

**RETHINKING THE WARIA DISCOURSE: THE
COLLABORATION BETWEEN NAHDLATUL ULAMA
ISLAMIC UNIVERSITY
ACTIVISTS AND TRANSGENDER SANTRI**

Hary Widyantoro
Universitas Gadjah Mada

Email: haryx10@gmail.com

Since LGBT questions have become increasingly visible in terms of civil and human rights and religious lives, many scholars such as Kecia Ali and Scott Kugle are rethinking the place of LGBT people in religious faiths, including within Islam. A similar process is happening in Southeast Asia, such as Indonesia. This study focuses on how scholar-activists from Nahdlatul Ulama Islamic University, Jepara, Indonesia, and *waria* (transgender women) from the Pesantren Waria al-Fatah, Yogyakarta, discuss *waria* discourse in new ways that challenge dominant assumptions about what place, if any, there is for sexual minorities in Islam. This *pesantren* (school for learning Islam) was founded in 2007 to be a place for *waria* to learn and practice religion since they face difficulties finding such a place. This paper argues that this rethinking *waria* discourse, is influenced by global concepts of Islamic liberation theology and of *ahl sunnah wa al-jama'ah* (adherent of the prophet and his companions) in seeing *waria*, within local context, Nahdlatul Ulama, Indonesian Muslims Student Movement, and Islam Indonesia, that allows *waria* to be subjects of knowledge, of religiosities, and of their beings. This paper is based on interview with the scholar activists from the Syari'ah Faculty of Nahdlatul Ulama University of Jepara and *waria santri*, and on participant observation in their monthly discussions. The study uses the term "subjectivity" to understand how the activists' agency plays role in rethinking *waria* discourse, and to see the genealogy beyond rethinking process.

Keywords: Islam, LGBT, transgender, Indonesia, subjectivity.

INTRODUCTION

On May 16th, 2015, an *Isra' Mi'raj* celebration was held at the Pesantren Waria al-Fatah in Yogyakarta. This celebration is part of Religious Practice Partnering Program that has been running since 2013 and expected to be held until 2016. The *Pesantren* (school for learning Islam) invited around seventy people, including representatives of the

Minister of Religious Affairs of Yogyakarta, scholars and neighbors for a discussion on how *waria* (male-to-female transgendered persons in the Indonesian context) can participate in the *sholat* (prayers), the obligation on all Muslims to pray at five designated times each day according to practices, such as specific prayer garments and positioning in the mosque or prayer room, which are split between men and women. Three scholars and activists were invited to be speakers: Nur Kholis (a lecturer at Nahdlatul Ulama Islamic University and the leader of this program), Alimatul Qibtiyah (a lecturer from the Women's Study Center, State Islamic University Sunan Kalijaga, Yogyakarta), and *Kyai* Abdul Muhaimin (Board of NU, an advisor of the *pesantren*, and a noted advocate for interfaith marriages). From these perspectives, the program addressed the question of recognition of *waria* religious and social lives, recognizing that it is uneasy for *waria* to pray as Muslims and to engage with society. The Religious Practice Partnering Program is one way to answer this question. This paper argues two points: first, through this program, Muslims activist and the *waria* students of Islam (*santri*) construct a new discourse of *waria* by considering *waria* gender consciousness, subjectivity, in practicing religiosities, and, second, the global concept of liberation theology and *ahl sunnah wa al-jama'ah* influenced the activists to come to that rethinking discourse, which has its locality.

This study presents a group of Muslim activists who are lecturers in the Syariah and Law Faculty of Nahdlatul Ulama Islamic University of Jepara (UNISNU) and who define Islam as a merciful blessing for all mankind and seek to demonstrate this through collaborating with *waria* student in Religious Practice Partnering Program, in which this group travels to Yogyakarta and conducts intellectual discussion once every month, in the Pesantren Waria al-Fatah Yogyakarta. Collaboration with NU University marks a new kind of academic and social recognition for this *pesantren* to be a place specifically for *waria* to learn and to practice religion, since they face great difficulty finding a place to study and to practice religion. There are six activists, involved in this program, led by Nur Kholis, an expert in *fiqh* and Islamic Law as it applies to *waria*. They search for a room for *waria* in social and religious lives, considered ignored, since many Muslims condemn them as deviant men imitating women. Only a few of them see *waria* as belonging to another category found in the Quran and *hadiths*, that of *mukhanats* and *mutarajilat* categories of persons in the Prophet's time who engaged in gender-switching behaviors, though sometimes for other motives, such as escaping the military (Kholis 2013, 9). This study also considers how power relations contribute to constructing *waria* discourse. As the

discourse is rethought mainly by the activists, it is important to acknowledge the geneology beyond the rethinking process. What kind of framework do they use? Where did they obtain and learn it? Is it a global framework that they refer to analyze the local context, and then construct the discourse, answering the mainstream one? These questions are discussed in this study, to understand the geneology of the process of rethinking *waria* discourse in social and religious lives.

I conducted five months of field work at both the Pesantren Waria al-Fatah, Yogyakarta and the UNISNU campus in Jepara for interview and participant observation. I interviewed six Muslims scholar-activists from UNISNU, traveling to Yogyakarta to lead the program about how they rethink *waria* discourse, what they think of *waria* in relation to religious and social lives, and why they are interested in this collaboration. In addition, I draw on the history of the *pesantren* as related by its present, Shinta, who assumed leadership in 2004 following the death of the founder. Regarding the program data, I use the Religious Practice Partnering Program's proposal and accountability report, and participant observation every time they hold the program. Finally, I explore the institutions, to which the activists are connected, including as, the university, and, through their published materials as well as interviews with members who have experienced their training programs. Besides, the discussion with some PMII members about its member training is one that leading me to the information of this relation.

Pesantren Waria was founded after Bantul earthquake in 2007, when numbers of *waria* prayed together and donated for the victims. Maryani and Shinta, two *waria* maintaining these, realized many *waria* wanted to fulfill spiritual needs, but had difficulty finding a place to learn and practice their religiosity. *Kyai* Hamroeli, who held *pengajian* (religious assemblies) followed by numbers of Muslim in Yogyakarta including Maryani (the only *waria* joining), suggested *waria* to have their own *pengajian*. Hence, Maryani, Shinta and *Kyai* Hamroeli discussed about founding the *Pesantren* for *waria* (Maryani 2013). Led by Maryani they adopted the concept of an Islamic boarding school and named it *Pesantren* Special for *Waria* Monday-Thursday, which then became an answer for *Waria* difficulties in finding a place to learn religion.

This *Pesantren* was supported by *Kyai* Hamroli who sent some *ustadz* (religious teacher) to teach *waria* about religion and who later admit that he perceived *waria* as sick and wanted to masculinize them. The *waria santri* just noticed this, after reading Hamroli's statement in a local newspaper. Hamroeli insisted that being *waria* is a *disease* that can be healed through good will, rather than violence and force. They finally discontinued working with him, so that no *ustadz* and religious sermons

handled by the *kyai* and his *ustadz*. Hamroli statement represents how Indonesians see *waria*, since gender is divided into men and women, and the way Indonesians gender *waria* is through biological appearances. Another example is Indonesian Ulama Council (MUI) producing *fatwa* in November 1997, explaining *waria* are males (“Majelis Ulama Indonesia » Kedudukan Waria Dalam Islam” 2015). The *waria* argued that the *Pesantren* acknowledges *waria* subjectivity and rather than masculinizing them. This led them working with other *ustadz*: Mauludi, Muiz Ghazali, Ahyar, and Arif who consider their subjectivity (Rhatri 2015).

After Maryani passed away in 2014, the *Pesantren* moved from Notoyudan to Shinta’s house in Kotagede, and started working with the activists from UNISNU institutionally, who consider *waria* gender consciousness when practicing religiosities, rather than imposing their outsiders’ perspective. Before having this engagement, they have had Kholis who has been engaging with them in several discussions of Islam, humanism, and gender. The engagement now is more related to intellectual discussion rather than practical religious sermons and prayers (Kholis 2014). Thus, he becomes the one starting providing new framework of engagement, to invite *waria* and other as well to learn Islam together.

In Indonesian Law context, *waria* have difficulties, since the law stipulates only two genders: men and women, unlike in Pakistan and India where a third gender, the *hijra*, is recognized. It is indicated by the content of identity card that only provide male and female gender binary, based on the Population Administration Law, and by the Marriage Law (No. 1/1974). The problem appears since transgender appearances are different from what their identity cards state. It leads to difficulties when accessing public services, traveling, and obtaining business permits. Furthermore, *waria* are perceived as people with social welfare problems, based on the Regulation of the Ministry of Social Affairs (No. 8/2012). So that they must be rehabilitated to integrate into society, as one solution, even though not clear how it is implemented (“BEING LGBT IN ASIA: INDONESIA COUNTRY REPORT” 2015). It also happened in the context of Indonesian Islamic Law, implemented through Religious Court, that it only categorizes two genders: men and women. Besides, *Fiqh* has no much discussions on *waria* matter, as much as male and female matter. These are the problems that Nur Kholis and other activists want to answer.

In their social lives, *waria* generally face discrimination in various forms, such as facing difficulty in gaining educations, since many of them are rejected by their families and bullied at school. Being

different from majority has caused them have no space in social lives, because they are considered as abnormal. Having no education or skills then leads them to have difficulty in finding ways to make money other than sex work or entertaining on the street. In religious lives, they also difficultly find the place to study and practice religion, since many religious leaders condemn their existence. Considered as deviant, being cursed, denying destiny from God, because of imitating women, are several reasons leading them persecuted, as long as they become *waria* (see more “BEING LGBT IN ASIA: INDONESIA COUNTRY REPORT” 2015)

However, resistance towards this dominant discourse emerged within NU, like what the activists of Nahdlatul Ulama Islamic University have been doing, through Religious Practice Partnering Program. One thing important is that this program does not aim to gender *waria* or to encourage them to be males, as destiny, yet to support them practicing religion even though many people, religious leaders, MUI has condemned their existence. This resistance becomes an answer for several organizations that generally condemn *waria* or are silent, such as Muhammadiyah, and other Islamic hardliners (“BEING LGBT 25), see also (Bilal 2014). So Nur Kholis, the leader of the program, insisted *waria* are not deviant and should not be condemned, rather their religiosities must be considered, respected and protected. Based on that stand point, Nur Kholis argued there should be a program to help *waria santri* practicing religion, based on their gender consciousness. The idea that Islam is mercy and blessing for all mankind is one framework he other activists considered. Becoming a lecturer in the Syariah and Law Faculty, he proposed this program as a community service by the Faculty and University, and invited other lecturers as well. Based on memorandum of understanding in March 28, 2014, between Syariah and Law Faculty of UNISNU Jepara and Pesantren Waria al-Fatah Yogyakarta, this program is being held over a three-year period from 2014 until 2016. (Kholis 2015, 7).

Kholis becomes one important actor, as the organizer of the Religious Practice Partnering Program and a scholar studying *waria* subject position in *fiqh* as an attempt to answer the questions above. He has been interested in studying gender since under he was a graduate student in UNISNU Jepara, and a member of Indonesian Muslims Student Movement (PMII?). Studying gender, he found another interesting phenomenon outside male and female gender binary, transgender, and had a formative encounter with Shuniyya Ruhama, the first *waria* activist to decide to wear the *hijab* (women’s headscarf) in public. He finished his studies in 2008 writing a thesis about *waria* hopes for marrying men

seen from the perspective of *fiqh*. Afterwards, moving to Yogyakarta became his option, and then engaged with *waria santri* in the *Pesantren*. Two years in Yogyakarta engaging with them, he came back to academic environment, State Islamic Institute of Walisongo, Semarang, and then graduated by writing a master thesis about Islamic Law Humanism. It was a reflection of experiences when engaging with *waria santri* in the *Pesantren* and part of an answer for the questions of *waria* matter. He explored classical *fiqh* discussing *waria* matter and found no much discussions and bias in viewing *waria*. Hence, there is legal vacuum in *fiqh* about *waria* matter, as he contended. *Fiqh* special for *waria* is necessary, rather than imposing heterosexual views that they should be in male or female binary (Kholis 2015b).

This study places the question of *waria's* place in Islam in the context defined by the local (Indonesia) and the global (both Islam and the worldwide movement for LGBTQ rights). One of my consideration is using the term *waria*, coined by merging the words *wanita* (woman) and *pria* (man), as a local term rather than transgender as global term, in order to acknowledge their historicity and locality. In Tom Boellstorff's idea of "Dubbing Culture," I found the importance of using the local term to deeply illustrate the agency of the actors I am studying. Borrowing the metaphor of voiceover dubbing into Indonesian of imported television programs, he shows how Indonesian *Gay* and *Lesbi* understand their subject position, through encountering the globalized world, specifically through media, but preserve a gap in meaning to the local (Boellstorff 2003).

Both Boellstorff and Nur Kholis are in turn drawing on Michel Foucault's understanding of "Subjectivity," that gays, lesbians, and *waria* are becoming subjects of their beings. Foucault described "Subjectivity", in the history of sexuality, from ancient to modern time, as how individuals were led to recognize themselves as subject of desire, sexualities, and the truth of their beings, by certain form or discourse (Foucault 1985, 5, 30). Subjectivity, in this study case, is that how *waria* is considered by Muslims activist as a subject of their sexualities and of the truth of their beings. This is indicated from the activists' narration, they believe the *waria* can and should practice religion based on what they feel comfort, either in men or women ways. This pattern emerges frequently in the discussion of *waria* discourse in religious and social lives, by both Muslims activist and *waria santri*.

In global discussion, we know some Muslims scholar, Kecia Ali and Scott Kugle, who tried to answer LGBT Question. They reinterpreted and rethink how religion such as Islam, perceived as blessing for all mankind, actually accommodates all genders. These works make them

different from many other thinkers and even religious leaders, who mostly condemn transgender and other same-sex relations as well. In “Sexual Ethics and Islam,” Kecia Ali discussed about same sex intimacy in Muslim thought. She argued same sex intimacy cannot be excluded from any discussion about sexual ethic. Since many prohibit it, she compares the long term consensual same-sex relationship with the series of marriage and remarriage, and slave concubine (Ali 2006, 96). The question is whether the second, as lawful, is morally better than the first? Is the first worse than the second, just because the second is lawful? Scott Kugle also has an important work on Homosexuality in Islam. He stated that Qur’an does not explicitly discuss homosexuality, since many Muslims referred Lot’s story, *Asy-Syuraa* (26:160-173), to condemn homosexuality. It can be read as a critique of male sexuality driven by aggression, subjugating other by force, and rape (Kugle 2010). These ideas are based on how they search for the meaning of Islam as merciful, blessing and not discriminatory religion.

Looking at more closely, we should see an ethnographical study about Pesantren Waria, conducted Dyan Maya Safitri’s work. In her thesis, —Piety Revisited: The Case of Pesantren Khusus Waria Al-Fattah Senin-Kamis Yogyakarta, Center for Religious and Cross-Cultural Studies, Graduate School of Gadjah Mada University, (2011), she classified the *waria* in this Pesantren as not a third gender, agreeing with Tom Boellstroff, but instead, in his words, —subordinate males who are haunted by femininity. In this argument, *waria* (not all of them) consider themselves as —fake women, and refer back to their biological forms at times such as when praying. This was what she found during her fieldworks. For example Safitri indicates that when praying, their sentiment as —fake women —shadows their piety, so that most of them prefer wearing men’s clothing when praying. However, we shall also find some who pray as women, wearing women’s dress, and following women’s way of praying. This practice becomes an important part of my study, since the scholar activists from UNISNU let them pray how they feel comfortable, condiering *waria* gender consciousness.

So this study continues Safitri’s ethnographical work on the *Pesantren*, yet focuses more deeply on non-*waria*, the scholar activists from Nahdlatul Ulama Islamic University. They partner and discuss Islam with *waria santri* in different ways from the mainstream assumption on *waria* possition in Islam, that mostly condemn and perceive *waria* as deviant men that can be healed. This study contributes in academical and practical level, since it becomes critical instrument for the readers to understand how the people who do not fit in male and female gender binary are accepted in Islam by particular progressive

Muslims. In Practical level, we can know the framework and ideas that the activists use and develop to accept *waria* in Islam, for the sake of Islam as universal religion accepting diversity. So we can use that framework and ideas to educate society in grass root level, to promote gender diversity, including within religious nature.

Subjectivity and Practices of Prayer

Isra' Mi'raj is when Muslims celebrate the Prophet's night journey from The Sacred Mosque to The Farthest Mosque, and then to Heaven. This night is considered as time when God ordered Muslim through the conversation with the prophet, to pray five times in a day, a practice that became one of the "five pillars of Islam." As part of Religious Practice Partnering Program, this celebration became an attempt to invite all participants to rethink of *waria* subject position in social and religious lives, through discussing about *waria*'s prayer. It was also to promote the discourse that has been thought by Kholis, *waria* acceptance in Islam, and a room for them in social and religious lives. So that Kholis and other activists as well agreed on letting the *waria* practice religion, based on their gender consciousness, either men or women. This knowledge was part of an answer of *waria* questions on social and religious lives within Religious Practice Partnering Program, where *waria* are led to be the subject of knowledge.

In his discussion on *waria*'s prayer, Kholis took as his starting point the concept of *fiqh*, or law. He explained that *waria* should pray whether following men's or women's line, dressing men's or women's dress, according to what seems right to them as individual Muslims, and many other *fiqh* matter about prayers. Since, there is not yet a *fiqh waria*, concept of *rukhsah* or exemption can take its place as Kholis explained. *Rukhsah* means dispensation or an exemption, usually applied for Muslims unable practicing certain Islamic teachings, and are ordered to do other things. For example, one must donate a day's food to the poor, if he/she is unable to fast in Ramadhan. Thus, to pray based on what they feel comfort, either by following men's line, dressing men's cloth, or on the contrary. The most important thing in prayer is an absorption and its effect on each Muslim's daily life. However, before coming to that, Nur Kholis began the discussion by asking a question to the participants whether *waria* are accepted in Islam or not, so that they can move to *waria*'s prayer talk. After his long process of studying *waria* through exploring classical *fiqh*, *hadith*, and Qur'an interpretation, his stand point is that *waria* have existed since prophet's life, and they were accepted and not condemned based on existence. Meanwhile, the fact that many classical and even contemporary Muslims expert refer *waria* phenomenon to *khuntsa* (hermaphrodite), it led us to bias, so he

suggested us to stop referring to it (Kholis 2015c), see also (Kholis 2013).

Moving further, Kholis used the classical authorities on *fiqh* --al-Asqalani and al-Nawawi--who agreed on *waria* acceptance in Islam through their ruling on, *mukhanats* (men who behave as women). So he thinks this phenomenon is adequate to *waria* phenomenon or transgender women in global context, rather than *khuntsa*. Kugle has also illustrated the same thing about *mukhanats* as behavior, meaning men behaving in feminine ways, like dressing, and speaking, that nowadays we perceive as transgender in this global world (Kugle 2010). Neither did they condemn them or force them to be men, as the MUI *fatwa* on *waria* does when it rules that they are fully male (not *khuntsa*) and should not behave like women. Contending *waria* are accepted, both thinkers classified *mukhanats* into two categories, such as *mukhanats* by nature and by nurture. The first is given by God, while the second is not so that those are condemned and are prohibited. As explained by Nur Kholis, this was referred to the verse of Qur'an, al-Nur (24): 31. At-Tabari, classical Quran interpreter, discussed the meaning of *ghairi uli al-irbat min al-rijal* that there are some men who are allowed to see women's *aurat*¹ because they have no sexual desire towards females: for him this category includes not only castrated males but also *waria*, castrated men, and eretyle disfunction. Hence, he contended *waria* are accepted in Islam, he is not the first stating this, rather the two thinkers have said that since many years ago (Kholis 2015). This indicates how he and other activists, through the program, framed "being *waria* as given by God." This categorization justified *waria* acceptance in Islam.

So one important point in this section is rethinking *waria* discourse illustrates the subjectivity of both Muslims activist and *waria santri* in constructing *waria* discourse. Muslims activists played important roles in rethinking *waria* discourse, considering *waria* gender consciousness, that leads *waria* to be the subject of knowledge and beings. Hence, they may define themselves and practice religion as *waria*, without pressure from hegemonic normativity.

Islamic Liberation Theology and *Ahl-Sunnah wa al-Jama'ah* (Aswaja) Influence

¹Muslims perceive it as human body intimate parts, must be covered from the sight of others with clothing or veil. There are different understandings of body intimate parts, must be covered, in Islamic thoughts, as [Qur'an](#) tells to cover the genitals, and for adult females, also the breasts. It is unlawful to Expose them.

Islamic liberation theology and *Ahl sunnah wa al-jama'ah* (Adherents of prophet Muhammad and his companions) learned in Indonesian Muslims Student Movement (PMII) and Nandlatul Ulama (PMII) become framework influencing the activists in rethinking *waria* discourse, leading them considering *waria* gender consciousness in expressing religiosities and identity in daily lives, leading *waria* to be the subject of knowledge. Narrating how they think and then come up to the idea of collaboration with the *waria santri*, they often mentioned, humanism, as global term. They explained it as seeing other equally as humans with the same right to live, to be recognized, then connected to PMII and NU, through liberation theology as a framework in seeing social phenomenon and *ahl sunnah wa al-jama'ah (aswaja)* as way of thinking, with the fact that the activists were PMII members, connected to NU as well. The six activists were students of NU *Pesantren* around Central Java, such as Kudus, Pati, and Jepara, where they learned *kitab kuning* (classical books taught in traditional *Pesantren*) (Bruinessen 1990). Becoming University students, they joined PMII, as a student movement and had several member training consisting of *aswaja*, liberation theology, and PMII history, including its relation with NU, as topics. They started learning having critical understanding of religion, rather than only following the doctrine, like taught in their *Pesantren*. Hence, *aswaja* and Islamic liberation theology are global concept influencing Muslims activists in seeing *waria* subject position in local context.

First, Islamic liberation theology is an important topic in PMII intellectual discussion. The Muslims activists used it as a framework to critically analyze social phenomena. Despite referring to Muslims thinker like Ali Syari'ati, Enginer, and Hasan Hanafi, they also consider Gustavo Merino and Aloysius Pieris. Essentially, it means liberating anyone oppressed either culturally or structurally, like western hegemony oppression, such as capitalism. The three Muslims thinkers perceived it new form of western imperialism. Enginer suggested the charity concept in Islam, while Syari'ati thinks there must be spiritual leader and intellectual who can bring change for society. Hanafi suggested the leftists Islam project, meaning revitalization in Islamic intellectualism and resistance towards Western hegemony. Revitalization means avoiding textualism in interpreting text, to avoid backwardness, poverty, and oppression (Santoso 2014, 167-183). In general, Islamic liberation theology is an ideology resisting any oppression, including religious authorities oppression. So this framework brings PMII members to be critical towards any power in society, like how they think of *waria* as discriminated minority, oppressed by religious dominant discourse, state,

and society. Wahab, one of the activists, explained according to Islamic liberation theology, instead of oppressing, religion leads to creativity and productivity. Religion liberates humankind from being exclusive to being inclusive, being oppressed to being free (Wahab 2015). While Wahidullah, another activists, stated every human is free to think since he/she was born to find the truth (Wahidullah 2015). Islamic liberation theology helps us to critically see the power, including religious authority's power, rather than only following what they decide (Kholis 2015b). Islamic liberation theology means liberating humans from oppression through within religion, meaning both restudying religious text in discursive context, and partenering *waria santri* through this program.

Second, *aswaja* in PMII is understood as adherents of Muhammad, his companions, *tabi'un* (the generation of Muslims born after the prophet's death) and *tabi' tab'un* (the generation after the *tabi'un*). Historically, Abu Hasan al-Asy'ari introduced it in the middle of Islamic thought debate between *jabari* (the doctrine denying humans' free will) and *qadiri* (humans' free will). Umayyad authorities used *jabari* for government legitimation, while *qadiri* took place in Abbasid period. So *Aswaja* was as a response or an answer towards those debate, that authorities and politics played role in defining the truth. It took the middle position between *jabari* and *qadiri*, stating that humans have free will in their lives, yet is limited by God's will in certain extant, such as death (Santoso 2014, 61-62, 202).

Ahl sunnah wa al-jama'ah becomes an important ideology to discuss in PMII training members, because relating PMII with NU, seeing the fact that PMII was NU branch ("Sejarah | Pengurus Besar Pergerakan Mahasiswa Islam Indonesia" 2015) see also (Dhofier 1999, 157). Hasyim Asy'ari founded NU in 1926, who then officially recognized *aswaja* as an ideology, However, they agreed that it becomes way of thinking, so that it will contribute to creativity and productivity in solving social problem, rather than becoming normativity. Hence, they formulated five considerations: first is always to reinterpret and re-study the text in favor of contextualization. Second, following certain *mazhab* (sect in *fiqh*) means being methodologically rather than being textually. Third, verifying the basic and branch teaching in Islam. Fourth *fiqh* is considered as social ethic, instead of positive law. The last is understanding the methodology of philosophical thought, especially in solving social and cultural problems (Santoso 2014, 204-206).

The activists' ideas about *waria*, in this case, are colored by *ahl sunnah wa al-jama'ah*, leading to contextualization. Kholis re-studied *fiqh*, *hadits*, and Qur'an discussing about *waria* matter, where he found

the legal vacuum in *fiqh* and Islamic law. He argued *fiqh waria* should be thought, in favor of human and gender equality, to liberate *waria* from discrimination (Kholis 2013). Having NU educational background, Wahab saw the importance of *kitab kuning* (classical books) contextualization rather than becoming doctrine. Learning religious critical discourse and gender equality in PMII, He contended *pesantren* should also see contemporary issue, such as gender equality. There are still *pesantren* distinguishing male and female students. For example, they provide leadership training only to male students (Wahab 2015).

Having both Islamic liberation theology and *ahl sunnah wa al-jama'ah* influences the Muslim activists thinking of *waria* as one kind of mankind, like men and women, indicated through their program at the *Pesantren Waria*. Kholis' thought on *waria* and Islam becomes a gate for other activists to also help *waria* through the program. Seeing religious experiences of the *waria santri*, he tried to contextualize Islam, by considering Islam as merciful and blessing for all mankind, and then consider *waria santri* subjectivity, rather than objectifying them. Individual religious experience can be seen as the way of obtaining the truth, beside the text. Religiosities should be considered as human experiences, so that *fiqh* should also discuss about *waria* matter, rather than perceiving them as deviant. Hence, his stand point is Islamic law humanism manifested as *fiqh waria*, suggested through his master thesis and this program. means set of opinions, arguments, and rules on *waria* matter: sexualities, prayers and marriages (Kholis 2015b).

The contextualization of Islam becomes very important for the Muslims activist to liberate the oppressed, leading to glocalization. Despite classical *fiqh* mostly condemned *waria* does not justify their condemnation now days. Condemnation could be caused by particular sciences, were not yet developed in earlier time. So they see the importance of seeing *waria* through their subjectivity about their subject position, and then respect them. Contextualization is a characteristic of *aswaja*, as way of thinking within NU, as PMII encourages its members, to solve social problems, so that they are no longer trapped in understanding text because Islam applicable for all contexts and periods,

CONCLUSION

This paper shows the collaborative process through which *Waria* acceptance in Islam is occurring through considering *waria* subjectivity and gender consciousness, rather than categorizing either as men or women. It takes place in the discourse that the activists produce, within the global and local contexts of Islamic liberation theology and *aswaja* and Indonesian Islam defined within NU and PMII.

The activists agreed to encourage *waria santri* to pray and to practice religion based on their subjectivity. The subjectivity here is illustrated through the term they use, “gender consciousness.” In *fiqh* discussion, Kholis suggested *fiqh* special for *waria*. As no deep explanation about *waria* matter in *fiqh*, he contended there should be dispensation (*rukhsah*). Hence, *waria* are free to practice religion, either as men or women, since *fiqh* is mostly discussed based on that gender binary. Feeling comfort in prayer and its effect in daily lives are more important than debating whether following men or women gender binary. Based on this illustration, we see how *waria* are led to recognize themselves as subject of their sexualities, religiosities, and their beings more generally. This rethinking is an answer to gender normativity within hegemonic Muslim society, a kind of “glocalization” as an taking the form of innovation that never been done before, at least by NU activists either within intellectual institution or within civil society institution.

Bibliography

- Ali, Kecia. (2006) *Sexual Ethics and Islam: Feminist Reflections on Qur'an, Hadith, and Jurisprudence*. Oxford. England: Oneworld Pub.
- Being LGBT in Asia: Indonesia country report N.d. UNDP in Indonesia. [Online] Available from http://www.id.undp.org/content/indonesia/en/home/library/democratic_governance/being-lgbt-in-asia--indonesia-country-report.html. [Accessed on May 12, 2015].
- Bilal N.d. FPI Bubarkan Kontes Miss Waria. *Arrahmah.com*. [Online] Available from <http://www.arahmah.com/read/2012/12/04/25234-fpi-bubarkan-kontes-miss-waria.html>, [Accessed on December 20, 2014].
- Boellstorff, Tom. (2003) Dubbing Culture: Indonesian Gay and Lesbi Subjectivities and Ethnography in an Already Globalized World. *American Ethnologist*. 30(2),pp. 225–242.
- Bruinessen, Martin. (1990) Kitab Kuning; Books in Arabic Script Used in the Pesantren Milieu; Comments on a New Collection in the KITLV Library. *Bijdragen Tot de Taal-, Land-En volkenkunde. Journal of the Humanities and Social Sciences of Southeast Asia*. 146(2),pp. 226–269.
- Dhofier, Zamakhsyari. (1999) The Pesantren Tradition: The Role of the Kyai in the Maintenance of Traditional Islam in Java. Tempe, Ariz: Monograph Series Press. In: *Program for Southeast Asian Studies*. Arizona State University.

- Foucault, Michel. (1985) *The Use of Pleasure*. New York: Pantheon Books.
- Kholis, Nur. (2013) *Humanisme Hukum Islam Tentang Waria Kajian Filsafat Hukum Islam Tentang Praktik Keagamaan Waria Di Pesantren Khusus Waria Senin-Kamis Yogyakarta*. Theses. IAIN Walisongo. Available from <http://eprints.walisongo.ac.id/35/>. [Accessed on February 27, 2015].
- _____. (2015a) Community Service Program Proposal.
- _____. (2015b) Interview. March 10.
- _____. (2015c) Waria's Prayer. Paper presented at the Isra' Mi'raj Celebration, Pesantren Waria al-Fatah, Yogyakarta, May 16.
- Kugle, Scott Alan. (2010) *Homosexuality in Islam: Critical Reflection on Gay, Lesbian, and Transgender Muslims*. Oxford: Oneworld.
- Majelis Ulama Indonesia. Kedudukan Waria Dalam Islam N.d. *MUI*. [Online] Available from <http://mui.or.id/mui/produk-mui/fatwa-mui/fatwa-komisi-fatwa-mui/kedudukan-waria-dalam-islam.html>. [Accessed on April 4, 2015].
- Maryani. (2013) *Welcoming Diversity Management Program Participants*. Yogyakarta: Gadjah Mada University, Center for Religious and Cross-Cultural Studies.
- Rhatri, Shinta (2015) Pesantren Waria Al-Fatah History. March 22.
- Santoso, Nur. (2014) Sekolah Pemikiran Aswaja Dan Teologi Islam PR Eksakta PMII Komisariat STAI Ibrahimy, Banyuwangi.
- Sejarah Pengurus Besar Pergerakan Mahasiswa Islam Indonesia N.d. [Online] Available from <http://www.pmii.or.id/sejarah/>. [Accessed on April 9, 2015].
- Wahab, Abdul. (2015) PMII, Liberation Theology. March 30, 2015.
- Wahidullah. (2015) Interview. March 30, 2015.