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K. S. Nathan

GENDER IDEOLOGY AND RELIGIOUS POWER POLITICS IN CONTEMPORARY INDONESIA

Siti Syamsiyatun

3.1 Introduction

Gender justice and ideology have become concepts, which shake the very foundations of our long standing practices of men-women power relations, and social relationship in many societies across the globe for many reasons, which may vary from place to place and from time to time. In Indonesia, known to be home to around 200 million Muslims, gender ideology and practices have been contested by many actors, from government, NGOs to religious leaders and lay people, partly because many have argued that gender is a foreign (i.e. Western) concept and therefore unsuitable for Indonesians and Muslims (Syamsiyatun 2007).

Apart from resisting the use of gender framework, as shown by a number of social groups, Indonesia as a state has actually developed a Constitution with a strong vision for justice and gender equality, and has officially ratified many legal instruments for the application of gender justice and equality, such as Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), Human Rights Law, Millennium Development Goals (MDGs), and gender mainstreaming. Despite such gender justice commitment, gender injustices and inequality are still found in many state laws, regulation and social practices: in

family issues, reproductive rights and health and religious institutions, which will serve as the backbone our analytical discussion.

The construction of social realities of men and women in Indonesia is undoubtedly influenced not only by formal public policy and laws enacted by the state through positive laws but also by other values, social, religious norms, customary laws up held by the communities. Many ideological forces and values are competing in public spheres to influence public debates encompassing common regulations that shape the social life of Indonesians. The women of Indonesia have taken part active roles in such public debates to voice women's concerns, experiences and expectations since the late colonial era. One celebrated example was they organized what became known as the momentous 1st Indonesian Women's Congress in December 1928. In the Congress, Indonesian women put the case of polygamy and marriage of minors on the table, together with women's rights for education and employment. Almost a hundred years later from the 1st Indonesian Women's Congress, the two issues of polygamy and marriage of minors are still considered hot issues today as we will show in the our discussion.

Why is it much more difficult to promote equal gender relations in marriage than those in education and employment? The objective is to establish linkages with the demands voiced by women in the first 1928 *Congress*, and assess women's achievements in education and public employment from then and now. However, little has changed in the issues of marriage and leadership of religious institutions.

Thus the present research looks closely at such complex, interconnected influences of religion, gender, and other significant identities in imagining and constructing common regulations and practices pertaining to marriage, reproductive rights and health and religious leadership for the citizens of Indonesia. Marriage—love and relationship of a husband and wife, of a man and woman, is not a matter of individual affairs—therefore is both a private and public affairs. Marriage is a public affair

because it is not only regulated by a national law, but also by religious institutions in which all parties involved are affiliated with. The state and religious institutions do take significant roles in regulating marriage affairs for Indonesian citizens.

In addition, issues of family planning with its core business of citizens' reproductive health and rights have been for many decades decided by the state and religious institutions, which are mostly represented by men. Since the early 1970s, the idea of family planning program has been associated with efforts of targeting young women to reduce the number of pregnancy and children. Young mothers were sought out and forced to apply contraceptive devices into their bodies without their informed consent, irrespective of possible impacts. Women's reproductive rights and health have been neglected within such a paradigm and approach. This article thus brings the issues of family planning into broader context as suggested by a number of gender activists and academicians participating in our Focused Group Discussions (FGDs), not only to enhance women's reproductive rights and health but also to sustain the Indonesian citizens' quality of life by connecting family planning program to social issues such as demographic features, public service, and sustainable livelihood.

Research on the implementation on gender policies related to family law and family planning will provide indications on how the Indonesian government and the society imagine and construct gender roles, gender equality and justice within the framework of Indonesia as a democratic country that respects local customs as well as religious ethics and teachings. For that reason, the research had four main objectives:

1. To explore public responses and assessment toward the relevance of state policies on family laws and family planning, as well as toward women leadership in religious institutions.

2. To develop new insights from fieldwork undertaken in different regions to propose changes toward more gender justice and equal

relationship for men and women to access, participate and benefit from government policy.

3. To provide a platform to discuss the research outcome and enhance interdisciplinary research.

4. To examine normative frameworks in the field of religion and gender with a view to making policy recommendations.

This article consists of four parts. The first part is devoted to introduce the background of the study, the theories employed to analyze the data, as well as the methods for data gathering and analysis. The second part addresses the questions about contemporary contesting agencies, interplay of various religious power politics over the debates of many passages and chapters of the Marriage Law No.1/1974. In the third part, pressing issues related to reproductive rights and health will be raised, which relates to the conception and perception of female-male body and national resilience. Part four highlights the debates in religious institutions on leadership and power, and how these two concepts have been understood and used by many agents to promote or restrict women leadership.

3.2 Theoretical Framework

Two main theories from social science and gender studies will be used to analyze the findings from three FGDs and document research. Charles Taylor (2003) argues that social imaginaries consist of social imaginations of allegedly good, suitable moral order of particular society, by which people of the community navigate and adapt their lives to fit those imaginations. Following Taylor's (2003) argument on social imaginaries, it can be inferred that the emergence of new social imaginaries within a particular society will accordingly trigger social changes or transformation in order to adopt and fit into that new social imagination of a good society. Such proposed changes are implemented through

the application of new laws and regulations, which require all citizens to adapt to the new changes. This is one of the structuralist theories concerning social changes. Indonesia as a state adopts such theories, as we shall see.

Social changes and transformation which have taken place in Indonesia are the result of widespread and approved social imagination about what constitutes good society, a good nation, a good people of Indonesian; and therefore every single state's resource would be directed toward facilitating and implementing such new social imagination. Social imaginaries of particular society or nation might be influenced by many factors: culture, religion, education, political, economic and others; and they might also address gender issues, economic, environment, political, security issues and more others. However, there have been large varieties on the ways how such social and gender transformation take place over time and places; toward which directions, and by what forces and which agency.

Current modern nation states in the world have adopted and developed different social imaginaries about their nationhood and citizenships; one nation exalted individual freedom while others consider communal harmony is more important than individual rights. Many nations imagine that democratic government is better than authoritarian one; while others believe in the contrary. Social imaginations also deal with gender issues, they influence the ways a society or a nation appropriating gender status and gender roles toward its fellow members and citizens, men and women. Thus, the present research is interested in investigating what social and gender imaginaries constructed by Indonesian people and government by examining the marriage and reproductive issues.

There are other social theories that might complement the basic element of social imaginaries to propose social changes and transformation; one of them is structural approach. Structural approach asserts that so-

cial change and transformation, including in marriage and reproductive rights and health, can be most effectively implemented by enacting and enforcing new structure, i.e. creating new norms, regulations, and laws. The United Nations, one of the largest formal, global organizations of states, for instance, have adopted structural approaches for proposing new direction for social and gender transformation that are by drafting new covenants, regulations, conventions abiding affecting all the member-states. Remarkable applications of such structural approaches for promoting social changes and gender role transformation can be bee seen in the mandatory ratification by all UN member-states on CEDAW, Beijing Platform for Action, MDGs. Such structural theory for social and gender role transformation stemmed from an assumption that social structures are real, hard facts, and determine the norms and behavior of all members of the respective societies (Parsons 1937). Social structures manifest clearly in the organizations, from family and kinships, marriage, neighborhood or villages, to selection of political leadership, from education and school to natural/economic resource management. Emile Durkheim, furthering the importance of social structure asserts that religion, the most sacred entity for most humans, is equal to society. Basically all religious or communal rituals and regulations are developed to maintain the identity and solidarity of the clan or society (see Durkheim in Pals, 2008).

However, these structural theories have been criticized by many scholars, notably those from the field in anthropology and gender studies. Gender studies developed steadily from feminist social movement into feminist scholarship and epistemology (Harding 1991). Parson's and Durkheim's theories had been developed within an androcentric world view, in which men's gender roles in society took precedence for determining all the norm and good life of society. But, who are the ones in the social structures? Are not social structures developed by individuals? Who are those individuals? Why those individual succeeded in mo-

bilizing and capitalizing their influences over others—the majority members of any given society? Most feminists argue that our modern *knowledge and sciences* have been heavily relied on and promote the experiences and logical judgment of male philosophers and scientists. What constituted true knowledge and science were actually constructed sociologically from debates, assessment, judgments, analysis of one-half of human beings and neglected the other half (see Firestone 1970, Haraway 1988 and Harding 1991).

Despite the many gender theories articulated by scholars, a very basic question about gender we can ask is how far do biological sexes (male-female) determine the ability of men and women to perform social roles in their lives? Janet Sayers in her book entitled *Biological Politics: Feminist and Anti-Feminist Perspectives* (1992) states that traditionally there are three streams of responses to such a question: two oppositional binary streams and one in between. At one end are those who believe in biological determination—that biological sex determines the nature, behavioral ability of men or women to do social tasks and roles later in their lives, while at the other end are people who believe that biological sex has nothing to do with the ability of a man or a woman to perform social roles. This group is convinced that men or women can do anything as far as their society permit them to do so and are allowed to practices them; in other words men and women's social roles and attributes, also known as gender role, are completely socially constructed. Most second wave feminists from the Liberal to Radical Feminisms support this stance (see Butler 1990). The third position lies in *between* these two extremes, which is called bio-social constructionism; nature and culture do influence and determine the appropriate roles of men and women in any given society.

3.3 Methodology

Data collection employs several methods: first is to study and examine relevant documents addressing relevant issues produced by the government, NGOs, scholars, common individuals distributed in various forms such as public laws and regulations, books, articles, research report, and official opinions. I have used interviews and FGDs to fetch more qualitative assessments and opinions from selected informants who are knowledgeable about the issues being the topic of research, such as government officers in religious affairs and family planning, scholars of gender studies and religious studies, gender activists, commissioners on women's rights, policymakers and policy analysts.

FGDs and interviews with relevant informants were conducted in Yogyakarta, Banjarmasin, Kalimantan Selatan and Mataram, Nusa Tenggara Barat. These cities are selected for several reasons, practical and programmatic, such as representing diverse localities of Indonesia, time management for collecting the data as well as the availability of respondents and fund. Yogyakarta is assumed to represent a miniature of Indonesia; where one can find almost every ethnic and religious group existing in Indonesia is present in the region. To avoid Yogyakarta-centrism we also did FGD and interviews with significant informants outside Java, namely in Banjarmasin and Mataram. Banjarmasin, the capital city of South Kalimantan is among the economically growing provinces and richest area. Ironically the region suffers low educational achievement and high rates of divorce and underage marriage. Mataram, the capital city of Nusa Tenggara Barat, experiences annual droughts and frequent social conflicts, making it among the poorest regions in Indonesia. It also suffers high rates of divorce and polygamy.

Empirical analysis will be used as a tool to bridge the theoretical discussion and the embodiment of the policies in its public existence. As a practical consideration, because all researchers reside in Yogyakarta, it

is only natural that we conduct research and obtain the majority of data from our habitual area of work.

3.4 Religious Power Politics over Debates of Marriage

The Marriage Law can be seen as a mirror reflecting the contestation of various agents in imagining and defining marriage and family life. Many different groups in Indonesia from men, women, activists, politicians, religious, secular, young and elders have utilized various power politics to influence and win the support from people to defend, amend and abandon the Marriage Law. Arguments developed from the corpus of religious sacred texts are proposed to counter ones that are based on secular human rights; desires to keep social and communal harmony are being challenged by proposals to protect individual rights. Religious communities with all their specific imaginations and values are trying to protect the sanctity of marriage from the storms of secular views. Such contestations of arguments can be seen and analyzed from the following findings.

There have been divergent practices of marriage in Indonesia prior to the enactment of the Marriage Law No 1/1974; some have been argued to be based on religious teachings adhered by Indonesians, while others on the foundation of customary laws. Most Muslims conduct their marriages in accordance to the classical *fiqh* (jurisprudence) that came down to them facilitated by community elders or religious leaders, known to be *Pak Kaum* or *Kyai* in Yogyakarta area. Administrative aspects of such marriage were kept simple, as the classical *fiqh* stipulates that a marriage is valid when it fulfills minimum requirements, namely the existence of a bride and groom, guardian of the bride, two witnesses, *mahar* (dowry from the groom), and the sacred vow or *ijab-qabul*.

All religions and community customs have envisioned marriage and its purposes with high regard and respect, and therefore have developed specific teachings to address the issues, and created solemn rituals in

order to officiate such sacred events. Due to their various courses of history of all religious communities and customs, marriage has been used for many purposes to serve ever-growing interests, which might not be in accordance to the norms of religions. Thus, we have seen and read narrations in which marriages were done to pay huge financial debt, to elevate social standing, to build political alliances, to secure economic resources, and so on.

A celebrated woman from a local royal family in Java, Raden Ajeng Kartini, in 19th century CE wrote many letters in which she expressed her apprehensions over the practices of marriages among Javanese Muslims. She was deeply saddened by her own father's polygamous marriage, and also her inability to avoid such fate to herself because she also participated in such polygamous marriage of her own husband, until the end. Polygamy then was quite widespread across the archipelago and widely practiced by many ethnic groups, tribes and religious communities. In other words, Muslim men were not the only group practicing polygamy in the archipelago. However, due to the limited scope, I will address mainly polygamy among Muslim communities.

For the most part of the 20th century, Muslim men did not consult their first wife when they took a second, third or fourth wife. Many women only became aware that they had co-wives when their husbands came home bringing other women. Often times, other women know of their husband's new wives from others, many only found out on the day of their husbands' death when other women claiming to be the wives of their late husband came to them. Many social problems and conflicts have arisen caused by such practices of marriage, partly because for Indonesians', marriage is considered to be familial or a communal event.

Considering the negative social and psychological effects of polygamous marriages experiences by women and their families, it is no doubt if regulating polygamy became one of the demands strongly voiced in the 1st Indonesian Women's Congress in December 1928. Fur-

thermore, the Parliament also demanded that marriage shall be regulated, because there had also been forced marriages for young girls. It was a common practice among people during the early 20th century Indonesia to marry off their girls as soon as they reach the age of nine to twelve. To many women activists participating in the Congress, such custom was not in the best interest of the girls, as they were not mature enough to assume high responsibility of wifehood and motherhood, while also hindering them from receiving higher education or possible employment (Blackburn 2007).

Demanded publicly by Indonesian women from as early as 1928, the National Law on Marriage was only enacted in 1974, during the early term of President Suharto. It took more than four decades to conclude a Law regulating marriage. Many women groups welcomed the Law because finally marriage was regulated, among the most important of which are prohibition of child marriage, polygamy by consent, and that all marriages shall be registered. A number of women's organizations perceived the Marriage Law as one important step to protect young women from forced marriage in early age, and protect them from illegal polygamy by their husbands. The Marriage Law also provides legal status and protection for them and their descendants. Yet, others see it from different perspectives; Kathryn Robinson argued that the Marriage Law was enacted in 1974 with a purpose of increasing the marital age of Indonesians in order to reduce the population growth, and make the family planning program announced by the President a successful one (see Kathryn in Hooker and Saikal 2004 and Kathryn 2009).

Other scholars consider the Marriage Law is only a legal instrument to stop interreligious marriages among Indonesians. Inter-religious marriages were not seen as ideal models by most religious groups in Indonesia, although the degree of its discouragement varies. Interreligious marriage is thought to have influenced the statistical figures of followers of religions, which in many ways reflect the allocation of State resources.

These arguments were raised by the scholars participating in the FDG in Yogyakarta because the Law was announced only a few years after the massive conversions of Muslims into Christianity following the bloody coup allegedly provoked by the Indonesian Communist Party and the military. Yet others consider the Marriage Law as a legal guardian for maintaining Indonesian marriage and family from being secularized.

After about four decades in place (1974-2015), the Marriage Law has become one of heated public debates at the turn of the millennium. The Marriage Law, conceptualized during the early President Suharto's era, is now seen by many groups as outdated, and need revisions because it is no longer suitable to contemporary situations of Indonesian women, men, and their current imaginations of family. On the other hand, there are also groups who see the Marriage Law like a dam whereby Indonesian, particularly Islamic values on marriage and family are protected. Our next discussion outlines such debates based on our FGDs in three regions in Indonesia, Yogyakarta, Banjarmasin and Mataram, as well as articles written in some journals and local newspapers.

3.5 The Gender Unfriendly Marriage Law

The Marriage Law might also indicate the course of Indonesian women's struggle for equality. After succeeding in making all marriages registered, enforcing age limit for boys and girls entering marriage as well as regulating polygamy, many women expect that the spirit for progress exhibited by the Law shall continue. Similar to the character of other Laws, many people, mostly women activists and progressive religious groups see the Marriage Law as lagging behind current social circumstances

When it was enacted in 1974, the Law granted several women's demands such as registration of marriage, reducing the marriage of minor, regulating polygamy; but after some forty years in place, it has once

again failed to catch up with the current situations of Indonesian citizens. For the past ten years, the Marriage Law has been condemned as not being responsive to gender equality in everyday practices by most Indonesian societies. Several chapters of the Law are criticized as being gender biased and against religious freedom by various groups in Indonesian societies such as women's organizations, health organizations, law institutions, some religious leaders, and activists—an example of which being the possibility for Muslim men to have more than one wife *under certain conditions. However, the conditions stipulated are all serving* the best interests of men rather than of the whole family members, if at all women and children. The Marriage Law is clearly in favor of men's interests.[30]

Most of our gender activist respondents in three FGDs expressed their concerns about the necessity of revising many chapters in the Marriage Law to accord to the current situations of Indonesian people.[31] In line with the critics of the activitst, Yayasan Kesehatan Perempuan (Women's Health Foundation) argues that the Marriage Law need revisions as it no longer in harmony with other laws, and does not suit the current situation of Indonesian life of men and women. The Yayasan challenges the Marriage Law on the arguments that the Law violates the 2002 Child Protection Law, the 2009 Health Law and several other laws. This is because the Marriage Law allows girls to marry at the age of 16, whereas the 2002 Child Protection Law requires the marital age for girls must be at least 18. In other words the Marriage Law contradicts other laws, and if it allows girls to marry at the age of 16 it is considered underage marriage and unlawful under the 2002 Child Protection Law.

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[30] Irawaty Wardany, "Marriage law considered as legalizing polygamy." In *Jakarta Post* (December 22, 2008). See http://www.thejakartapost.com/news/2008/12/22/marriage-law-considered-legalizing-polygamy.html. Accessed on October 10, 2014.

[31] Transcripts of FGDs in Yogyakarta, Banjarmasin and Mataram.

There are 22,000 cases of girls who were married at the age between 10 and 14 constitutes 0.2% of population, and cases of married females aged between 15 and 19 are 11.7%. According to the Yayasan, early marriage endangers the health of teen mothers and their babies such as causing miscarriages, premature births, low-weight births.[32]

In our FGDs in three regions, Yogyakarta, Banjarmasin and Lombok, we also found similar criticism, that the Marriage Law is gender unfriendly. The Law provides opportunities for men to exercise power abuse over young or underage girls, and over women suffering infertility. A number respondents also questions further that in addition to allow child marriage, there is also a mechanism to even allow marriage under 16 for girls can take place, that is by a request of dispensation. Even worse, there is no stipulation whatsoever to punish people involved in the violation of the Law; for instance a father marrying off his underage daughter, forced her daughter to a man she refused to; a father marrying off his daughter without being recorded in the State registry; a husband taking another wife without a consent from his first wife, and so on.[33]

However, during our FGDs, particularly in Banjarmasin and Mataram, we also found significant number of vehement defenders of the Law. Many religious leaders—men and (few) women—in Banjarmasin are against the revision of the Law. Most of them are in favor of defending Law, especially in age limit and in the permissibility of polygamy. They developed their arguments on the basis that classical Islamic *fiqh* (most of which codified during the 10th-12th centuries in the land of what is known to be the Middle East region), does not require minimum age. Another argument proposed is that the state shall not enforce the age limit on the expectation of avoiding unlawful sexual intercourse of girls

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[32] "NGO files judicial review against marriage law." In *Jakarta Post* (5 Mar. 2014). See: http://www.thejakartapost.com/news/2014/03/05/ngo-files-judicial-review-against-marriage-law.html. Accessed October 10, 2014.

[33] Identified respondents in FGDs.

and boys. According to them, polygamy is part of Islamic teaching, so eliminating polygamy from the Marriage Law will erase the trace of Islam. The last two arguments were instantly confronted by many activists and academicians participating in the FGDs as to "undermine the meaning and purposes of marriage" to the degree of sexual intercourse legitimation, and disrespect the institution of marriage as *mithaqan ghalidha* (strong bond) and as to impress that *hawa nafsu* (lust) could be unleashed anytime, particularly by men.[34]

The three locations in which the FGDs were conducted have their specific and interesting sociological and economical features that we try to relate to the debates over gender issues in the Marriage Law. The Yogyakarta city has shown its own paradoxes. Sociologically speaking, while the city has enjoyed widespread higher education and scholarship exposure, and its inhabitants are among the happiest people in Indonesia, despite their low income; it remains the poorest in Indonesia. Banjarmasin is the capital city of South Kalimantan, which is among the five richest regions in Indonesia. However, the level of education is among the lowest in Indonesia, and with the highest rates of early marriages and divorce. Mataram is the capital city of Nusa Tenggara Barat, with a higher rate of poverty as well as divorce and polygamy.

3.6 Religiously Biased Marriage Law

In the three FGDs, few participants raised the question about the state's policy on making marriages sanctioned by religion. Most expressed no objection that marriage shall be in accordance with religious teachings of the couple. The problems raised relate mostly to the administrative support of religion and to inter-religious marriages. This is because so far the state only facilitates marriages in accordance to the six largest religions followed by Indonesians, namely: Islam, Christiani-

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[34] Transcriptsof identified respondents in FGDs.

ty/Protestantism, Catholicism, Hinduism, Buddhism, and Confucianism.[35] Thus, questions arose on how marriages are being solemnized in accordance with local religious practices, or those outside the six mainstream religions? How shall such marriages be registered? Other FGDs respondents criticized the Law for making inter-religious marriage impossible, administratively speaking. The Law is in favor and only encourages same-religion marriages.[36]

Criticisms about the bias religious stance of the Marriage Law are also expressed by a number of people through mass media. Albertus Andhika, in his article, appeals that the Law should be fair for every citizen, and religiously unbiased. Couples with different religions have faced enough obstacles, tensions, and problems from their families and religious communities. Therefore, the state should respect the couples' choice of marrying people of other religions. The Marriage Law should thus be neutral and be directed to help people when religious institutions fail to do so. The author argues that that interfaith marriage should be accessible to all Indonesians:

> "Fairness and equality do not encompass forcing people to convert in order to marry the people they love. Allowing inter-faith marriages does not mean that marriage and culture in Indonesia will not have a religious underpinning. In fact, allowing everyone to stay true to their beliefs, even when marrying people of different religions, will only strengthen their faith.[37]"

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[35] The six religions are the ones stated in the Blasphemy Law No.1/PNPS/1965 (Editor).

[36] Transcriptsof identified FGD respondents.

[37]"Marriage Law under scrutiny".In Jakarta Post (September 5. 20140. http://www.thejakartapost.com/news/2014/09/05/marriage-law-under-scrutiny.html (October 10, 2014). Albertus Andhika, "Bhinneka sans Ika: Time to review the Marriage Law." In Jakarta Post (September 28, 2014).

The Marriage Law was recently challenged again by five students of the University of Indonesia's Law School. They argued that this Law contradicts Article 28e of the 1945 Constitution, which guarantees "the liberty of every citizen to choose and practice one's religion". According to the students' appeals, interfaith marriage has faced a lot of obstacles and stigma from families and community. In response to the request of the five students, a Court Justice Arief Hidayat reminded the petitioners that Indonesian people tends to be more religious than secular in their thinking, including in the way they perceive marriage covenants; and that if the Law was revoked, all marriages in Indonesia would lack sacred grounds. He challenged the students back by saying, "Do you want the state to interpret marriage merely as a civil agreement between a man and a woman?"[38] Commenting on the question of the Court Justice, a participant in the FGD in Yogyakarta said that in her opinion what the Justice called "sacred grounds" is just a modern phenomenon, because long before world religions were created and spread throughout the world, including Indonesia, marriage had already existed and practiced from generation to generation, whether or not they had been sanctioned it with religion or secular agreement.[39]

Other authors posed more radical demands that the Marriage Law be eliminated since it fails to reflect the reality of Indonesian society, which is heterogeneous and multicultural; apart from the fact that it violates individual freedom of belief, which is guaranteed by the 1945 Constitution. *The author shows that the Law leads to at least two problems.* First, since the marriage law requires that a legal marriage must be conducted according to religious law or teaching while not all religions are recognized in Indonesia, such a Law will exclude or illegalize marriages of

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http://www.thejakartapost.com/news/2014/09/28/bhinneka-sans-ika-time-review-marriage-law.html. Accessed on October 10. 2014.

[38] Ibid.

[39] Transcript of identified participants of FGD in Yogyakarta.

three groups of people: those who do not profess any religion, those who embrace a religion not recognized by the state, and couples who follow different religions. Second, the Marriage Law violates individual freedom of belief because it forces the person to conform to a religious institution; whereas in fact faith is a personal and voluntary matter. Thus, the Marriage Law itself is highly problematic.[40]

The request for the judicial review of the 1974 Marriage Law quickly prompted different responses from religious leaders. For example, Nahdlatul Ulama Executive Council Chair, Slamet Effendi Yusuf and the Minister of Religious Affairs Lukman Hakim Saifuddin objected the revision of the Marriage Law. For them religion is an integral part of marriage and they appealed to the linkages between state and religion in Indonesia as the main basis of their argument. Many religious leaders attending the FGD also shared the sentiments, that the Law does not need revision, including on matters being contested by gender and children rights activists on increasing age limit, polygamy, interreligious marriage and several other issues. In contrast, Jeirry Sumampow from the Indonesian Communion of Churches (PGI) supported the review of the Law to end the state's control over marriages. He said, "Let religious leaders decide whether to accept or prohibit interfaith marriages. The state must stop interfering on this issue." He stated that religious institutions such as the PGI have tried its best to assist its congregation on the marriage issue. Therefore, the problem lies in the Law.[41]

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[40]Joeni Arianto Kurniawan. "Religious law and the problematic marriage law." In *Jakarta Post* (September 26, 2014). http://www.thejakartapost.com/news/2014/09/26/religious-law-and-problematic-marriage-law.html. Accessed on October 10, 2014.

[41]Yuliasri Perdani. "Muslim leaders oppose interfaith unions." In *Jakarta Post* (September 6, 2014). http://www.thejakartapost.com/news/2014/09/06/muslim-leaders-oppose-interfaith-unions.html. Accessed on October 10, 2014.

3.7 From Controlling to Respecting Women's Self and Body

People's attitude and responses over reproductive health and rights debates have strong connection to their imagination and view of women's self and body. Such views can also be identified in their responses over marital issues discussed above. Most male FDG participants representing religious groups in Indonesia showed conservative view over reproductive rights and health. Many male participants seemed to consider women's self and body a function of men's existence. In contrast, women activists and academicians in general offered wider horizons and perspectives in looking at reproductive rights and health; most notably from family welfare, sustainable development of the countries as well as women's wellbeing.

Discussions on reproductive rights and health in terms of gender ideology and relations are new in Indonesia. Prior to 2000, most conversation on reproductive issues was developed within the corridor of family planning program. As argued previously, the family planning program was mostly targeting women's body, reproductive organs and capacity to reduce the number of pregnancy by applying contraceptive devices. As such was found in the FGDs in Banjarmasin and Mataram; only participants in Yogyakarta posed critical questions linking reproductive issues with women's human rights and violence. All the popular contraceptive tools mentioned by respondents as widely used by their community are the hormonal ones (pills, implants and injections) and Intra-Uterine Device (IUD); condom and vasectomy are the least used.[42]

The findings in the FGDs are in line with an article examining the village family planning program during the Suharto's regime with the focus on program volunteers. Using data collected in West Java, Central Java and Yogyakarta from 1997 to 1999, the study shows that village

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[42]Transcript of identified participants of FGD Yogyakarta.

family planning volunteers played a significant role in the success of family planning in Indonesia. For example, before 1960s, the average number of children of each family was six, but it is two or three today. More than two-thirds of all Indonesian couples have used contraceptive methods, of which female methods (55.2%), condom use (0.9%) and male sterilization (0.40%). This result can be said to be the outcome of the family planning program during the Suharto's regime, in which the volunteers especially women (mostly, teachers and wives of government officials) sacrificially labored to promote such a program. However, the above statistics also shows that this program was problematic in a sense that it viewed family planning as women's main responsibility and that such volunteer work was taken for granted or carried out without compensation. Since the family planning program was decentralized in 2004, workers in this field moved to paid areas. Hence, this has left village family planning volunteers with lack of support and resources.[43]

From the above information, one might infer that most people consider reproductive issues as women's issues and about reducing the rate of pregnancies. Women are the ones who can be pregnant, therefore reproductive issues are women's issues; and men would not need to take part. Few religious organizations as well as women's movements have been contributing in making the family program a national success for some decades. The rhetoric, argumentation and narratives developed by these organizations however are different. Among the most popular arguments posed by Muslim organizations have been to prepare better future generations by limiting the quantity of children, but promoting the quality. However, again, it is only women who are addressed and been

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[43]Iwu Dwisetyani Utomo, Syahmida S. Arsyad and Eddy Nurul Hasmi, "Village Family Planning Volunteers in Indonesia: Their Role in the Family Planning." In *Reproductive Health Matters* 14(27), Human Resources for Sexual and Reproductive Health Care (May 2006): 73-82.

given responsibility to the extent that men seem to have nothing to do with reproductive issues. Komnas Perempuan (National Commission on Women) is among the few organizations, which have played an active role in boosting the legal mechanism to deal with gender violence with respect to reproductive issues.

Komnas Perempuan's studies on family planning show that religion has been interfering and controlling the regulations on reproductive health and family planning in Indonesia. The problem with this mechanism, as reflected in a number of articles, is that such regulations will divide societies into the justified and the transgressed, while including some groups and excluding others. For example, contraceptive methods and abortion are married people's privilege while these services are inaccessible to single women because premarital sex is not allowed according to religious values. Since reproductive health has much to do with women's physical health rather than men's, women are the ones who suffer the most under such regulations.[44] Such regulations end up protecting religious values rather than protect the wellbeing of human beings. Perhaps this is and will be the tension in Indonesian politics and managing needs of Indonesian society.

To spread the awareness of sexual violence against women Komnas Perempuan has organized campaigns to eliminate sexual violence using musical performances as a means to convey the message in16 schools/campuses in 10 cities in Banten and Sumatra. Before this, Komnas Perempuan already held a similar campaign in 12 cities in Java and Bali. Komnas Perempuan noted that 35 women are victims of sexual

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[44]Asmaul Khusnaeny. "Workshop on "Enforcing the Law through the Implementation of an Integrated Criminal Justice System on the Handling of Cases of Violence against Women" in Semarang." In *News Comnas Perempuan* (June 13. 2014 edition). See http://www.komnasperempuan.or.id/en/wp-content/ uploads/2014/09/BERITA-KP-EDISI-13-VERSI-INGGRIS-9SEPT14.pdf. (Accessedon October 07. 2014).

violence everyday.[45] The Komnas Perempuan has facilitated a dialog with Ministries and State institution as well as civil society organizations on violence against women of diverse sexual orientations, gender identity and gender expression on April 30, 2014. This dialog involved several figures such as Director General of the Ministry of Law and Human Rights and Director of Bina Kesehatan Ibu from the Ministry of Health. In response, the Ministries saw this matter as novel and claimed that they had not received any complaints before. The Ministry of Law and Human Rights noted the importance of the issue, and suggested that this group be included in the category of minorities together with women, children and people with disabilities.[46]

Furthermore, Komas Perempuan sent a letter requesting that the Indonesian Ministry of Health to provide free Deoxyribo Nucleic Acid (DNA) testing service for victims of violence or rape. In response to the Komnas Perempuan letter, the Director General of Bina Upaya Kesehatan (Guiding Health Efforts) on February 12, 2014, confirmed the support of the Indonesian Ministry of Heath for this issue through letter No. UK 02.25/VI/0746/2014 that hospitals throughout Indonesian will have the responsibility to facilitate DNA examination for victims of violence or rape.[47]

One crucial issue being discussed on reproductive rights and health is abortion. Whether abortion is allowed and under what conditions it is allowed are subjects of public debates, especially among religious groups. Muslim classical *fiqh* has addressed abortion issues in much modest way than do the Catholic churches. Religion plays an important

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[45] Siti Maesaroh. "Campaign on Sexual Violence in 10 Cities (Banten-Sumatra)." In *News Comnas Perempuan (June 13, 2014 edition)*.

[46] Yulia Dwi Andriyanti. "Dialog with Ministries and State Institutions on Violence against Women of Diverse Sexual Orientation, Gender Identity and Gender Expression (SOGIEB)." In *News Comnas Perempuan* (June 13, 2014 edition).

[47] "Legal Breakthroughs." In *News Comnas Perempuan* (June 13, 2014), 12.

role in their attitude toward abortion and religion is also the main factor that interferes the government policy on abortion. Health care providers respond to the issue differently. Generally they consider abortion as a sin, but most are tolerant to abortion if it is done before 120 days of pregnancy due to the Muslim teaching. Menstrual regulation seems to be the most accepted way of abortion. Some are willing to perform abortion for the reasons of family planning failure, and economic difficulty. In 1991, the bill on abortion could not be passed due to resistance from the religious circle. For example, the Archbishop of Jakarta proclaimed the penalty of excommunication for any member who practices abortion. The *ulama* also declared objection toward any kind of abortion except for the case to save the mother. Again, religion sets the limit to reproductive rights for women (see Djohan et al. 1993).

Another article by Iwu Dwisetyani analyzes how the government fails to deal with adolescent reproductive health in Indonesia at the level of policy. The study shows that the present policy, as a contest between international values, Indonesian traditional values and Islamic fundamentalism, has put adolescent reproductive health at risk. For example, the Law No.10/1992 restricts family planning services for single young people. Law No.23/1992 in fact illegalizes abortion. As a result, young single pregnant women have to suffer the stigma from religious community, family and society and often resort to unsafe abortion services (p.140). The article contains good data on premarital sex and abortion in Indonesia. According to the WHO statistics, Indonesia has 2.3 million abortions each year and studies also show that the rate of premarital sex is high in some places such as Medan (50% in 2001), Manado (26% in 1992). Another problem is that reproductive education is not incorporated into compulsory education at schools. It is critical that the Indone-

sian government should deal with this problem honestly instead of ignoring or suppressing it.[48]

3.8 Women Leadership in Religious Institutions

For centuries, most formal leadership of religious institutions has been in the hands of men. Such practices allegedly came directly from religious teachings, which are also supported by longstanding tradition in many communities. Religion and local customs intertwine, and strengthen each other in making patriarchy unchallenged. Social movements on human rights and feminisms give paths women and men to question this centuries-age practice of men leadership in religious communities.

Most participants of our FGDs recognized that formal leadership in most religious institutions in Indonesia is heavily male dominated. However, the everyday activities of all religious groups are run, managed, and attended mostly by women. Within Muslim communities, for instance, all local learning religion groups (known locally as *pengajian*), microeconomic trainings, elders' gatherings, early childhood and other similar social activities are run by women. In this sense, Muslim women exercise their informal power to influence the everyday practices of being religious citizens. A Catholic scholar noted that within Muslim communities the formal religious doctrine preached by male *ulama* are usually gender biased and discriminating against women, but in practice, Muslim women are powerful in influencing the society. The situation in the Catholic community is quite the opposite; the Catholic doctrines seem to be more women friendly, while in everyday life, there is less room for women participation and control. So the two religious commu-

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[48] Utomo, Iwu Dwisetyani and McDonald, Peter. "Adolescent Reproductive Health in Indonesia: Contested Values and Policy Inaction." In *Studies in Family Planning* 40(2) June 2009: 133-146.

nities can learn and support each other to achieve gender friendly doctrines and practices.[49]

Muslim women participants in the FGDs also question whether or not leadership is actually segmented and not universal; *that means men might excel and lead in some areas of life and women also have better capacities in other areas hence become the leaders.* Muslim men mostly see leadership in terms of formal organizational structures within the public sphere, for example in leading communal prayers and feasts, structures in religious institutions, preaching in mosques and mass gatherings, etc. *Few women demand access to those posts* usually occupied by men. However, more women express that they do not necessarily need those posts to be able to contribute and influence the family and community. What is most important for them is that their ideas or demand are fulfilled regardless of their positions in the formal structures of the organizations.[50]

3.9 Concluding Remarks

Our exploration of public responses and assessment toward state policies on marriage and reproductive rights and issues has unearthed a variety of responses. In general, their responses are influenced by their imagination and definition of being a good family, good citizen, good man and woman. Clearly, emergent pros and contras groups toward the revision of the Marriage Law arose: Those in favor of the revision of the Marriage Law argued that the Law is outdated, and is no longer in line with the actual condition of the Indonesia that is democratic, multicultural and multi-religious. It also violates the 1945 Constitutions and many other laws such as the Laws on Child Protection and Health as well as the CEDAW. Those groups who are defending the Marriage

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[49] Identified Catholic scholar from among the FGD participants.
[50] Transcripts of identified participants in FGDs.

Law developed their argumentation to maintain the sacred nature of marriage institutions as prescribed by most living religions in Indonesia.

In addition, what has been put in the Marriage Law is derived from the Islamic *fiqh*, and therefore needs no revision. The normative approach taken by the group defending the *status quo* needs further examination to trace how such construction of knowledge are planted in the minds of Indonesian people.

FGDs in each of the three different cities have left a peculiar mark, which could be used to distinguish the popular views as well as to promote lessons learned. Participants of FGD in Yogyakarta posed more critical questions in almost all issues being discussed, whereas many participants in Banjarmasin and Mataram seem to prefer maintaining the Laws and practices in marriage, reproductive rights and health. The discursive arguments using religious language and symbols are quite apparent. The three FGDs and national workshop have indeed become a platform for discussing the results of the research and enhance interdisciplinary research as participants came from different fields of study and expertise.

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