



The Epistemology of Gender Justice In Islamic Legal Discourse on FGM/C: Legitimacy, Authority, And The Reconstruction of Fiqh In KUPI

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Abstrak

Penelitian ini bertujuan menganalisis epistemologi keadilan gender dalam diskursus hukum Islam tentang female genital mutilation/cutting (FGM/C) dengan menyoroti mekanisme produksi legitimasi religius, peran otoritas sosial-keagamaan, dan rekonstruksi fiqh dalam perspektif Kongres Ulama Perempuan Indonesia (KUPI). Penelitian ini penting karena FGM/C di Indonesia tidak hanya bertahan sebagai praktik sosial-budaya, tetapi juga kerap dilegitimasi sebagai norma keagamaan, meskipun basis tekstual dan manfaat medisnya problematis. Penelitian menggunakan pendekatan kualitatif berbasis studi kepustakaan dengan pengumpulan data secara purposif dari dokumen primer, yakni hasil Musyawarah Keagamaan KUPI II tentang P2GP tanpa alasan medis, rujukan fiqh dan hadis yang dipakai dalam perdebatan khifāḍ, serta regulasi kesehatan terkait sunat perempuan, dan dilengkapi data sekunder berupa artikel akademik, buku, serta laporan lembaga nasional dan internasional. Analisis dilakukan melalui pembacaan tematik-kritis dengan memadukan pemetaan mekanisme legitimasi, hermeneutika kontekstual, dan evaluasi normatif berbasis maqāṣid al-sharī'ah. Hasil penelitian menunjukkan bahwa legitimasi FGM/C dalam diskursus hukum Islam lebih banyak ditopang oleh seleksi dalil, normalisasi 'urf, dan penguatan otoritas sosial-keagamaan daripada oleh mandat tekstual yang eksplisit dan otoritatif. Penelitian ini juga menemukan bahwa pendekatan kritis-transformatif KUPI merekonstruksi fiqh dengan menempatkan maqāṣid al-sharī'ah, hermeneutika kontekstual, dan pengalaman hidup perempuan sebagai basis epistemik untuk menilai mudarat, sehingga mengarah pada penolakan terhadap praktik yang membahayakan tanpa alasan medis. Implikasi penelitian ini menegaskan pentingnya pembaruan cara berfiqh, penguatan edukasi keagamaan yang berperspektif perlindungan, serta sinergi antara otoritas keagamaan, layanan kesehatan, dan kebijakan negara dalam pencegahan FGM/C. Orisinalitas penelitian ini terletak pada pergeseran fokus dari perdebatan kesehatan atau hak asasi manusia menuju persoalan epistemologi hukum Islam, sekaligus menempatkan KUPI sebagai model rekonstruksi fiqh berbasis keadilan gender dan perlindungan integritas tubuh perempuan.

Kata Kunci: FGM/C; hukum Islam; epistemologi keadilan gender; KUPI; rekonstruksi fiqh

Abstract

This study aims to analyse the epistemology of gender justice in Islamic legal discourse on female genital mutilation/cutting (FGM/C) by highlighting the mechanisms through which religious legitimacy is produced, the role of socio-religious authority, and the reconstruction of fiqh from the perspective of the Indonesian Women Ulama Congress (KUPI). This study is significant because FGM/C in Indonesia persists not only as a socio-cultural practice, but is also frequently legitimised as a religious norm, despite its problematic textual basis and questionable medical benefit. The study employs a qualitative approach based on library research, with purposive data collection from primary documents, namely the outcomes of the KUPI II Religious Deliberation on P2GP without medical grounds, fiqh and hadith references used in debates on khifāḍ, and health regulations concerning female circumcision, supplemented by secondary data in the form of academic articles, books, and reports published by national and international institutions. The analysis is conducted through a thematic-critical reading that combines mapping the mechanisms of legitimacy, contextual hermeneutics, and normative evaluation grounded in maqāṣid al-sharī'ah. The findings show that the legitimacy of FGM/C in Islamic legal discourse is sustained more by selective use of scriptural evidence, the normalisation of 'urf, and the reinforcement of socio-religious authority than by any explicit and authoritative textual mandate. The study also finds that KUPI's critical-transformative approach reconstructs fiqh by positioning maqāṣid al-sharī'ah, contextual hermeneutics, and women's lived experiences as epistemic foundations for assessing harm, thereby leading to the rejection of practices that are harmful and lack medical grounds. The implications of this study underline the importance of renewing methods of legal reasoning in fiqh, strengthening religious education from a protection-oriented perspective, and fostering synergy between religious authorities, healthcare services, and state policy in the prevention of FGM/C. The originality of this study lies in its shift of focus from debates on health or human rights to the epistemological question within Islamic law, while also positioning KUPI as a model for the reconstruction of fiqh grounded in gender justice and the protection of women's bodily integrity.

Keyword: FGM/C; Islamic law; epistemology of gender justice; KUPI; reconstruction of fiqh

Introduction

FGM/C (female genital mutilation/cutting), or the cutting or otherwise harmful alteration of female genitalia, remains practised in various parts of the world and continues to raise serious concerns relating to health, ethics, and gender justice. The World Health Organization (WHO) defines FGM as all procedures involving the partial or total removal of the external female genitalia, or other injury to the female genital organs for non-medical reasons. WHO further emphasises that this practice has no health benefits,

may cause both short- and long-term physical and psychological complications, and is internationally recognised as a violation of the human rights of women and girls. The scale of the problem remains substantial. UNICEF reports that more than 230 million women and girls alive today have undergone FGM, an increase of around 15 per cent, or approximately 30 million, compared with estimates from eight years earlier. This indicates that the rate of decline still falls short of what is required for the global elimination of the practice (World Health Organization).

In the Indonesian context, the practice commonly referred to as female circumcision is still found and is often sustained in the name of tradition, bodily morality, and religious identity. Data from the 2021 SPHPN, as cited by Komnas Perempuan, show that around 21.3 per cent of girls born to women aged 15–49 and living in the same household had undergone FGM/C according to WHO criteria, namely involving cutting or other forms of harm, while around 33.7 per cent had undergone it in symbolic form. Komnas Perempuan also notes that 92 per cent of parental decisions are influenced by religious understandings that regard the practice as a religious obligation. At the policy level, Ministry of Health Regulation No. 6 of 2014 revoked Ministry of Health Regulation No. 1636/Menkes/PER/XII/2010 on female circumcision. In more recent regulatory developments, Ministry of Health Regulation No. 2 of 2025 incorporated the elimination of female circumcision practices that endanger the reproductive system into the framework of promotive reproductive health efforts. These facts indicate that FGM/C in Indonesia cannot adequately be understood merely as a public health issue, but must also be seen as a matter of socio-religious legitimacy, the persistence of tradition, and power relations over women's bodies (komnasperempuan.go.id).

In the existing literature, research on FGM/C can be mapped into three main tendencies. First, socio-cultural and historical studies interpret FGM/C as a practice sustained by communal norms, social rationalities, and processes of cultural transmission, while also showing that the practice may transform without entirely disappearing, for example through medicalisation, a reduction in severity, or changes in the age at which it is performed (Johnsdotter, 2012; Mohammed, Hassan and Eyada, 2014; Matanda *et al.*, 2023). In migration contexts, changing attitudes towards FGM/C also occur through complex negotiations involving law, identity, social networks, and inherited norms (Faraca, 2023; Salah *et al.*, 2024). In Indonesia, a similar tendency is evident in studies showing the reproduction of the practice as a tradition passed down across generations and linked to social control over women's bodies, particularly in Javanese contexts (Mustaqim, 2013; Sa'dan, 2016). Second, studies on health, human rights, and

intervention emphasise both the short- and long-term health consequences of FGM/C while also testing the effectiveness of prevention strategies. The literature suggests that interventions tend to be more effective when they operate at the level of social norms, involve community actors, and take gender relations in decision-making processes into account (Berg and Denison, 2012, 2013; Varol *et al.*, 2015; Mwendwa *et al.*, 2020). Third, studies in Islamic discourse, Islamic feminism, and hermeneutics emphasise that debates on FGM/C cannot be separated from contestations over interpretive authority, the methodology of *istinbāt*, and gender bias in the production of religious knowledge. A number of studies show a spectrum of views among religious authorities, ranging from religious justification to the assertion that the underlying reports are weak, while Islamic feminist scholarship underlines the importance of contextual reading, critiques of gender-biased interpretation, and recognition of women's experiences as a basis of knowledge for constructing arguments of justice (Raemdonck, 2017; Ibrahim, 2019; Arofi, 2021; Bahar, 2021; Akhtar, Khan and Khan, 2022; Fina and Wahyuni, 2022). In the Indonesian context, studies on the Indonesian Women Ulama Congress (KUPI) demonstrate the formation of women ulama's religious authority in contemporary issues and anti-violence advocacy, including the articulation of a clear position on P2GP without medical grounds (Kongres Ulama Perempuan Indonesia, 2022; Hidayatulloh and Syifa, 2023; Arwani and Hannase, 2024).

Although diverse, this body of literature still leaves an important gap. Many studies have mapped FGM/C as a matter of tradition, health, or human rights, and some have criticised patriarchal bias in religious interpretation. However, relatively few studies have systematically explained how religious legitimacy for FGM/C is produced within fiqh discourse through the selective use of evidence, the normalisation of *'urf*, and the reinforcement of socio-religious authority, and how an epistemology of gender justice can reconstruct Islamic legal reasoning so that it becomes more accountable to harm, bodily integrity, and women's dignity. It is at this point that this study takes its position, namely by placing KUPI's critical-transformative approach as a framework for re-reading the relationship between text, tradition, and the ethical purposes of the *sharī'ah*, while also centring women's experiences as an epistemic basis in fiqh argumentation.

Departing from this gap, this study aims to analyse the epistemological foundations of gender justice in Islamic legal discourse on FGM/C, with particular attention to KUPI's critical-transformative approach. The study integrates contextual hermeneutics and *maqāṣid al-sharī'ah* as instruments of normative evaluation, while positioning women's lived experiences as a source of epistemic data for assessing impacts, harms, and injustices that

often remain unarticulated in conventional fiqh reasoning (Fina & Wahyuni, 2022; KUPI, 2022). Through this strategy, the study seeks to explain the mechanisms of legitimacy linking tradition, textual interpretation, and socio-religious authority, while also offering a conceptual foundation for a fiqh that emphasises bodily integrity, the prevention of harm, and the protection of human dignity.

The central argument of this study is that the persistence of FGM/C in many Muslim communities is more accurately understood as the result of a socio-cultural construction legitimised through patriarchal readings and the normalisation of tradition, rather than as a consequence of any explicit and authoritative textual mandate. Accordingly, when legal reasoning is tested through *maqāṣid* by means of the *maṣlahah-mafsadah* framework, read through contextual hermeneutics, and opened to women's experiences as a source of knowledge, the religious legitimacy of FGM/C is normatively weakened and moves towards the rejection of practices that cause harm. Within this framework, KUPI's position is significant not merely as a moral stance, but as an example of protection-based fiqh reconstruction. The outcome document of the Second KUPI Religious Deliberation adopts the term "P2GP without medical grounds" and determines that P2GP which causes harm without medical grounds is *haram*, that all parties bear responsibility for preventing it, and that the use of authority to protect women from the danger of such acts is obligatory.

This study employs a qualitative approach based on library research, focusing on the analysis of Islamic legal discourse on FGM/C and the reconstruction of fiqh from KUPI's perspective. Data were collected purposively from primary documents, namely the outcomes of the Second KUPI Religious Deliberation concerning P2GP without medical grounds, fiqh and hadith references frequently used in debates on *khifāḍ*, and Indonesian health regulations relating to female circumcision. Secondary data consist of relevant academic articles, books, and reports from national and international institutions. The analysis was conducted through a thematic-critical reading encompassing three steps: mapping the mechanisms of legitimacy, including text, *'urf*, and authority; applying contextual hermeneutics to textual evidence and fiqh argumentation; and conducting normative evaluation based on *maqāṣid al-sharī'ah*, especially through the *maṣlahah-mafsadah* test, the principle of preventing harm, and the classification of *'urf ṣaḥīḥ* and *'urf sā'i*. The validity of the findings was maintained through source triangulation and backward tracing between the analytical findings and the data employed.

The theoretical framework of this study is designed to read FGM/C as a problem of legitimacy production within Islamic legal discourse, while also

explaining how a gender justice-based reconstruction of fiqh may lead to the rejection of practices that cause harm. To this end, the study combines three principal foundations: *maqāṣid al-sharī'ah* as a normative test, contextual hermeneutics as a control over textual interpretation, and feminist epistemology as the basis for recognising women's experiences as a relevant source of knowledge.

Maqāṣid al-sharī'ah is understood as a teleological framework of evaluation that places the ethical purposes of the sharī'ah at the centre of legal determination, such that the validity of a norm does not end with the existence of a textual reference, but is determined by the extent to which it realises benefit and prevents harm. In the classical tradition, this orientation was formulated as the connection between the sharī'ah and the realisation of *maṣlaḥah* and the removal of *mafsadah*, as developed in *uṣūl al-fiqh* by al-Shātibī. In modern developments, Ibn 'Āshūr positioned *maqāṣid* as a methodology for the renewal of Islamic law, Kamali emphasised its relevance for enhancing the quality of *ijtihād*, and Auda developed it as a critique of formal legalism so that law might move towards protection, justice, and human development (al-Tahir Ibn 'Ashur, 2006; Auda, 2008; Kamali, 2008). On this basis, normative claims concerning women's bodies are assessed through the parameters of *maṣlaḥah-mafsadah* and the orientation of protecting life, human dignity, and bodily integrity.

Contextual hermeneutics is employed to assess how texts and transmitted reports are used in fiqh argumentation, particularly when textual evidence is selected selectively or detached from its historical-ethical context, thereby functioning as a normative justification for harmful practices. Through his double movement model, Fazlur Rahman emphasised the importance of linking the context of revelation to contemporary issues so that the general moral principles contained in the text may be applied responsibly to new situations (Rahman, 1982). Abdullah Saeed strengthened this approach through contextual interpretation, which attends to context, hierarchies of values, and the ethical implications of applying norms, so that legal reasoning does not stop at a literalism that ignores consequences for human beings (Saeed, 2006). Thus, contextual hermeneutics shifts the focus of analysis from the question of whether a reference exists to the question of how that reference is read, which ethical values are being preserved, and what social consequences are borne by affected subjects.

The *maqāṣid* framework and contextual hermeneutics are further strengthened by feminist epistemology in order to explain androcentric bias in the production of religious knowledge. Haraway emphasises that knowledge is always situated (*situated knowledges*), such that claims to objectivity must be examined from the social location in which that

knowledge is produced and from the perspective of those silenced in the process (Haraway, 1988). Harding shows that feminist critique demands attention to the power relations that shape what is regarded as legitimate knowledge (Harding, 1991). In this context, the concept of epistemic injustice helps explain how the experiences of certain groups may be devalued or denied credibility in the production of normative knowledge; Fricker describes this as a wrong done to someone specifically in their capacity as a knower (Fricker, 2007). Therefore, women's lived experiences, including pain, trauma, stigma, and the loss of bodily autonomy, are positioned in this study as relevant epistemic data for assessing harms and injustices that often remain unread within the language of formal fiqh.

These three theoretical foundations are operationalised through KUPI's critical-transformative framework as the locus of analysis. Methodologically, KUPI is significant because it provides a concrete example of fiqh reconstruction that combines the *maqāṣid* test, contextual reading, and recognition of women's experiences in order to dismantle patriarchal legitimacy for harmful practices. Thus, in this study, KUPI is understood not merely as a normative position, but as an epistemological model for the formation of an Islamic legal discourse that is more accountable to the protection of bodily integrity and human dignity.

Results and Discussion

The Epistemology of Gender Justice in Islamic Legal Discourse on FGM/C

The analysis shows that Islamic legal discourse on P2GP/FGM/C can no longer adequately be read solely through the question of whether the practice is medically beneficial or harmful. Rather, it must be understood as a question of the epistemology of Islamic law: how a problematic practice can continue to circulate as a religious norm through processes of fiqh knowledge production, the selective use of evidence, the normalisation of tradition, and the reinforcement of socio-religious authority. In this context, "religious" status does not arise automatically from the text, but is constructed through discursive processes that determine which evidence is selected, how transmitted reports are read, and whose authority is recognised as a legitimate representation of Islamic teaching. This finding demonstrates that the legitimacy of P2GP/FGM/C operates not merely at the normative level, but also at the epistemic level, namely through mechanisms that obscure social construction by presenting it as religious obligation.

The analysis of the data further indicates that, within this discourse, religious texts operate alongside *'urf* and socio-religious authority. In other words, the legitimacy of the practice does not arise from scriptural texts alone, but from the interplay between religious references, inherited

tradition, and the authority of ulama or religious leaders who normalise the practice within communal life. For this reason, P2GP/FGM/C may continue to appear as something “normal” or “natural”, even where its normative basis is weak or contested. Within this framework, religious practice is more appropriately understood as the product of a socio-epistemic process rather than as a direct reflection of a clear textual command.

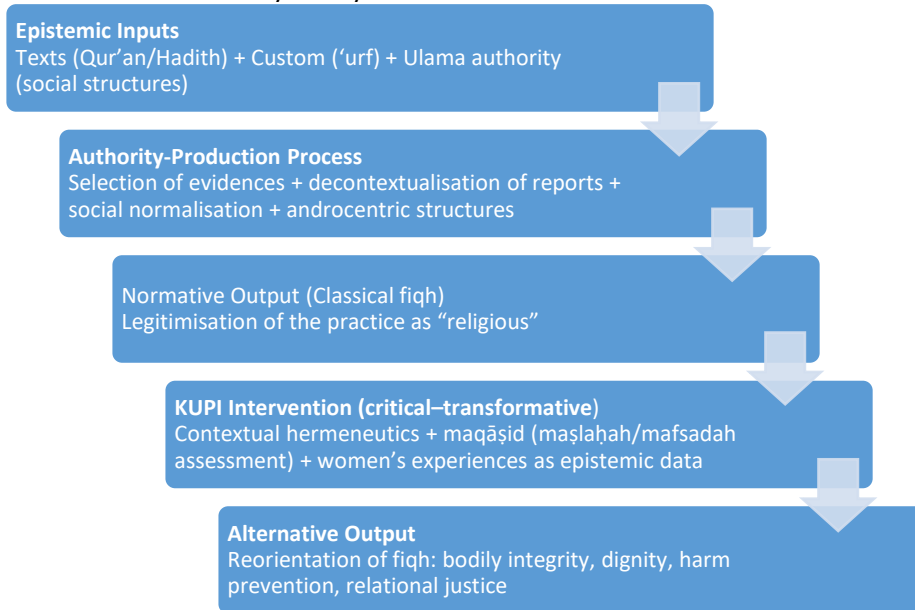
A further finding shows that religious normalisation operates most strongly at the family level. Data from Komnas Perempuan indicating that 92 per cent of parental decisions are influenced by religious understanding demonstrate that the language of “religious obligation” functions as an effective mechanism of justification in domestic decision-making (Komisi Nasional Anti Kekerasan terhadap Perempuan, 2024). At this point, religious claims function not only as normative arguments, but also as devices for closing off critical space: once a practice is perceived as part of religious teaching, evaluation of its harms, the experiences of victims, or the relevance of the evidence tends to be marginalised. This finding therefore confirms that the resilience of P2GP/FGM/C is sustained more by the effectiveness of religious language in producing social compliance than by the strength of genuinely authoritative evidence.

In this study’s reading, KUPI’s critical-transformative approach functions as an epistemological correction to these mechanisms of legitimacy. KUPI shifts the basis of legal validity away from the mere existence of references or the weight of tradition towards an assessment of the ethical purposes of the shari’ah and the concrete effects on women’s bodies and lives. Here, *maqāṣid al-shari’ah* becomes a decisive evaluative instrument: legitimacy cannot rest simply on inherited custom or repeated opinion, but must be tested through the parameters of *maṣlahah* and *mafsadah*, particularly the protection of life, human dignity, and bodily integrity (Auda, 2008). This finding shows that such a shift in the standard of validity constitutes the core of KUPI’s epistemological renewal in reading P2GP/FGM/C.

In addition, the analysis demonstrates that women’s lived experiences are positioned as a legitimate source of knowledge in legal reasoning. In conventional fiqh discourse, women’s bodily experiences often do not receive adequate epistemic status; pain, trauma, stigma, and the loss of bodily autonomy tend to be subordinated to abstract normative language. By contrast, in KUPI’s approach, women’s experiences are treated as relevant data for assessing harm and injustice. This finding is consistent with feminist epistemology on situated knowledge and strong objectivity, namely that incorporating the perspectives of affected groups in fact strengthens the rigour of analysis in relation to the biases of dominant authority (Haraway, 1988; Harding, 1991). Thus, the epistemological correction offered by KUPI

occurs not only at the level of textual method, but also at the level of recognising who is entitled to serve as a source of knowledge in the formation of norms.

Figure 1. The Process of Producing Islamic Legal Authority over P2GP/FGM/C and KUPI's Intervention



To clarify this mechanism, the findings of this study may be mapped in terms of the process through which Islamic legal authority over P2GP/FGM/C is produced, as illustrated in Figure 1. At the initial stage, epistemic inputs derive not only from religious texts, but also from local traditions, moral assumptions concerning women's bodies, and the influence of socio-religious authority. These inputs are then processed through the selective use of evidence, the decontextualisation of transmitted reports, and the reinforcement of legitimacy by figures or institutions recognised as authoritative. The output of this process is visible in the strengthening of the perception that female circumcision is a "religious obligation", which in turn influences family decision-making and the reproduction of the practice in communal settings (Komisi Nasional Anti Kekerasan terhadap Perempuan, 2019, 2024). KUPI's intervention works by disrupting this process: religious claims are no longer accepted merely because they are inherited or endorsed by authority, but are tested through *maqāṣid*, contextual reading, and evidence of harm, while being re-read by positioning women's experiences as an epistemic basis.

Based on the overall analysis, four principal findings emerge. First, the legitimacy of P2GP/FGM/C does not derive from text alone, but from the

interrelation of text, *urf*, and socio-religious authority, which together normalise the practice within communal life. Second, religious normalisation operates very effectively at the family level through claims of “religious understanding”, such that religious language becomes a tool of justification that closes off critical evaluation of harm. Third, KUPI’s approach corrects this pattern by positioning *maqāṣid al-sharī’ah* as a teleological test, so that the validity of legal claims depends on their coherence with the ethical purposes of the *sharī’ah*, rather than on the repetition of tradition or authority. Fourth, women’s lived experiences are positioned as legitimate epistemic data for testing normative claims, thereby rendering legal reasoning more accountable to victims and more sensitive to forms of injustice previously obscured by androcentric structures of knowledge (Haraway, 1988; Harding, 1991; Auda, 2008; Mahmudah and Islahuddin, 2025).

Accordingly, the findings of this study confirm that the central problem of P2GP/FGM/C in Islamic legal discourse lies not merely in controversy over its supposed medical benefit, nor in a simple dichotomy between religion and human rights, but in the way legal knowledge is produced, authorised, and disseminated. The practice may persist as a “religious obligation” not because its normative foundation is robust, but because it is supported by a regime of authority that selects evidence, normalises tradition, and disregards women’s experiences as affected subjects. In this context, KUPI provides an important epistemological correction: religious claims must be tested through contextual hermeneutics, *maqāṣid al-sharī’ah*, and women’s lived experiences as relevant epistemic data. The practical implication is that the prevention of P2GP/FGM/C will not be effective if it relies solely on public health arguments or regulatory instruments, but must also be accompanied by the reconstruction of religious authority and the renewal of *fiqh* reasoning so that it is more closely aligned with the protection of bodily integrity, the prevention of gender-based violence, and human dignity.

The Legitimacy of FGM/C Is More Strongly Shaped by Patriarchal and Cultural Constructions than by Authoritative Evidence

The findings of this study show that claims of religious legitimacy for FGM/C rest more heavily on socio-cultural constructions and patriarchal readings than on any explicit and authoritative textual mandate. At the level of scriptural text, an examination of the foundational sources shows that there is no Qur’anic verse that specifically commands FGM/C; a UNFPA document confirms that there is no verse in the Qur’an that can serve as a basis for justifying the practice (United Nations Population Fund, 2008). At the level of hadith, a number of scholarly authorities and fatwa institutions hold that the reports frequently used to justify *khifāḍ* do not meet the

standards required for legal proof; Dar al-Ifta' al-Misriyyah, for example, affirms the weakness of the transmission chains relating to female circumcision and concludes that there is no Prophetic basis that may be followed in treating it as a normative obligation. In the same vein, a study of hadith and health in Indonesia concludes that female circumcision has no strong basis in hadith, while the practice persists primarily as an inherited tradition (Farida, Putra and Kasdi, 2022). Taken together, these findings indicate that claims of “obligation” or “sunnah” do not receive sufficient textual support to function as a binding normative basis.

Despite this weak evidential basis, the practice persists because it functions as a social tradition that has been naturalised and linked to the morality of women's bodies. In many contexts, FGM/C is attached to narratives of purity, modesty, and control over women's sexuality, so that it appears as an ethical and communal obligation. This pattern of cultural reproduction is evident in studies on Java showing how female circumcision is reproduced as a tradition regarded as normal and transmitted across generations, while also being connected to the dynamics of social control over women's bodies (Mustaqim, 2013). A critical hermeneutical approach likewise shows that the legitimacy of the practice often emerges through textual readings that are inadequate in historical and ethical terms, enabling harmful traditions to acquire symbolic religious justification (Sa'dan, 2016).

From the perspective of *uṣūl al-fiqh*, these findings underline the importance of distinguishing between *'urf ṣaḥīḥ* and *'urf sā'ī*. Tradition may be considered as a basis of legal reasoning only when it is consistent with the principles of justice and does not cause harm; conversely, traditions that damage women's bodies and dignity cannot be granted legal legitimacy. This direction is consistent with KUPI's position, which emphasises the prevention of harm and the protection of women from “P2GP without medical grounds” (Kongres Ulama Perempuan Indonesia, 2022). At the level of Indonesian policy, the revocation of Ministry of Health Regulation No. 1636/2010 through Ministry of Health Regulation No. 6/2014 affirms the state's recognition that the practice commonly referred to as female circumcision has neither medical benefit nor scientific justification (Ministry of Health of the Republic of Indonesia, 2014). Accordingly, the persistence of FGM/C is better explained as the result of socio-religious normalisation combining tradition, authority, and patriarchal control over women's bodies, rather than as the consequence of any clear textual mandate.

Table 2. Evidence that the legitimacy of FGM/C is more strongly shaped by patriarchal and cultural constructions than by authoritative evidence

Aspect of evidence	Data/indicator	Main source
Absence of an explicit Qur'anic mandate	There is no Qur'anic verse that can serve as a basis for justifying FGM/C	UNFPA (2008)
Weak hadith basis	Reports on female circumcision are regarded as weak and insufficient as a basis for normative obligation	Dar al-Ifta al-Misriyyah (2021)
Weak hadith basis in academic research	Female circumcision has no strong basis in hadith; the practice persists as an inherited tradition	Farida (2022)
Tradition transmitted across generations	The practice is reproduced as a tradition and social identity	Mustaqim (2013)
Morality and control of women's bodies	The practice is linked to purity, modesty, and the moral conformity expected by the community	Mustaqim (2013); Sa'dan (2016)
'Urf as a device of legitimacy that must be tested	Harmful traditions cannot be legitimised; they should be classified as 'urf sā'i' and abandoned	Sa'dan (2016); KUPI (2022)
Normative and policy correction	Emphasis on preventing harmful P2GP without medical grounds and revocation of health regulations relating to female circumcision	KUPI (2022)

The data reveal four main tendencies. First, there is a gap between the strength of the evidence and the social vitality of the practice; the absence of an explicit Qur'anic basis and the weakness of the hadith commonly cited do not automatically eliminate the practice because it has been naturalised as a communal custom. Second, the language of "religion" functions as a device of legitimacy that binds tradition to public morality, allowing FGM/C to appear as an ethical and communal obligation associated with family honour and social conformity. Third, 'urf is used as a basis for normalisation, yet only 'urf

ṣahīh may properly be considered, whereas harmful traditions must be classified as *'urf sālī'* and rejected. Fourth, the persistence of the practice is connected to patriarchal structures of power that position women's bodies as objects of socio-legal regulation, while women's experiences and losses tend to be subordinated within normative reasoning (Mustaqim, 2013; Sa'dan, 2016).

These findings imply that criticism of and efforts to end FGM/C are insufficient if they rely solely on health or human rights arguments, because the resilience of the practice derives from socio-religious legitimacy shaped through tradition and patriarchal interpretation. Theoretically, the key problem lies in the production of authority: fragile evidence remains effective because it is attached to inherited custom, validated by socio-religious authority, and sustained by communal moral norms. Practically, the consequence is the need for a reconstruction of religious discourse that breaks the sacralisation of harmful traditions, positions *'urfsālī'* as a tradition that must be abandoned, and makes the prevention of harm and the upholding of human dignity the principal criteria of legal determination, in line with the direction of KUPI's critique in this article.

KUPI's Reconstruction of Fiqh through *Maqāṣid* and Hermeneutics Leads towards the Rejection of FGM/C

The findings of this study show that, within the KUPI framework, the rejection of FGM/C is not constructed merely through a simple affirmation of being "for" or "against" the practice, but through a reconstruction of fiqh reasoning that places *maqāṣid al-sharī'ah* and contextual hermeneutics as the principal benchmarks of legal validity. This reconstruction is clearly reflected in the decision of the Second KUPI Religious Deliberation, which determined that acts involving the cutting and injuring of female genitalia (P2GP) that cause harm and lack medical grounds are *haram*, accompanied by a mandate of collective responsibility for prevention and an obligation to use socio-religious as well as professional authority for the protection of women (Kongres Ulama Perempuan Indonesia, 2022). This formulation demonstrates an epistemic shift: legal determination no longer rests on claims of tradition or disputed textual authority, but on an assessment of *maṣlahah* and *mafsadah* measured through the ethical purposes of the *sharī'ah*, especially the protection of life, human dignity, and bodily integrity.

At the methodological level, KUPI's approach combines two mutually reinforcing instruments. First, contextual hermeneutics is employed to read texts and the fiqh tradition in historical and ethical terms, so that scriptural evidence is not treated as an automatic legitimisation of harmful practices. Second, *maqāṣid al-sharī'ah* functions as a teleological instrument of

evaluation that places the prevention of *mafsadah* as a priority, in line with contemporary *maqāṣid* approaches that emphasise its function as a basis for critique and reconstruction of legal reasoning when a practice produces harm (Auda, 2008). At the same time, KUPI positions women’s experiences as a legitimate source of knowledge for reading the consequences of the practice and assessing harm in a more accountable manner, in line with scholarly tendencies that emphasise the authority of women’s experience in interpreting religion and constructing arguments of justice (Fina and Wahyuni, 2022).

Table 3. Evidence of KUPI’s reconstruction of fiqh leading towards the rejection of FGM/C

Aspect of reconstruction	Data/indicator	Main source
Legal determination	P2GP that causes harm and lacks medical grounds is determined to be haram	KUPI (2022)
Collective responsibility	All parties bear responsibility for preventing P2GP without medical grounds	KUPI (2022)
Obligation of protection	The use of social and professional authority to protect women from P2GP without medical grounds is positioned as an obligation	KUPI (2022)
Maqāṣid basis	Legal reasoning is directed towards the prevention of mafsadah and the protection of life and dignity	KUPI (2022); Auda (2008)
Critique of tradition	Harmful traditions are classified as ‘urf sā’i’ and cannot be legitimised	KUPI (2022)
Epistemic status of women’s experience	Women’s experience is treated as a basis for arguments of justice and for correcting biased interpretation	Fina dan Wahyuni (2022)

In summary, KUPI’s reconstruction of fiqh leads towards the rejection of FGM/C because the standard of legal validity is shifted away from legitimacy based on habit and uncertain textual claims towards normative evaluation that can be justified through *maqāṣid al-sharī’ah* and contextual hermeneutics. Within this framework, legal determination does not stop at the questions of “has it ever been practised?” or “is there a reference that may be invoked?”, but is tested through the key *maqāṣid* questions: does the practice generate *maṣlaḥah* or rather *mafsadah*; does it safeguard life and

human dignity; and is it consistent with the principle of preventing harm? Because P2GP without medical grounds is understood as an act that entails risk and negates women's bodily integrity, the practice cannot be maintained as a religious norm.

The data reveal four main tendencies demonstrating the direction of KUPI's reconstruction of fiqh. First, *maqāṣid al-sharī'ah* is treated as a decisive evaluative framework rather than merely an ornamental element of argumentation; consequently, legal determination is guided by the *maṣlahah-mafsadah* test and by the objective of protecting life and dignity, so that fiqh moves from formal legalism towards reasoning grounded in ethical purpose (Auda, 2008; Kongres Ulama Perempuan Indonesia, 2022). Second, contextual hermeneutics functions as a mechanism of control over literalist readings that may legitimise violence; texts and the fiqh tradition are re-read by placing historical-ethical context and the impact on female subjects as conditions of interpretive validity, rather than merely the accuracy of citation or conformity with a given authority (Kongres Ulama Perempuan Indonesia, 2022). Third, tradition (*'urf*) is not accepted as automatic legitimacy, but is subjected to normative testing through the distinction between *'urf ṣahīḥ* and *'urf sā'i'*; thus, customs that cause harm and degrade the dignity of women's bodies cannot be maintained merely because they are established or inherited, but must be rejected as harmful traditions (Kongres Ulama Perempuan Indonesia, 2022). Fourth, women's experiences are positioned as an epistemic basis in legal reasoning, so that evaluation of the practice is no longer abstract and androcentric; testimony, bodily experience, and psychosocial consequences are treated as relevant data for assessing harm and injustice, in line with approaches that affirm the authority of women's experience in religious interpretation and norm formation (Fina and Wahyuni, 2022).

These findings imply that an effective religious rejection of FGM/C requires a renewal of methods of fiqh reasoning, because the source of the practice's resilience lies not only in the lack of medical information, but also in normative legitimacy operating through tradition, authority, and textual interpretation. Theoretically, KUPI's reconstruction demonstrates that *maqāṣid al-sharī'ah* can function as an internal corrective mechanism within the fiqh tradition: legal claims are tested not on the formality of references, but on their coherence with the ethical purposes of the shari'ah, especially the prevention of *mafsadah* and the protection of life, dignity, and bodily integrity. At the same time, contextual hermeneutics serves as an epistemic safeguard that limits the selective or ahistorical use of texts to justify harmful practices, by placing historical-ethical context and the impact on female subjects as parameters of interpretive validity.

In practical terms, KUPI's decision broadens the basis of authority for preventing FGM/C because it does not stop at determining legal status, but transforms that determination into an instrument of social ethical governance. By classifying P2GP without medical grounds as *haram* while also affirming a mandate of collective responsibility, KUPI provides a reference point that may be used to shift community norms, strengthen the authority of religious leaders and educators in prevention, and build religious legitimacy for protective interventions at family and institutional levels. A further implication is that the discourse of preventing FGM/C gains a foundation more compatible with advocacy and religious education, because the argument for protection is no longer understood as an external pressure, but as a methodological consequence of fiqh reasoning grounded in *maqāṣid* and the ethics of preventing harm (Auda, 2008; Kongres Ulama Perempuan Indonesia, 2022).

Discussion: The Legitimacy of FGM/C and the Reconstruction of Fiqh Grounded in Gender Justice

The findings of this study show that FGM/C in Islamic legal discourse is more appropriately understood as a problem of the production of normative legitimacy than merely as an issue of health, tradition, or human rights. The study demonstrates that the persistence of the practice is sustained not primarily by the strength of explicit evidence, but by the interrelation of the selective use of evidence, the normalisation of *'urf*, and the reinforcement of socio-religious authority. Accordingly, the central problem lies in how a problematic practice is able to continue circulating as a religious norm through epistemic mechanisms within fiqh, rather than simply in whether textual references exist.

These findings may be explained through the way religious authority operates within social space. Religious texts do not appear in a neutral form, but are always mediated by tradition, interpretation, and authoritative figures who determine which meanings are recognised as valid. For that reason, the legitimacy of FGM/C depends not principally on robust evidence, but on social processes that connect custom to religious language. When a practice is transmitted across generations and framed as part of the morality of women's bodies, it acquires normative force at the levels of family and community. The finding regarding the strong influence of "religious understanding" in family decisions indicates that religious language functions as an effective device of social justification, allowing a normatively weak practice to endure because it has been naturalised as a form of religious compliance (Komisi Nasional Anti Kekerasan terhadap Perempuan, 2024).

These results reinforce the relevance of *maqāṣid al-sharī'ah* as a framework of normative evaluation. As *maqāṣid* theory makes clear, the validity of a norm does not end with the existence of a textual reference, but must be tested through the realisation of *maṣlahah* and the prevention of *mafsadah* (al-Tahir Ibn 'Ashur, 2006; Auda, 2008; Kamali, 2008). In the context of this study, the persistence of FGM/C reveals a tension between formal legalism and the ethical purposes of the sharī'ah. This finding is consistent with Auda's view that *maqāṣid* functions as an instrument of critique and reconstruction in relation to legal structures that appear formally valid but substantively produce harm (Auda, 2008). Accordingly, when FGM/C is tested against the parameters of protecting life, human dignity, and bodily integrity, its religious legitimacy is normatively weakened.

The findings of this study also underline the importance of contextual hermeneutics in reading the evidence employed in fiqh discourse on FGM/C. The central issue is not simply the existence of texts, but the way in which texts are used through the selective use of evidence and the detachment of transmitted reports from their historical and ethical context. In this regard, the approaches of Fazlur Rahman and Abdullah Saeed are particularly relevant, since both emphasise that the validity of interpretation must be tested by its capacity to preserve the general moral principles of the sharī'ah and to consider its ethical implications in contemporary situations (Rahman, 1982; Saeed, 2006). Thus, this study shows that literalist or ahistorical readings may become mechanisms for legitimising harmful practices, whereas contextual hermeneutics functions as a methodological control limiting the selective use of texts.

In addition, the findings reveal that the problem of FGM/C is also a problem of epistemic injustice in the production of religious knowledge. In androcentric fiqh, women's bodily experiences are often not granted adequate epistemic status, with the result that pain, trauma, stigma, and the loss of bodily autonomy are displaced by abstract normative language. Here, feminist epistemology helps explain that knowledge is always situated and shaped by relations of power (Haraway, 1988; Harding, 1991). The concept of epistemic injustice further clarifies how women's experiences may be devalued or regarded as lacking credibility in the formation of norms (Fricker, 2007). Therefore, when KUPI's approach positions women's experiences as a legitimate source of knowledge, what occurs is not merely the addition of a women's perspective, but a transformation in the structure of validity of legal knowledge itself.

When compared with earlier studies, the findings of this research both continue and renew existing scholarship. They are consistent with studies explaining FGM/C as a practice reproduced through communal norms, family

honour, control of sexuality, and cultural transmission (Mustaqim, 2013; Mohammed, Hassan and Eyada, 2014; Sa'dan, 2016; Matanda *et al.*, 2023). They are also consistent with health and human rights scholarship emphasising the physical and psychological harms involved and the need for preventive intervention (Berg and Denison, 2012; Varol *et al.*, 2015; Mwendwa *et al.*, 2020). However, the novelty of this study lies in its focus on the mechanisms of religious legitimacy themselves, namely how the selective use of evidence, the normalisation of *'urf*, and socio-religious authority work together in producing the "religious" status of FGM/C. In addition, this study positions KUPI not merely as a normative anti-violence actor, but as an epistemological model for the reconstruction of fiqh working from within the Islamic legal tradition (Kongres Ulama Perempuan Indonesia, 2022; Hidayatulloh and Syifa, 2023; Arwani and Hannase, 2024).

In this context, KUPI's reconstruction of fiqh carries particular significance. KUPI shows that rejection of harmful P2GP without medical grounds is not built solely through moral opposition, but through a shift in the basis of legal validity: from legitimacy grounded in custom and uncertain textual claims towards normative evaluation based on *maqāṣid*, contextual hermeneutics, and women's experiences as an epistemic foundation (Auda, 2008; Fina and Wahyuni, 2022; Kongres Ulama Perempuan Indonesia, 2022). This means that such rejection is a methodological consequence of a fiqh that places the protection of life, dignity, and bodily integrity at its centre. At this point, KUPI demonstrates that the Islamic legal tradition possesses an internal capacity for correcting patriarchal forms of legitimacy.

The implications of this study are both theoretical and practical. Theoretically, it confirms that gender justice in fiqh is not merely a matter of the content of legal rulings, but also of the structure of knowledge itself: who has authority to interpret, whose experiences are recognised, and what criteria are used to determine the validity of norms. Practically, the prevention of FGM/C cannot rely solely on state regulation or public health arguments, because the resilience of the practice lies in its socio-religious legitimacy. For this reason, religious education must integrate *maqāṣid al-sharī'ah* and contextual hermeneutics; training for religious leaders and educators must emphasise the prevention of *mafsadah* and the protection of women's bodily integrity; and the experiences of women survivors must be brought forward as legitimate sources of knowledge in educational forums, advocacy, and religious decision-making. Within this framework, KUPI's approach provides a strong foundation for synergy between religious authorities, educational institutions, healthcare services, and state policy in efforts to prevent FGM/C more effectively and more justly (Auda, 2008; Fina and Wahyuni, 2022; Kongres Ulama Perempuan Indonesia, 2022)

Conclusion

This study shows that the problem of FGM/C in Islamic legal discourse lies not primarily in the relative strength or weakness of textual references as such, but in the way religious legitimacy is produced through the selective use of evidence, the normalisation of *'urf*, and the reinforcement of socio-religious authority. The principal finding of this study confirms that the persistence of FGM/C in many Muslim communities is more appropriately understood as the result of a socio-cultural construction legitimised by patriarchal readings and the naturalisation of tradition, rather than as a consequence of any explicit and authoritative textual mandate. Within this framework, KUPI's critical-transformative approach demonstrates that when legal reasoning is tested through *maqāṣid al-sharī'ah*, read through contextual hermeneutics, and opened to women's lived experiences as a legitimate source of knowledge, the normative legitimacy of practices that cause harm is weakened and moves towards rejection.

The scholarly contribution of this study lies in its effort to shift the focus of analysis away from debates over medical benefit or the dichotomy between religion and human rights towards the epistemology of Islamic law itself, namely how a practice acquires "religious" status, how fiqh authority is formed, and how androcentric structures of knowledge may be corrected from within the Islamic tradition. This study proposes that gender justice in fiqh is not concerned solely with the content of legal rulings, but also with the process of knowledge production: who has the authority to interpret, what criteria are used to assess the validity of norms, and whose experiences are recognised as a basis for legal consideration. In this context, the study positions KUPI not merely as a normative anti-violence actor, but as a model of protection-based fiqh reconstruction that integrates *maqāṣid al-sharī'ah*, contextual hermeneutics, and feminist epistemology in the formation of Islamic legal argumentation that is more accountable to harm, bodily integrity, and human dignity.

Nevertheless, this study has its limitations. As a library-based study, the analysis focuses on discursive and normative dimensions and therefore does not directly address how the legitimacy of FGM/C is negotiated, accepted, or rejected in social practice at the levels of community, family, and religious institutions. Nor does it examine in depth the variation in responses across regions, religious organisations, or authoritative actors in Indonesia, nor does it combine fiqh analysis with empirical field data concerning the experiences of survivors, healthcare professionals, and religious leaders. For this reason, future research needs to develop a more comprehensive approach through fieldwork, in-depth interviews, community ethnography, or comparative

analysis across religious authorities, in order to show in greater detail how mechanisms of legitimacy operate in practice and how models of fiqh reconstruction grounded in gender justice may be operationalised more broadly in efforts to prevent FGM/C.

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