Allah than a weak believer.'<sup>48</sup> To resolve this tension, birth control was permitted in emergency conditions [*darurat*].

The novel aspect of Muhammadiyah's fatwa was its list of emergency conditions: fear for the safety of a mother's soul and health and based on the opinion of a physician, fear of sustaining a religious life due to an inability to fulfil the needs of the child, and fear for children's health and education due to inadequate birth spacing. Muhammadiyah effectively permitted the use of any form of birth control that would not prevent pregnancy entirely. Moreover, while recognizing that there are sayings of the prophet [*hadith*] urging men and women to procreate, Muhammadiyah noted that such hadith were meant as a suggestion to the community and not to individuals, who could consider their own situation and act accordingly. By permitting the use of birth control in 'everyday' emergencies, Muhammadiyah opened the door for a tidal wave of change.

While NU, Muhammadiyah and the state's reshaping of the shari'a was innovative, it was not unique to Indonesia. Similar to emergency conditions [*darurat*], other concepts such as the repeal of previous decisions [*naskh*], custom [*'urf*] and public interest [*maslahah*] have historically given the shari'a the flexibility to adapt to different contexts.<sup>49</sup> While the scale and scope of change in contemporary Indonesia is distinct from the pre-modern period, Islamic law in other periods and contexts has proved similarly dynamic.

### 1969–91: Islamic law and social reform

In 1969, the religious legislative [*Syuriah*] council of NU issued a new statement supporting the regime's programme, but framed its support explicitly in terms of family welfare [*keluarga masalahah*].<sup>50</sup> In doing so, it expanded the scope of accepted

<sup>45</sup> One recent pamphlet shows a photo of a Buddhist monk alongside scriptures interpreted to support small families (National Family Planning Coordinating Board, 2007).

<sup>46</sup> Dr Koesnadi was included on the BKKBN executive committee as well as being a member of Muhammadiyah's executive board from 1962–90.

<sup>47</sup> Hooker, 2003, p 167; Muhammadiyah, 1995, pp 305–308.

<sup>48</sup> Muhammadiyah, 1995, pp 305–308. Citations to QS 26, p 72; hadiths in *Sunan abu Dawud*, *Bukhari*, and *Muslim*.

<sup>49</sup> Asad, 2003, p 221; Hallaq, 2008.

<sup>50</sup> Widyantoro, 2003, p 113; Candland and Nurjanah, 1988, pp 98–99; Fathuddin, 1990, p 30. The *Tanfidziah* [executive] board affirmed the fatwa in 1971 (National Family Planning Coordinating Board, 1993, p 116). The Islamic law or *Syuriah* council is the institution's highest leadership body (Kadir, 1999).

contraception to include modern contraceptives while rejecting aspects of the state's approach to women's health. In the early years of the programme, BKKBN set targets to induce women to accept contraception, with widespread allegations of coercion. Incentives were given to workers who convinced women to use IUDs and implants without disclosure of the side-effects.<sup>51</sup>

The 1969 fatwa contained eight parts: that family planning should be practised to space rather than prevent pregnancy; that abortion should be prohibited; that family planning must be voluntary; that planning should stress the health and welfare of the family rather than fear of poverty; that permanent damage to reproductive organs should not be allowed; that consent of both husband and wife was necessary; that planning should be practised in accordance with Islamic law; and that family planning should not aid immoral acts.<sup>52</sup> The state's emphasis on population control was less important for NU than its concern for women's welfare and family health.

Muslimat and Fatayat – the institutions that had supported family planning even before the fatwa – led the way in implementing the decision. Muslimat NU's welfare foundation set up a family welfare institution [*Lembaga Kemaslahatan Keluarga*, LKK] to promote reproductive health. LKK conducted training for health care workers, partnered with international organizations to educate NU members, and ran over two dozen hospitals and health clinics.<sup>53</sup> With thousands of schools and leaders in every province, regency, district and neighbourhood, NU's support accelerated the public's acceptance of family planning.

In the period between 1968 and 1974, the Islamic law council of Muhammadiyah [*Majelis Tarjih*] likewise expanded its support for family planning as long as it did not include vasectomy, female sterilization or abortion.<sup>54</sup> In a 1974 pamphlet entitled 'Statement of the Central Board of Muhammadiyah Concerning Vasectomy, Tubectomy and Menstrual-Regulation', Muhammadiyah laid out its policies.<sup>55</sup> The pamphlet encouraged members to be 'more active and intensive in implementing development programmes'. Likewise, members should be 'disciplined in the implementation of family planning... performed in accordance with the instructions and guidance of the Legal Affairs Committee of Muhammadiyah'. Consistent with the fatwa of 1968, their support was limited to the approved methods of contraception. Despite state pressure, Muhammadiyah hospitals and health clinics did not undertake vasectomies or female sterilization, implant women with IUDs or perform abortions.

MUI also resisted aspects of the family planning programme. And, as with Muhammadiyah, its doing so transformed state policies. All three institutions opposed the use of sterilization and vocally opposed BKKBN's efforts in the late

<sup>51</sup> 'In the past they [BKKBN] would set a target for adopters of contraception, and then they would bribe their acceptors. For example if someone used condoms, they would get no money. But if they used the injectable or the pill, they would get [a] very small amount of money. If the women used the IUD or the Norplant, they would receive even more money. Then finally, if the women agreed to get a vasectomy or the man was sterilized they would receive even more money.' (Author interview with Ninuk Widyantoro, 4 August 2009). Widyantoro is the director of an influential women's health NGO, *Yayasan Kesehatan Perempuan*.

<sup>52</sup> Candland and Nurjanah, 1988, pp 98–99.

<sup>53</sup> Candland and Nurjanah, 1988, p 99; Fathuddin, 1993, pp 116–117.

<sup>54</sup> Widyantoro, 2003, p 114.

<sup>55</sup> Muhammadiyah, 1974. This pamphlet was issued in cooperation with the Ministry of Health, testifying to the continued cooperation of Islamic institutions and the state.

1970s to promote sterilization. In a fatwa in 1979, MUI forbade the practice of vasectomy and female sterilization since there was no evidence that the damage could be repaired.<sup>56</sup> As a result, despite clear cost and efficiency benefits, BKKBN dropped sterilization from its public programme.<sup>57</sup>

A second point of contention was the IUD. In a 1971 fatwa issued by MUI's predecessor, 11 of the nation's leading *ulama* prohibited the IUD on the grounds that insertion involved the sight of a woman's genitals by an unrelated man. The fatwa coincided with the expansion of the programme beyond Jakarta and was interpreted as a rebuke to the state. Yet, at the same time, other methods promoted by the government – condoms, coitus interruptus, birth control pills and injections – were permitted.<sup>58</sup> Hull suggests that around this time, MUI even gave its tacit acceptance of menstrual regulation (abortion) in private clinics.<sup>59</sup>

MUI's IUD policy underwent a further change in a 1983 fatwa.<sup>60</sup> Citing the government's desire to educate the public about family planning and the importance of the Muslim community in national prosperity, MUI granted the morality of using the IUD in one of its longest fatwas on record. IUDs were detested but permissible if inserted by a female doctor with the permission of both the husband and wife. MUI went on to argue that the government should increase the supervision of birth control facilities: every clinic was to have a worker who understood the shari'a and guarded against the misuse of birth control.

In the 1983 fatwa, MUI cited the testimony of almost a dozen government officials, the 1945 Constitution, the Pancasila and 16 Qur'anic verses and six hadiths.<sup>61</sup> This evidential support was unusual within MUI fatwas, which commonly relied solely on religious citations, and suggests pressure from the Suharto regime for MUI to shift its policy. Indeed, Hull noted that government pressure led to MUI's revised interpretation of Islamic law and eventual acceptance of the IUD.<sup>62</sup>

The use of IUDs remained contested for NU until 1989. In two fatwas, NU focused on the distinction between birth control measures that permanently disable reproductive organs and those that do not.<sup>63</sup> In the latter category, all contraception was permitted with a caveat concerning the IUD. If a male doctor did the insertion, and was not the husband of the woman, then the IUD was forbidden. However, NU also argued that in situations where the IUD was necessary, the woman could have the device implanted when accompanied by her husband, a male relative or a trusted woman. Given NU's use of the term 'necessary' instead

<sup>56</sup> Majelis Ulama Indonesia (MUI), 1997, 2/1979. The fatwa includes testimony from Ramatullah Shiddiq, M. Syakir and Syafi'i Al Hadzami, but no citations from the *Quran* or hadith.

<sup>57</sup> Interview with Lubis.

<sup>58</sup> Mudzhar, 1993, pp 109–113.

<sup>59</sup> Hull, 2003, p 72.

<sup>60</sup> MUI, 1997, 16/1983.

<sup>61</sup> MUI, 1997, 16/1983. Citations from Pengarahan Menko Kesra RI Alamsjah Ratu Perwiranegara, Pengarahan Menteri Negara Kependudukan dan Lingkungan Hidup RI Professor Dr H. Emil Salim, Sambutan Menteri Agama RI Munawir Syadsali, Sambutan Ketua Umum MUI Syukri Ghozali, Sambutan Kepala BKKBN Haryono Suyono, Dr Bambang Sumakno, Dr Bachrun Dip, Prasaran Roeslan Abdulgani, Prasaran Dr H. Kusnadi, QS 103:1–3, 13:11, 8:53, 7:96, 3:14, 71:12, 2:172, 2:168, 4:1, 49:13, 30:21, 31:14, 2:233, 25: 74, 3:38, 57:20, 50:17, 26:88–89, 64:14, 64:15, and hadith from Bukhari, Muslim, Turmuzi, Abu Daud and Al-Hakim.

<sup>62</sup> Hull, 2003, pp 72–73.

<sup>63</sup> Hooker, 2003, p 167; Nahdlatul Ulama, 1999, 381/1989, 382/1989. Citations from hadiths: *Al-Banjuri 'ala Fathil Qarib*, *Al-Bujairimi 'ala Iqna'*, *Nihayatul Muhtaj*, *Hamisi Al-Bughyah*.

of ‘emergency’, NU’s fatwa suggests that female health concerns and family interests were sufficient justification.

NU’s distinction between birth control that permanently disables reproductive organs and birth control that does temporary damage enabled NU to change its stance on sterilization as well as IUDs. In the 1989 fatwa, NU maintained its 1960 policy stating that any form of birth control that caused permanent damage was forbidden.<sup>64</sup> Yet, if the damage could be restored by modern medical techniques then sterilization would be permitted. Allowing sterilization when it could be reversed using new technology marked yet another shift.

By 1990, all three institutions had made radical changes. NU went from prohibiting almost everything to allowing the birth control pill, IUDs, injectables and anything else that did not permanently prevent pregnancy. Both MUI and Muhammadiyah changed from an implicit rejection of family planning to overt and public support for injectables, the birth control pill, and even the IUD. All of their fatwas were marked by increased attention to state policy, national development and a conspicuous awareness of the family planning programme. Rather than simply relying on religious authorities, secular authorities came to play an increasingly prominent role in their interpretations of the shari’a. This evolution of the shari’a evolved over time as an outcome of continued, iterated negotiations with the state.

These changes affected state policy. MUI’s 1983 fatwa rejecting vasectomy and female sterilization ‘not only served to shape public attitudes about the family planning services, they [MUI] also established notional boundaries on the policies and practices of the BKKBN preventing official acceptance of sterilization, and moderating programme strategies of community mobilization using campaigns of incentives and disincentives’.<sup>65</sup> A complete tally of national-level activities by Islamic institutions is unavailable, but BKKBN has compiled a list of the accomplishments of Islamic organizations in promoting family planning: Table 1 lists the number of Muhammadiyah hospitals and health clinics promoting family planning from 1970 to 2005.

**Table 1. Muhammadiyah promotes family planning in its hospitals and clinics.**

Year	Muhammadiyah hospitals & clinics	Number of provinces
1970	1	1
1972	15	5
1973	22	7
1974	32	8
1980	96	14
1988	133	18
1992	376	NA
2000	312	NA
2005	345	23

Source: BKKBN, 1993, p 110; Muhammadiyah, 1992, p 12; Muhammadiyah, 2005, pp viii, 573–579.

<sup>64</sup> Hooker, 2003, p 173; Nahdlatul Ulama, 1999, pp 447–451. Citations from hadiths: *al-Qalyubi* 3: 211, *Mughni al-Muhtaj* 3: 133–3, *al-Bajuri*, 2: 99.

<sup>65</sup> Hull, 2003, pp 72–73.

**Table 2. Mosques, Islamic study groups, *Qur'an* readings and weddings used to promote family planning (FP) in West Nusa Tenggara (1968–88).**

Year	Info on FP distributed in mosques	Info on FP incorporated into Islamic study groups	Info on FP incorporated into public recitations of the <i>Qur'an</i>	Info on FP given to newly married couples
1968–72	5,935	720	44	–
1974–78	3,306	837	63	83,835
1979–83	–	1,013	201	94,576
1984–88	8,951	1,006	326	72,168

Source: National Family Planning Coordinating Board (BKKBN), 1993, p 156.

**Table 3. Family planning activity in one NU health clinic in Jombang, 1987–88.**

Contraceptive	Number of users
IUD	328
Condom	177
Vasectomy	96
Pill	365
Injection	204

Source: BKKBN, 1993, p 150.

Table 2 shows how in one region, religious organizations worked with the Ministry of Religious Affairs and BKKBN to promote family planning. Table 3 details one NU clinic’s family planning activity in 1987/88. This clinic was one of the first to promote family planning in Indonesia. As we will see, this cooperation between Islamic organizations and the state helped the programme to succeed across Indonesia.

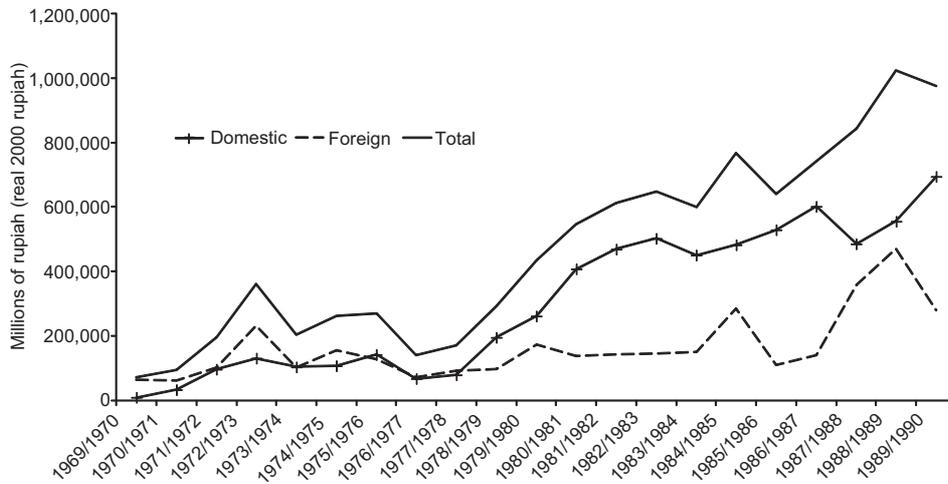
In addition to expanding Islamic institutions’ acceptance of birth control, the period from 1969–92 witnessed a geographic expansion of family planning. The first phase in 1970 covered only Java and Bali. The second covered Aceh, North Sumatra, West Sumatra, South Sumatra, Lampung, West Kalimantan, South Kalimantan, North Sulawesi, South Sulawesi and West Nusa Tenggara. The third extended to all the remaining provinces.<sup>66</sup> Hull notes that the expansion was not only geographic. ‘By the end of the 1970s BKKBN promoted small-family norms through mothers’ groups, small credit schemes, youth groups, religious groups, military units, and a wide variety of government linkages.’<sup>67</sup> This expansion was accompanied by a dramatic increase in funding. Figure 1 illustrates the funding increases from 1969 to 1989.

This expansion had a significant impact on women’s lives. Figure 2 depicts total fertility rates alongside contraception rates from 1950 to 2007. Once contraception was made widely available and affordable, fertility rates dropped dramatically. While economic development also contributed to the decline, demographers consider the increase in contraceptive use to be the dominant behavioural mechanism influencing the change in fertility rates.<sup>68</sup>

<sup>66</sup> Hull, 2005, pp 29–30.

<sup>67</sup> Hull, 2005, p 30.

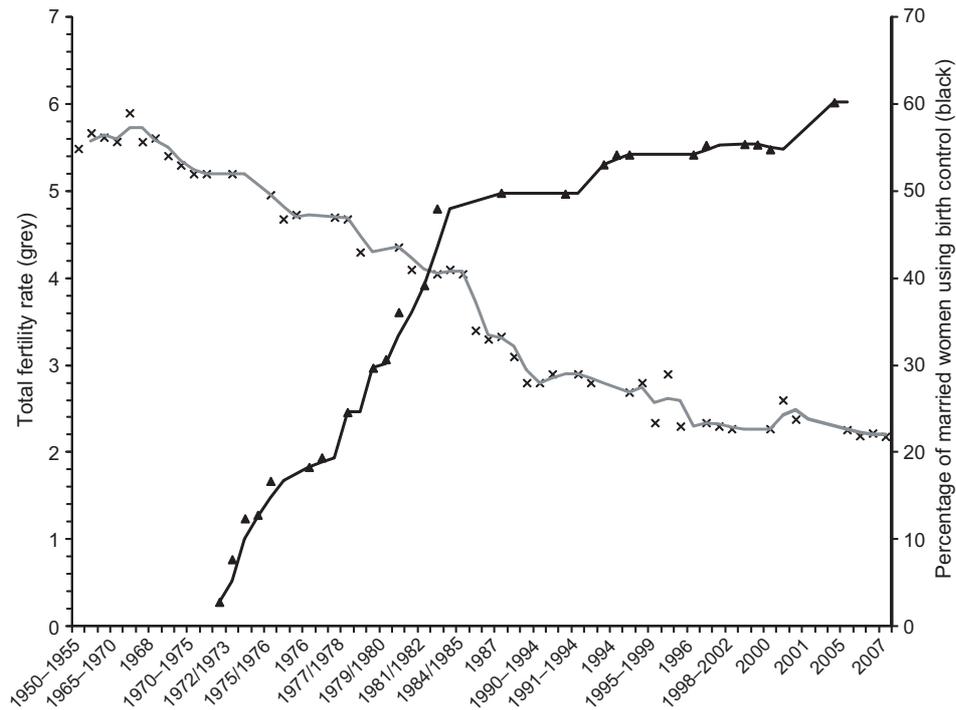
<sup>68</sup> Gertler and Molyneaux, 1994.



**Figure 1.** The dramatic expansion of family planning.

*Note:* The graph divides funding into domestic and foreign. This is important because, while international organizations provided technical expertise at the outset of the programme, they did not provide capital during the period of growth. As a result, the increase in access to contraception cannot be attributed to foreign involvement.

*Source:* World Bank, 1990, p 138.



**Figure 2.** Birth control changes women’s lives.

*Note:* Percentage of contraceptive users includes married women aged 15–44 for the period 1971–1982/83 and married women aged 15–49 for 1987–2007.

*Sources:* Fertility rates: Hull, 2002, p 419; Hull, 2007, p 250. Contraceptive users: Hull, 2002, p 417; Hull, 2007, p 246; Warwick, 1986, p 463.

The period from 1969 to 1991 witnessed considerable changes in Islamic institutions and women's lives. Islamic institutions went from tacit or outright opposition to birth control to active support for condoms, injectables, birth control pills, withdrawal, and herbal remedies. Total fertility rates plummeted from 5.4 children per woman in 1970 to 2.8 in 1992, while contraception use skyrocketed from 3% to 50% of women. And although the major period of change was 1969–91, the programme and the negotiation continue.

### **1992–2005: The negotiation continues**

Islamic institutions have continued to revise their interpretation of the shari'a regarding permissible forms of birth control in negotiation with the state. Nasaruddin Umar of NU notes that IUDs are now widely acceptable, condoms are acceptable if used appropriately, and vasectomy and female sterilization are still forbidden. Abortion is more complex: there are multiple schools of thought within NU, and most people believe that only if the foetus is sick is it permissible to have an abortion.<sup>69</sup> Yet the activist Lies Marcoes Natsir argues that, 'Even though it was not possible to issue a fatwa, abortion is still seen as acceptable according to Islamic jurisprudence within the NU'.<sup>70</sup> This shift from an outright ban on abortion to an internal debate marks a further change in NU. Former Fatayat NU chair Maria Ulfah Anshor's research on the diversity of opinion within the schools of Islamic jurisprudence is thought to have promoted additional changes in the views of senior ulama as well as MUI.<sup>71</sup> In fact, women's rights activists no longer focus their efforts on NU, viewing Muhammadiyah as the more intransigent institution.<sup>72</sup>

Nor are Muhammadiyah's views stagnating. After opposing all forms of birth control in 1968, Muhammadiyah now actively supports family planning using multiple methods including abortion in limited instances. According to Natsir, compared with NU,

'Muhammadiyah is more like Catholics, they are strict and stick to the fatwa that says abortion is unlawful. Aisiyah is still conservative, and that is why at the Asia Foundation we no longer work with the NU. Because the NU is already progressive. They are finished! But Aisiyah is different. This is in part because, also, they have an orphanage. Therefore they are less sympathetic to abortion even in the case of rape because they say the child can be adopted rather than killed. However if there is a medical reason, like incest, then they are more supportive. This is because they are rational, and if there is a strong reason for something, they are likely to approve. And we find that they will approve for other reasons as well, like if the male rapist is a Christian, then they will all approve because the child will take the religion of the father and no longer be a Muslim.'<sup>73</sup>

<sup>69</sup> Interview with Umar, 24 July 2009.

<sup>70</sup> Interview with Natsir.

<sup>71</sup> Author interview with Maria Ulfah Anshor, 22 July 2009; Rinaldo, 2008.

<sup>72</sup> Author interview with Satriyo.

<sup>73</sup> Author interview with Natsir.

While Aisiyah may not be 'progressive' like NU, it is more accommodating than NU on abortion. Muhammadiyah classifies miscarriages as those that are medically provoked and those that are criminally provoked. The former is permitted in cases of emergency before 28 weeks, based the World Health Organization's contention that the foetus cannot survive outside the womb before 28 weeks.<sup>74</sup> This is markedly longer than advised by some leaders of NU, who follow the Hanafi school's ruling that the spirit enters the foetus after 40 days.<sup>75</sup>

In delineating these views, Muhammadiyah's rules on permissibility have certainly expanded. Yet the changes have not been as substantial as NU's: activists in Fatayat-NU have begun to refer to abortion as an issue of woman's autonomy over her body and her reproductive health.<sup>76</sup> Muhammadiyah activists prefer to couch any justification for birth control in scientific or rational arguments. Both institutions stress the importance of keeping state policies consistent with Islamic jurisprudence. And both have come out in support of contraception based on the notion that the national context is an important factor in determining the permissibility of birth control.<sup>77</sup>

MUI has changed as well. In November 1995, MUI laid out its prescriptions for coping with the perception of rising HIV/AIDS rates by expanding the allowable use of condoms.<sup>78</sup> It justified its support for condom use on the grounds that condoms were considered reliable by medical authorities for the prevention of HIV/AIDS.<sup>79</sup>

The final shift for MUI came in 2005. In its 2003 fatwa, MUI maintained that abortion was explicitly forbidden except when the life of the mother was at stake. In its 2005 fatwa, MUI added other emergency conditions: when a pregnant woman suffers serious physical illness, if the foetus has a genetic defect, and if the pregnancy resulted from rape. In these instances the pregnancy could be terminated before 40 days.<sup>80</sup> Once more, MUI expanded the grounds upon which the shari'a permits women access to abortion.

For many years, the Indonesian family planning programme was a model for the developing world.<sup>81</sup> Officials travelled from around the globe to attend BKKBN's

<sup>74</sup> Author interview with Natsir.

<sup>75</sup> Author interview with Umar.

<sup>76</sup> Not all Fatayat activists take this stance. One informant argued that women having better access to birth control should not be seen as an indicator of women's rights. 'They [BKKBN] want to control the population, not respect it, and they do not have concern for the quality of a women's life. So you see KB [family planning] is really a program that is about control over the population only, and not about women's health or women's rights. In fact, I think that KB actually violates women's rights because all the rules were written by men, and they are not respectful of women's safety, or women's health, and not concerned with women's sexuality. For example in Indonesia we still have young girls of 13 or 14 that are forced to marry even though they are not ready for marriage, not physically and not emotionally. But they [BKKBN] do not look at the quality of women's health, they don't study these things, and they don't care. I mean, I have done some work with Fatayat-NU, but that is very small and they don't even, I think, understand the role of birth control in women's rights. ... Today, for example, a woman from Fatayat-NU interviewed me about birth control. And I asked her why it was an important issue, and she said, 'for population control'. Even a *female activist* did not see birth control as a question of women's rights, or women's health, or women's choice. So you see this is not the way that KB should be understood.' (emphasis, speaker) (author interview with Ninuk Widyantoro)

<sup>77</sup> Hooker, 2003, pp 166–175.

<sup>78</sup> MUI, 1997, 25/1995.

<sup>79</sup> Roesin and Ichwam, 1999, pp 72–74.

<sup>80</sup> MUI, 2005.

<sup>81</sup> Warwick, 1986; World Bank, 1990. For criticisms of this model, see fn 51 and fn 76.

International Training Programme (ITP), visiting health clinics and meeting Muslim leaders. For the period from 1987 to 2008, ITP hosted 4,524 participants from 94 countries.<sup>82</sup> BKKBN is currently working on a manual on family planning for religious leaders from Iran and Bangladesh. The manual covers maternal and child health, HIV/AIDS, the concept of gender in Islam, and builds on more than 30 years of Indonesian Islamic theology promoting women's access to birth control.<sup>83</sup>

## Conclusion

Over the course of 30 years, the popular expression *banyak anak, banyak rezeki*, 'many children, much good fortune', transformed into the New Order's maxim, *dua anak cukup*, 'two children is enough'.<sup>84</sup> The Indonesian case suggests that the key to this change was Islamic institutions' reformulated interpretations of the shari'a. In addition to consulting the sacred texts, the institutions drew on secular sources: domestic and foreign medical authorities, government ministers from health, demography and the environment, the Family Planning Coordinating Board, along with experts from the World Health Organization and other international organizations. In other words, the sacred and the secular have combined in unexpected ways. As a result, the institutions' interpretations of the shari'a today are radically different from when NU issued its fatwa about *jamu peluntur* in 1938.

The co-evolution of the shari'a and secular authority has at least two implications for the study of Islam and politics. The first is conceptual. The complex evolution between religious and secular authority in Indonesia is not unique: scholars have mapped secularism's circuitous trajectory in Egypt and Malaysia.<sup>85</sup> Instead of positing a 'clash' between Islam and modernity, or the displacement of religious authority by secular authority, scholars face the challenge of crafting models of the co-evolution of the sacred and secular in this 'enchanted' version of modernity.<sup>86</sup>

The second implication of this article is theoretical. The shari'a promoted by NU, Muhammadiyah and MUI overlaps with some arguments for women's access to birth control. Yet, in justifying their evolving interpretations of the Islamic tradition, none of the institutions used the language of women's rights or women's equality. Instead, the justifications for adjustments to Islamic jurisprudence were expressed in medical and rational terms or the interests of the religious or national community. This suggests that Islamic institutions are driven by non-liberal conceptions of agency and likely to evolve in ways that are poorly predicted by existing theories of secularization, modernization and the global expansion of liberal human rights. To understand the future of states where Islamic actors are unapologetically in the public sphere, scholars will need a new vocabulary that maps the concepts, motives and trajectory of politics in the grey zone between secular liberalism and theocracy.<sup>87</sup>

<sup>82</sup> National Family Planning Coordinating Board, 2009.

<sup>83</sup> Author interview with Sonya Irawan, 16 November 2009. Irawan is working with BKKBN on the manual and showed drafts to the author. The manual builds on Rosyadi and Dasar, 1986; LKK NU, 1989; International Society for Islamic Activities on Population and Family Welfare, 1990; and Omran 1992.

<sup>84</sup> Niehof and Lubis, 2003, p 251.

<sup>85</sup> Asad, 2003; Layish, 1978.

<sup>86</sup> Deeb, 2006.

<sup>87</sup> Mahmood, 2005; Menchik, 2014; Rinaldo, 2008.

## References

- an-Na'im, Abdullahi (2008), *Islam and the Secular State. Negotiating the Future of Shari'a*, Harvard University Press, Boston, MA.
- Asad, Talal (2003), *Formations of the Secular: Christianity, Islam, Modernity*, Stanford University Press, Stanford, CA.
- Bayat, Asef (2007), *Making Islam Democratic: Social Movements and the Post-Islamist Turn*, Stanford University Press, Palo Alto, CA.
- Bellin, Eva (2008), 'Faith in politics: new trends in the study of religion and politics', *World Politics*, Vol 60 (January), pp 315–347.
- Brass, Paul R. (1997), *Theft of an Idol: Text and Context in the Representation of Collective Violence*, Princeton University Press, Princeton, NJ.
- Candland, Christopher, and Nurjanah, Siti (1988), 'Women's empowerment through Islamic organizations: the role of Nahdlatul Ulama in transforming the government's birth control programme into a family welfare programme', in Tyndale, Wendy R., ed, *Visions of Development: Faith-Based Initiatives*, Ashgate, Aldershot.
- Casanova, José (1994), *Public Religions in the Modern World*, University of Chicago Press, Chicago, IL.
- Collins, Kathleen (2008), 'Ideas, networks, and Islamist movements: evidence from Central Asia and the Caucasus', *World Politics*, Vol 60, No 1, pp 64–96.
- Deeb, Laura (2006), *An Enchanted Modern: Gender and Public Piety in Shi'i Lebanon*, Princeton University Press, Princeton, NJ.
- Dwyer, Leslie K. (1999), 'Spectacular sexuality: nationalism, development and the politics of family planning in Indonesia', in Mayer, Tamar, ed, *Gender Ironies of Nationalism: Sexing the Nation*, Routledge, London, pp 25–62.
- Esposito, John, and Kalin, Ibrahim (2009), *The 500 Most Influential Muslims in the World*, Prince Alwaleed Bin Talal Center for Muslim–Christian Understanding at Georgetown University, Washington, DC.
- Fathuddin, Usep (1990), *Umat Islam dan Gerakan Keluarga Berencana di Indonesia [The Muslim Community and the Family Planning Movement in Indonesia]*, BKKBN and the Department of Religious Affairs, Jakarta.
- Fathuddin, Usep (1993), *The Muslim Umma and the Family Planning Movement in Indonesia*, BKKBN and the Department of Religious Affairs, Jakarta.
- Fealy, Greg, and Hooker, Virginia, eds (2007), *Voices of Islam in Southeast Asia: A Contemporary Sourcebook*, Institute of Southeast Asian Studies Publications, Singapore.
- Federspiel, Howard (1995), *A Dictionary of Indonesian Islam*, Center for International Studies, Ohio University, Athens, OH.
- Feener, Michael (2007), *Muslim Legal Thought in Modern Indonesia*, Cambridge University Press, Cambridge.
- George, Alexander, and Bennett, Andrew (2005), *Case Studies and Theory Development in the Social Sciences*, MIT Press, Cambridge, MA.
- Gerring, John (2001), *Social Science Methodology: A Criterial Framework*, Cambridge University Press, Cambridge.
- Gertler, Paul J., and Molyneaux, John W. (1994), 'How economic development and family planning programs combined to reduce Indonesian fertility', *Demography*, Vol 31, No 1, pp 33–63.
- Hallaq, Wael (2008), *The Origins and Evolution of Islamic Law*, Cambridge University Press, Cambridge.
- Hefner, Robert W. (2000), *Civil Islam: Muslims and Democratization in Indonesia*, Princeton University Press, Princeton, NJ.
- Hefner, Robert W., ed (2011), *Shari'a Politics: Islamic Law and Society in the Modern World*, Indiana University Press, Bloomington, IN.
- Hooker, M.B. (2003), *Indonesian Islam: Social Change through Contemporary Fatawa*, Asian Studies Association of Australia, Crows Nest, NSW.
- Hull, Terence H. (2002), 'Caught in transit: questions about the future of Indonesian fertility', country paper presented at the *United Nations Population Division Expert Group Meeting on Completing the Fertility Transition, 11–14 March, New York, NY*.
- Hull, Terence H. (2003), 'The political framework for family planning in Indonesia: three decades of development', in Niehof, Anke, and Lubis, Firman, eds, *Two Is Enough: Family Planning in Indonesia under the New Order 1968–1998*, KITLV Press, Leiden.
- Hull, Terence H., ed (2005), *People, Population, and Policy in Indonesia*, Equinox Publishing, Jakarta, and the Institute of Southeast Asian Studies, Singapore.
- Hull, Terence H. (2007), 'Formative years of family planning in Indonesia', in Robinson, Warren C., and Ross, John A. eds, *The Global Family Planning Revolution: Three Decades of Population Policies and Programs*, World Bank, Washington, DC.
- Ichwan, Moch Nur (2013), 'Towards a puritanical moderate Islam: the Majelis Ulama Indonesia and the politics of religious orthodoxy', in van Bruinessen, Martin, ed, *Contemporary Developments*

- in *Indonesian Islam: Explaining the 'Conservative Turn'*, Institute of South East Asian Studies, Singapore, pp 60–104.
- International Society for Islamic Activities on Population and Family Welfare (1990), *Manual on Islam and Family Planning*, International Society for Islamic Activities on Population and Family Welfare, Yogyakarta.
- Kadir, Suzaina Abdul (1999), 'Traditional Islamic society and the state in Indonesia: the Nahdlatul Ulama, political accommodation, and the preservation of autonomy', doctoral dissertation, Department of Political Science, University of Wisconsin-Madison, WI.
- Kamil, Sukron, and Bamualim, Chaider S., eds (2007), *Syariah Islam dan HAM: Dampak Perda Syariah terhadap Kebebasan Sipil, Hak-hak Perempuan, dan Non-Muslim*, Universitas Islam Negeri Syarif Hidayatullah Jakarta, Jakarta.
- Kendhammer, Brandon (2013), 'The shari'a controversy in north Nigeria and the politics of Islamic law in new and uncertain democracies', *Comparative Politics*, Vol 43, No 3.
- Layish, Aharon (1978), 'The contribution of the modernists to the secularization of Islamic law', *Middle Eastern Studies*, Vol 14, No 3, pp 263–277.
- Lembaga Kemaslah Keluarga (LKK) Nahdlatul Ulama (1989), *Visi Ulama Tentang Keluarga Berencana [Vision of the Islamic Scholars Concerning Family Planning]*, Pathfinder Fund, Jakarta.
- Lombardi, Clark Benner (2006), *State Law as Islamic Law in Modern Egypt: The Incorporation of Shari'a into Egyptian Constitutional Law*, Brill, Leiden and Boston, MA.
- Luker, Kristin (1985), *Abortion and the Politics of Motherhood*, University of California Press, Berkeley, CA.
- Mahmood, Saba (2005), *The Politics of Piety: The Islamic Revival and the Feminist Subject*, Princeton University Press, Princeton, NJ.
- Majelis Ulama Indonesia – MUI (1997), *Kumpulan Fatwā Majelis Ulama Indonesia [Collection of MUI Fatāwā]*, Pustaka Panjimas, Jakarta.
- Majelis Ulama Indonesia – MUI (2005), *Fatwā Majelis Ulama Indonesia, Nomor 4 Tahun 2005 Tentang Aborsi [Fatwā MUI Number 4, 2005 Concerning Abortion]*, website: <http://www.mui.or.id> (accessed 14 January 2008).
- March, Andrew F. (2009), *Islam and Liberal Citizenship: The Search for an Overlapping Consensus*, Oxford University Press, Oxford.
- Masud, Muhammad Khalid, Brinkley, Morris Messick, and Powers, David Stephan (1996), 'Muftis, Fatāwā and Islamic legal interpretation', in Masud, Muhammad Khalid, Brinkley, Morris Messick, and Powers, David Stephan eds, *Islamic Legal Interpretation: Muftis and their Fatāwā*, Harvard University Press, Cambridge, MA.
- Masyhuri, Azis (2002), 'Abortus Menurut Hukum Islam' [Abortion according to Islamic law], in Anshor, Maria Ulfah, ed, *Aborsi dalam Perspektif Fiqh Kontemporer [Abortion from the Perspective of Contemporary Jurisprudence]*, Balai Penerbit FKUI, Jakarta.
- Menchik, Jeremy (2007), 'Illiberal but not intolerant: understanding the Indonesian Council of the Ulama's', *Inside Indonesia*, October–December.
- Menchik, Jeremy (2014), 'Productive intolerance: godly nationalism in Indonesia', *Comparative Studies in Society and History*, Vol 56, No 3, pp 591–621.
- Mudzhar, Atho (1993), *Fatwa-Fatwa Majelis Ulama Indonesia: sebuah studi tentang Pemikiran Hukum Islam di Indonesia, 1975–1988*, Indonesia-Netherlands Cooperation in Islamic Studies, Jakarta.
- Mudzhar, Atho (1996), 'The Council of the Indonesian "Ulama" on Muslims' attendance at Christmas celebrations', in Masud, Muhammad Khalid, Brinkley, Morris Messick, and Powers, David Stephan, eds, *Islamic Legal Interpretation: Muftis and their Fatāwā*, Harvard University Press, Cambridge, MA.
- Mudzhar, Atho (2002), 'The ulama, the government, and society in modern Indonesia: the Indonesian Council of the Ulama revisited', in Meuleman, Johan, ed, *Islam in the Era of Globalization: Muslims Attitudes towards Modernity and Identity*, RoutledgeCurzon, New York.
- Muhammadiyah (1974), *Vasectomi, Tubectomi & Menstrual-Regulation [Vasectomy, Tubectomy and Menstrual Regulation]*, Pimpinan Pusat Muhammadiyah, Jogjakarta.
- Muhammadiyah (1992), *Muhammadiyah in Brief*, 1 ed, Head Office Jami' at Muhammadiyah, Jogjakarta.
- Muhammadiyah (1995), *Himpunan Putusan Majelis Tarjih Muhammadiyah [Decisions of the Islamic Law Committee of Muhammadiyah]*, Pimpinan Pusat Muhammadiyah, Malang.
- Muhammadiyah (2005), *Profil Muhammadiyah [Profile of Muhammadiyah]*, Pimpinan Pusat Muhammadiyah, Yogyakarta.
- Mujani, Saiful, and Liddle, R. William (2004), 'Indonesia's approaching elections: politics, Islam, and public opinion', *Journal of Democracy*, Vol 15, No 1 (January), pp 109–123.
- Nahdlatul Ulama (1999), *Ahkam Al-Fuqaha' Fi Muqarrarat Mu'tamarat Nahdlatul Ulama: Solusi Problematika Aktual Hukum Islam Keputusan Mukhtar, Munas Dan Konbes Nahdlatul Ulama (1926–1999) [Legal Decisions from the Jurists of the Nahdlatul Ulama: Solutions to Problems of Islamic Law from the Decrees, Congresses, and National Conference of NU (1926–1999)]*, Nahdlatul Ulama, Jakarta.

- National Family Planning Coordinating Board – BKKBN (1993), *The Muslim Ummah and Family Planning Movement in Indonesia*, Global Training Group, National Family Planning Coordinating Board and Department of Religious Affairs, Jakarta.
- National Family Planning Coordinating Board – BKKBN (2007), *Keluarga Kecil Lebih Baik [Small Families are Better]*, BKKBN, Jakarta.
- National Family Planning Coordinating Board – BKKBN (2009), 'International training programs', National Family Planning Coordinating Board, website: [http://www.itp-bkkbn.org/pulin/007\\_training.html](http://www.itp-bkkbn.org/pulin/007_training.html) (accessed 2 February 2010).
- Niehof, Anke, and Lubis, Firman (2003), *Two is Enough: Family Planning in Indonesia under the New Order 1968–1998*, KITLV Press, Leiden.
- Norris, Pippa, and Inglehart, Ronald (2004), *Sacred and Secular: Religion and Politics Worldwide*, Cambridge University Press, Cambridge.
- Omrán, Abdel Rahim (1992), *Family Planning in the Legacy of Islam*, United Nations Population Fund, New York.
- Peletz, Michael (2002), *Islamic Modern: Religious Courts and Cultural Politics in Malaysia*, Princeton University Press, Princeton, NJ.
- Porter, Donald J. (2002), *Managing Politics and Islam in Indonesia*, RoutledgeCurzon, London.
- Rinaldo, Rachel (2008), 'Envisioning the nation: women activists, religion and the public sphere in Indonesia', *Social Forces*, Vol 86, No 4, pp 1781–1804.
- Roesin, H. Runizar, and Ichwam H.M., Sam (1999), *Report on the First HIV/AIDS ASEAN Regional Workshops of Islamic Religious Leaders (1998)*, Indonesian Council of Ulama, Jakarta.
- Rosyadi, A. Rahmat, and Dasar, Soeroso (1986), *Indonesia: Keluarga Berencana Ditinjau Dari Hukum Islam [Indonesia: Family Planning from the Viewpoint of Islamic Law]*, Penerbit Pustaka, Bandung.
- Schacht, Joseph (1964), *An Introduction to Islamic Law*, Clarendon, Oxford.
- Schwedler, Jillian (2011), 'Can Islamists become moderates? Rethinking the inclusion–moderation hypothesis', *World Politics*, Vol 63, No 2, pp 347–376.
- Skovgaard-Petersen, Jakob (1997), *Defining Islam for the Egyptian State: Muftis and Fatawā of the Dar al-Ifta*, Brill, Leiden.
- Tessler, Mark (2002), 'Islam and democracy in the Middle East: the impact of religious orientations on attitudes toward democracy in four Arab countries', *Comparative Politics*, Vol 34, No 3, pp 337–354.
- United Nations General Assembly (1979), *Convention on the Elimination of All Forms of Discrimination Against Women*, United Nations Commission on the Status of Women, New York.
- van Doorn-Harder, Pieternella (2006), *Women Shaping Islam: Indonesian Women Reading the Qur'an*, University of Illinois Press, Urbana and Chicago, IL.
- Wald, Kenneth D., and Wilcox, Clyde (2006), 'Getting religion: has political science rediscovered the faith factor?' *American Political Science Review*, Vol 100, No 4, pp 523–529.
- Warwick, D.P. (1986), 'The Indonesian Family Planning Program: government influence and client choice', *Population and Development Review*, Vol 12, No 3, pp 452–490.
- Weber, Max (1978 [1925]), *Economy and Society: An Outline of Interpretive Sociology* (Roth, Guenther, and Wittich, Claus, eds), University of California Press, Berkeley, CA.
- Wickham, Carrie (2004), 'The path to moderation: strategy and learning in the formation of Egypt's Wasat Party', *Comparative Politics*, Vol 32, pp 205–228.
- Widyanoro, Ninuk (2003), 'NGO involvement in family planning', in Niehof, Anke, and Lubis, Firman, eds, *Two Is Enough: Family Planning in Indonesia under the New Order 1968–1998*, KITLV Press, Leiden.
- World Bank (1990), *Indonesia: Family Planning Perspectives in the 1990s*, World Bank, Washington, DC.
- Ziblatt, Daniel, and Slater, Dan (2013), 'The enduring indispensability of the controlled comparison', *Comparative Political Studies*, Vol 46, No 10, pp 1301–1327.