

CONTEXTUALIZING THE GLOBAL AND REMAKING THE LOCAL: ISLAM AND  
WOMEN'S RIGHTS IN INDONESIA

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# Contextualizing the Global and Remaking the Local: Islam and Women's Rights in Indonesia

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## List of Civil Society Organizations, Political Parties, Political/Religious Movements

<i>abangan</i>	Muslims who adopt a more syncretic understanding and implementation of Islamic practices
Alimat	non-governmental organization (NGO) comprised of Muslim women activists formed in 2009; focuses on addressing problems related to gender inequality within marriage
Aisyiyah	Muslim women's organization affiliated to modernist Muhammadiyah
<i>Bahtsul Masail (Lajnah Bahtsul Masail)</i>	Committee for Religious Problem Solving in Nahdlatul Ulama (NU)
Budi Utomo	nationalist organization established by the <i>priyayi</i> class
Darul Islam	movement (based in West Java, Aceh and South Sulawesi) fighting for the establishment of an Islamic state
Dharma Wanita	Civil Service Wives Association; official women's organization under the New Order
Fahmina	NGO dedicated to promoting gender equality within Islam.

Fatayat NU	young women's organization associated with the NU
FKAWJ (Forum Komunikasi Ahlus Sunnah Wal Jama'ah)	Forum for the Communication of the Followers of the Sunnah and the Community of the Prophet; Salafi organization
FK3 (Forum Kajian Kitab Kuning)	NGO dedicated to the reinterpretation of Kitab Kuning (yellow books) or Uqud al-Lujjayn (Arabic); a classical reference containing rules on husband-wife relations
Gerwani (Gerakan Wanita Indonesia)	communist women's organization, aligned with PKI
Golkar (Golongan Karya)	Party of the Functional Group; ruling party from 1973 – 1999
Hizbut Tahrir	transnational Islamist organization established in Indonesia in 2000
Isteri Sedar	The Conscious Woman; a socialist-inclined woman's group which eventually joined the women's wing of the Indonesian Communist Party.
Kemmeneg PP & PA (Kementerian Pemberdayaan Perempuan dan Perlindungan Anak)	Ministry of Women's Empowerment and Child Protection
Kalyanamitra	secular feminist organization established in 1997
Komnas Perempuan	National Commission on Violence Against Women
Kongres Wanita Indonesia	Indonesian women's congress, the umbrella organization for women's organizations at the national level

KUA (Kantor Urusan Agama)	Office of Religious Affairs; office where registration of Muslim marriages occur
Laskar Jihad	Jihad Force; violent Salafi organization
LBH APIK (Lembaga Bantuan Hukum Asosiasi Perempuan Indonesia Untuk Keadilan)	Indonesian Women's Association for Justice and Legal Aid Institute
Majlis Tarjih	Committee of Religious Problem Solving in Muhammadiyah
Masyumi	Islamic political party, one of the four largest parties in the 1950s
Mitra Perempuan	women's crisis center
Muhammadiyah	mass-based modernist Islamic institution engaged in charitable activities; a component of Masyumi party in the 1950s
MUI (Majlis Ulama Indonesia)	Indonesian Council of Religious Scholars or Ulama Council of Indonesia
Muslimah Hizbut Tahrir	women's wing of Hizbut Tahrir
Muslimat NU	Islamic women's organization, affiliated with traditionalist NU
Nasyiatul Aisyiyah	young women's organization associated with the Muhammadiyah
NU (Nahdlatul Ulama)	mass-based traditionalist Islamic institution engaged in charitable activities; a political party between 1952-1984 and one of the four largest parties in the 1950s

PAN (Partai Amanat Nasional)	National Mandate Party; associated with Muhammadiyah
PBB (Partai Bulan Bintang)	Moon and Star Party; Islamist Party
Partai Katolik	Catholic political party
PDI (Partai Demokrasi Indonesia)	Indonesian Democratic Party
PDI-P (Partai Demokrasi Indonesia-Perjuangan)	Indonesian Democratic Party of Struggle
PKB (Partai Kebangkitan Bangsa)	National Awakening Party; associated with NU
PKS (Partai Keadilan Sejahtera)	The Prosperous Justice Party – Islamist party established in 1998
Pengadilan Agama	Religious courts
Persit (Persaudaraan Isteri Tentara)	army wives' association
Perwari (Persatuan Wanita Indonesia)	secular, non-aligned women's organization, one of the largest parties in the 1950s
Pimpinan Pusat Muslimat NU/Aisyiyah/Fatayat NU	Central Leadership of Muslimat NU/Aisyiyah/Fatayat NU
PKI (Partai Komunis Indonesia)	Indonesian Communist Party, one of the four largest parties in the 1950s

PNI (Partai Nasional Indonesia)	Indonesian Nationalist Party, one of four largest parties in the 1950s
PPP (Partai Persatuan Pembangunan)	The United Development Party; established in 1973 as a result of a merger of four Islamic parties
<i>priyayi</i>	descendants of the royal family; also implies Muslims from the upper and middle class in terms of economic, social, and educational status
Rahima	NGO dedicated to promoting gender equality within Islam.
Rifka Annisa (Rifka Annisa Women's Crisis Center)	NGO committed to the elimination of violence against women established in 1993.
<i>santris</i>	devout Muslims who abide strictly by scriptural Islam or a combination of scriptural Islam and Islamic <i>fiqh</i>
Wanita Demokrat	women's organization affiliated with PNI
Wanita Katolik	Catholic women's organization
Yasanti (Yayasan Annisa Swasti)	Secular feminist organization established in 1982

## Chapter One

### Islam and Women's Rights in Indonesia

We are always fighting a dual war—one internally against a patriarchal interpretation of Islam and another externally—against other women's organizations advocating for women's rights in a liberal way, that is simply put, unsuitable for Indonesia.

—Activist from Muslim women's organization, Aisyiyah

On June 15, 2012, I attended a discussion organized by the Indonesian Women's Association for Justice and Legal Aid Institute (LBH-APIK). LBH APIK, a secular women's rights group, provides legal support for women and campaigns for the recognition of women's legal rights. The discussion was held at the Ministry of Women's Empowerment and Child Protection (Kemmeneg PP). LBH-APIK invited an assistant deputy from the Ministry to address the status of a proposal to amend the 1974 Marriage Law in Indonesia; the Institute had submitted the proposal to amend the 1974 Marriage Law to the Ministry several months ago.

Packed into a small room and seated around a long oval table, women activists listened as the chairperson from LBH-APIK began the session, highlighting various statutes within the 1974 Marriage Law which were outmoded and required change. After the presentation, a prominent women's rights activist suggested that the amendments to the 1974 Marriage Law should be submitted to the Ministry of Justice and Human Rights, instead of the Ministry of Religious Affairs.<sup>1</sup> Women's rights activists from secular

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<sup>1</sup> Revisions in the Indonesian constitution in 2009 allow for the House of Representative (DPR) and House of Regional Representatives (DPD) to draft legislation (Law No. 27 of 2009). According to the first Amendment of the 1945 Constitution, the President has the right to submit Bills to the DPR. A Minister is assigned to represent the President in the discussion of the bill at the DPR. Women activists in the meeting appeared to favor the latter route (submission of the bill through the President/Ministry).

organizations echoed her suggestion and repeated her argument. Seated beside me was Ibu Siti from Fatayat Nahdlatul Ulama (NU), one of the most progressive Muslim women's organizations in Indonesia.<sup>2</sup> She shook her head and whispered to me, "that's not possible."

Perplexed about her meaning, I continued to take notes. After a series of questions, comments, and suggestions, the Assistant Deputy from the Ministry spoke. He presented a paper on the evolution of marriage law in Indonesia, a topic not unfamiliar to many seated in the small conference room. Subsequently, he made several technical comments on the wording and phrases used in the amendments presented earlier. He advised that the number of statute revisions should be reduced if the proposal was to qualify as an amendment. Otherwise, it would be considered a new bill on marriage law.<sup>3</sup> Before he ended, he was asked a similar question, "Is it possible for the Ministry of Justice and Human Rights to 'push' the bill forward instead of the Ministry of Religious Affairs?" The assistant deputy replied that the Ministry of Religious Affairs had their own version of the amendments to the 1974 Marriage Law and that it would be unlikely that the Ministry of Religious Affairs be excluded from discussions of the amendments to the 1974 Marriage Law. After listening to his reply, I realized what Ibu Siti meant when she said in exasperation that submitting the bill to the Ministry of Justice and Human Rights was "not possible." Unlike other women activists, Ibu Siti realized that it would be impossible for the Ministry of Religious Affairs to be excluded from any discussion of marriage laws.

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<sup>2</sup> Ibu Siti is a pseudonym.

<sup>3</sup> At that point, he made a comment implying that for the amendments to be passed, they should be written within the general framework of the 1974 Marriage Law, instead of a new law altogether.

At the crossroads of the issues of women's rights and Islamic activism, the vignette above describes how Muslim women's organizations in Indonesia are privy to the demands, interests, and strategies of Islamic institutions. As insiders within Islamic institutions, Muslim women activists possess religious knowledge and share similar cultural and normative systems with Islamic institutions. They understand the discursive and normative context in which social change can occur. At the same time, Muslim women activists have been at the heart of mobilizing the public for women's interests since the 1920s. As activists with one foot in women's rights activism and the other in Islamic faith, they are constrained by the demands of both secular women's rights activists and those of Islamic institutions. Caught in the "middle," Muslim women's organizations mobilize around women's rights policies in ways that do not conform to the normative liberal framework of individual rights. Yet, these activists have led internal organizational discussions challenging polygamy, successfully mobilized and campaigned for a gender-based violence law, and tempered a conservative law on pornography.

Muslim women's activism in Indonesia offers a useful lens to examine how discourses on Islam and women's rights are adapted and combined to shape normative attitudes and policies related to gender equality. Indonesia provides an excellent case study for the question: How has the global discourse on women's rights affected gender equality in a Muslim majority country, where "an Islamic religious heritage is (regarded as) one of the most powerful barriers to the rising tide of gender equality" (Inglehart and Norris 2003, 49)? This question is central to the ongoing struggle for equality and justice

in most Muslim majority countries where family law draws upon Islamic jurisprudence.<sup>4</sup> The use of Islamic jurisprudence creates several commonalities, albeit with subtle variation, with respect to gender and family relations in Muslim societies. According to Mir-Hosseini, Al-Sharmani, Rumminger (2015), the Muslim legal tradition does not treat men and women equally. The notion of husband's authority and male guardianship are enshrined in Islamic jurisprudence and continues to exert a central role in institutionalizing gender inequality in Muslim contexts. The encounter between patriarchal ideas that have informed Muslim legal tradition and the modern ideals of universal human rights, gender equality and freedom has affected the ways in which women (both secular and religious) activists in Muslim societies mobilize for their interests and demands. Through a systematic understanding of the processes of adapting and refashioning discourses on rights, equality and freedom to suit the local cultural and religious contexts, I am confident that the Indonesia case will reveal several comparative insights that will be applicable to other Muslim settings.

### **The Argument**

Through an examination of elite and organizational discourse, and policies related to Islam and women's rights, I will demonstrate the mutual construction of global and local ideas, discourse and legal frameworks on gender equality. I argue that *local discourse and policy on gender relations and women's rights in Indonesia have been influenced and have been inspired by global women's activism, but, at the same time, Indonesian women activists have utilized discursive rhetoric and logic, legal frameworks*

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<sup>4</sup> I make the distinction between Shariah and Islamic Jurisprudence. Following Brown (1997) and An-Na'im (1990) I refer to Shariah to mean a divine, Islamic discourse that includes spiritual, legal, moral, economic and political normative systems within it. Islamic law or jurisprudence is the man-made of effort of jurists in their effort to understand the legal aspects of Shariah.

*and strategic resources that appeal to local cultural, religious and nationalistic trends.*

By elite discourse, I consider discourses espoused by state and government elite actors, and by organizational discourse, I consider discourses espoused by Islamic institutions, Muslim women's organizations and secular women's rights groups.

My exploration of the issue includes three case studies: in the first one, shifts in attitudes towards rights-based principles amongst Muslim women activists created positive change in Muslim women's organizational discourse, but had a negligible effect on policy outcome; in the second, women's rights discourse was adapted to suit the local context which then led to positive reforms on women's rights policy; in the third one, discourse and policy related to Islamic conservatism were moderated through an application of ideas on individual rights and social justice. Together these three case studies will illustrate the role of Muslim women activists as they negotiate and bargain with both secular women's groups and Islamic institutions, apply women's rights ideas, and frame women's rights discourse in Islamic vernacular to create social and political change. I argue that Muslim women activists are intermediary actors, or actors in the middle, who participate in both Islamic and women's rights discourses and are affiliated with both Islamic and women's rights networks. As intermediary actors, Muslim women activists mediate between universal rights discourses that promote freedom and equality, and Islamic legal tradition and practices that support male authority over women. They hold the potential to adapt, contextualize and reshape global discourse on women's rights to suit the local context.

The Muslim women activists I focus on are affiliated to the two largest and mainstream Islamic institutions in Indonesia – Nahdlatul Ulama (NU) and

Muhammadiyah. These Muslim women activists originate from religious families, are formally educated in both Islamic and secular fields, and are devout, veil-wearing Muslims. Seeking inspiration from both international human rights documents and Islam, they believe sincerely that the principles of justice and equality can be found from within the religion. The three Muslim women's organizations that are the focal points of this dissertation are as follows: Muslimat Nahdlatul Ulama, comprising of women affiliated to NU that are above the age of forty; Fatayat Nahdlatul Ulama, consisting of women also affiliated to NU that are below the age of forty; and Aisyiyah, the women's organization of Muhammadiyah with older women members.<sup>5</sup>

The implications of this dissertation counter a widely popular perception among scholars of Indonesian politics that Muslim women activists have to comply with the demands of Islamic institutions, due to their lack of autonomy from the latter, and lack the ability to mobilize around policies that differ from the interests of Islamic institutions (Doorn-Harder 2006; Feillard 1999; Martyn 2008). In addition, by showing how women's rights ideas rejecting polygamy have been applied in local settings, and how transnational human rights models related to gender-based violence have been refashioned to suit the Indonesian context, I argue against the assertion that an "Islamic religious heritage is (regarded as) one of the most powerful barriers to the rising tide of gender equality" (Inglehart and Norris 2003, 49).

The anthropological literature on "cultural translation" (Merry 2006a), serves as the theoretical foundation for this dissertation. The literature investigates how translating

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<sup>5</sup> The younger Muslim women's organization affiliated to Muhammadiyah is Nasyiatul Aisyiyah. See Syamsiyatun (2007) for an in-depth analysis of the development of gender analysis within the younger organization of Nasyiatul Aisyiyah. This dissertation leaves out Nasyiatul Aisyiyah because, as a fairly disciplined and uniformed organization, Nasyiatul Aisyiyah shares generally similar perspectives with Aisyiyah.

cultural categories and ideas across diverse communities would either preserve or alter their meanings (Merry 2006a, 41). A fundamental claim of the anthropological literature on cultural translation, features the role of actors who occupy “middle” positions as those who translate concepts and ideas between different worldviews and cultural settings (Merry 2006a, 42). Extending this insight into my work, I employ the conceptualization of Muslim women activists as translators of women’s rights. Muslim women activists who participate in both Islamic and women’s rights discourses have to negotiate in the middle of the field of power, limited by constraints and creating opportunities. While attempting to challenge conventional interpretations of Islam, Muslim women activists must assess the extent to which they can challenge existing modes of thinking without risking their religious affiliation with Islamic institutions. The latter provide Muslim women’s organizations with a degree of authority and religious credibility, as well as access to Islamic networks to maneuver for internal institutional change. At the same time, Muslim women activists pursue certain demands and agenda promoting women’s rights and women’s concerns which may be unacceptable to Islamic institutions. As intermediary actors moving between Islamic and women’s rights discourses, Muslim women activists also possess knowledge on how to translate and frame human rights ideas in ways that appeal to the cultural and religious vernacular. Muslim women activists in Indonesia frame discriminatory Islamic practices and interpretation, and portray them as violating human rights ideas and fundamental Islamic principles. At the same time, they synthesize ideas on human rights with Islamic principles and apply these newly formed ideas to resolve concrete difficulties confronting women in their communities. In doing so, they refashion ideas on women’s rights, making them

qualitatively different from liberal perspective on women's rights.

Thus far, very few scholars (Mir-Hosseini 2012, Sharafeldin 2015) have written about the mutually constructing processes that occur at the local level, when international human rights laws are adapted and refashioned to suit particular societal norms and legal contexts.<sup>6</sup> This is one of the first few studies to systematically examine the conditions and ways in which processes of human rights translation occur in a Muslim majority country.

The encounter between Islamic norms and law, with human rights is affected by many local factors such as the the political environment and the organizational activism of local actors such as religious elites, civil society organizations and political parties. International factors such as the international regime of women's rights in particular, the global production of documents that define human rights and social justice, such as the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), have also been influential in terms of creating discursive space for the Indonesian women's movement. By discursive space, I mean the ability for the Indonesian women's movement to use CEDAW as framework and a gateway<sup>7</sup> to address gender discrimination prevalent in local law. Throughout this dissertation, I examine both local and international factors concurrently, weaving a story of how these factors combine to impact the potential for Muslim women activists to shape local discourse and policy on Islam and women's rights. In Chapter Six, I explain how, although Indonesia ratified CEDAW in 1984, it was only after the watershed 1993 United Nations Declaration on the Elimination of Violence against Women, and the consequent influx of

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<sup>6</sup> Tripp (2006) has examined how the international consensus regarding women's emancipation is not a uni-directional product of Western influence but instead by 1985, the global South began to challenge the ideological dominance of the North in framing the international women's agenda (60).

<sup>7</sup> This metaphor of CEDAW as a gateway (*pintu masuk*), was recounted to me in my interview with several Muslim and secular women's activists.

foreign aid that the women's movement began emphasizing the importance of government action in addressing domestic violence. While trafficking and rape were issues that the state recognized as violence against women, domestic violence was seen as a personal and private issue, falling into the realm of cultural codes and religious law. As will be explained in Chapter Six, international documents and foreign aid facilitated the establishment of women crisis centers. Although these centers were initially greeted with hostility by local communities, they forced a discourse on domestic violence that enabled Muslim women activists to begin discussing notion of martial rape, wife beatings and male authority within the Muslim community.

Motivated by the research on global women's activism, recent scholarship on norm diffusion has begun to identify the limits of the international regime of women's rights (Alvarez 2000; Foley 2004; Uly 2005). These authors suggest that when global norms are disconnected from local normative contexts, they will either be delegitimized (Foley 2004), or global norm implementation will carry unintended outcomes (Alvarez 2000; Friedman 1999). International relations scholars have pointed out that pre-existing domestic discourse provides the context within which international norms take on meaning, thus, constituting one of the most important factors which shape the response of institutions and states to global norms (Cortell and Davis 2000, 73). Political scientist Susanne Zwingel's (2012) understanding of norm diffusion through a transnational framework is particularly constructive. In her view, a transnational lens enables us to understand the ambivalent, evolutionary, and occasionally incompatible normative signals sent by international institutions. She argues that states are not always rational actors. States' reaction to international gender norms should be understood within the

realm of those states' historical existence as political entities.

In this dissertation, I combine Zwingel's (2012) insight into the historical legacy of states' actions with the findings of Cortell and Davis (2000, 73) on the relevance of pre-existing domestic discourse to the integration of international norms into local contexts. Those two works have allowed me to identify the factors that affect the extent to which intermediary actors influence local discourses and policy on women's rights and Islam. By policy on women's rights and Islam, I am referring to policies that "aim to dismantle hierarchies of power that privilege men and the masculine, a sexual division of labor that devalues women and the feminine" (Htun and Weldon 2008, 208).<sup>8</sup> At the same time, these policies confront conventional Islamic ideas on gendered roles and responsibilities, and morality. The effect of global discourse on women's rights in a Muslim majority country, such as Indonesia, depends on the potential that intermediary actors have in shaping local discourse and policy on women's rights and Islam. Intermediary actors' success (high potential), failure (low potential), and partial success (medium potential) in shaping discourse and policy on women's rights and Islam are influenced by two factors – the nature of discursive and institutional power.

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<sup>8</sup> This dissertation considers women's rights policies that seek to equalize gender relations. I recognize that women's rights policies can contain those that cater to women's healthcare needs, but these policies "concern women as women" (Wolbrecht 2000, 19), and do not necessarily challenge gender inequalities.

Table 1.1: Cultural and Power Dynamics and the Potential for Cultural Translation

Factors Shaping Discourse	Islamic Marriage Law	Anti- Domestic Violence Law	Pornography Law
Nature of discursive power?	Centralized	Fragmented	Rigid and Multiple
Who holds institutional power?	Islamic Institutions supported by the State (Concentrated)	State (Democratic Process)	State (Democratic Process)
Impact			
Potential for Intermediary Actors to Influence Discourse and Policy	Low	High	Medium
Cultural Translation	Shifts in subjectivity to include human rights' perspectives.	Frame human rights model in local vernacular. Adapt transnational ideas on human rights.	Highlight the absence of "social justice" and "rights" in moral legal solution. Remake conservative ideas on Islamic morality.

**Discursive Power.** Following Pierre Bourdieu (1994), I adopt a critical definition of discourse as a means of legitimizing social and political practices. Discursive power denotes the ability to define the legitimate ways of saying and doing things in a given society, strongly influenced by the complex interactions of religion, culture, gender, and class.

But why is the nature of discourse important in the first place? Social movement scholars in the political process tradition (McAdam 1994; McAdam et al. 2001) assume that domination is organized by and around one central power – the state. Governments are viewed as the only source of political power and are the primary rule makers, whereas citizens are either “members” or “challengers” to the polity (McAdam 1982). In the

political process model, because “challengers” are excluded from formal political channels, collective action strategies are organized around generating policy change. Economic and political changes are seen as the primary factors driving social change, with other strategies, such as building movement solidarity or affirming identities, defined as “expressive” (Jenkins 1983, quoted in Armstrong and Bernstein 2008, 78).

Armstrong and Bernstein (2008) challenge these assumptions by developing a multi-institutional politics approach to social movements. They explain that domination is “organized around multiple sources of power, each of which is simultaneously material and symbolic” (Armstrong and Bernstein 2008, 75). Hence, collective action is not only related to activities targeting the state, but encompasses goals including identity recognition and cultural change that are not directly related to generating benefits or inclusion.

Following Armstrong and Bernstein (2008, 75), I conceptualize culture as a constitutive aspect of power, where power is operative not only in economic and political structures but also in cultural and religious systems of authority and oppression. In this context, discursive power denotes the ability to legitimize normative cultural and religious practices in a particular society. When discursive power is centralized, discourse can be uniform, rigid, and intolerant of differences. However, when discursive power is fragmented, pre-established discourse tends to be more flexible and accepting of change. In the next section, I discuss how both concepts – discursive power and institutional power – are applied in the context of the three case studies.

**Institutional Power.** Institutional power refers to the ability of actors to influence the formal political agenda, shape and implement policy, as well as determine the

availability of allies for opponents seeking political change. Institutional power also includes the ability to provide political and economic benefits for oppressed groups as well as stipulate recognition and inclusion in the political process for marginalized communities. Following the multi-institutional approach to social movements, I argue that the society is not governed by a central power – the state. Instead, society is composed of “multiple and contradictory institutions” (Armstrong and Bernstein 2008, 82). Intersections among societal institutions, such as the “capitalist market, bureaucratic state, democracy, nuclear family” (Friedland and Alford 1991, 232) reproduce power relations in society such that actors seeking policy change may target not only the state but particular institutions amassing power.

Institutional power over Islamic marriage law in Indonesia historically has been concentrated within Islamic institutions; it is still the case today that Islamic institutions hold the majority of power over marriage law. Zwingel’s (2012) perspective that the state’s actions should be understood in terms of its historical existence as a political entity is particularly constructive in illuminating the state’s relationship with Islamic institutions with respect to Islamic marriage law. As will be made clear in Chapter Five of this dissertation, Islamic institutions in Indonesia have historically controlled laws on Islamic marriage. The Indonesian state’s demands for a national marriage law in 1973 only passed after volatile sessions in an authoritarian-controlled parliament followed by closed-door bargaining sessions between the state elites and religious leaders from Islamic institutions (Azra 2003). Following the passage of the 1974 Marriage Law, Islamic institutions – primarily, the Ministry of Religious Affairs - have retained extensive control of Islamic marriage law through a series of bureaucratic and Islamic

court reforms. Before 1974, the administration of Islamic marriage law was decentralized and individual Shariah court judges would apply Islamic legal codes from the Shafii school of Islamic jurisprudence in an inconsistent manner (Nurlaelawati 2010). Both the 1974 Marriage Law and the 1991 Compilation of Islamic Law sought to remedy this. While the 1974 Marriage Law specified rules relating to marriage, divorce, reconciliation and child custody rights, the 1991 Compilation unified Islamic references used by judges to ensure further consistency across the application of Islamic marriage codes. The unification of institutional power with regards to Islamic marriage law within the Ministry of Religious Affairs, and the monopolization of discourse by religious elites limit the potential for intermediary actors to shape ideas and policy reforms on Islamic marriage law.

In the case studies pertaining to laws on domestic violence and pornography, the state exercised authority over formal decision-making. In this context, the democratic process allows for a multiplicity of social movement actors to campaign and mobilize resources around their interests. When institutional power is not concentrated within Islamic institutions, Muslim women activists are offered a wider array of networks through which they can rely on to promote religious and cultural change. In this scenario, their non-Muslim allies are not seen as affecting the credibility of their agenda and message. In Chapter Five, I will discuss how Muslim women activists from different Muslim women's organizations who sought to overturn patriarchal interpretations of Islamic marriage law formed a group consisting purely of Muslim women activists, distinct from secular women's rights groups. The latter are also pushing for reforms of the 1974 Marriage Law. In the case of Islamic marriage law, since institutional power is

concentrated within Islamic institutions, Muslim women activists have chosen to pursue reforms from within Islamic institutions. Working with secular women's groups might threaten their credibility to promote social change.

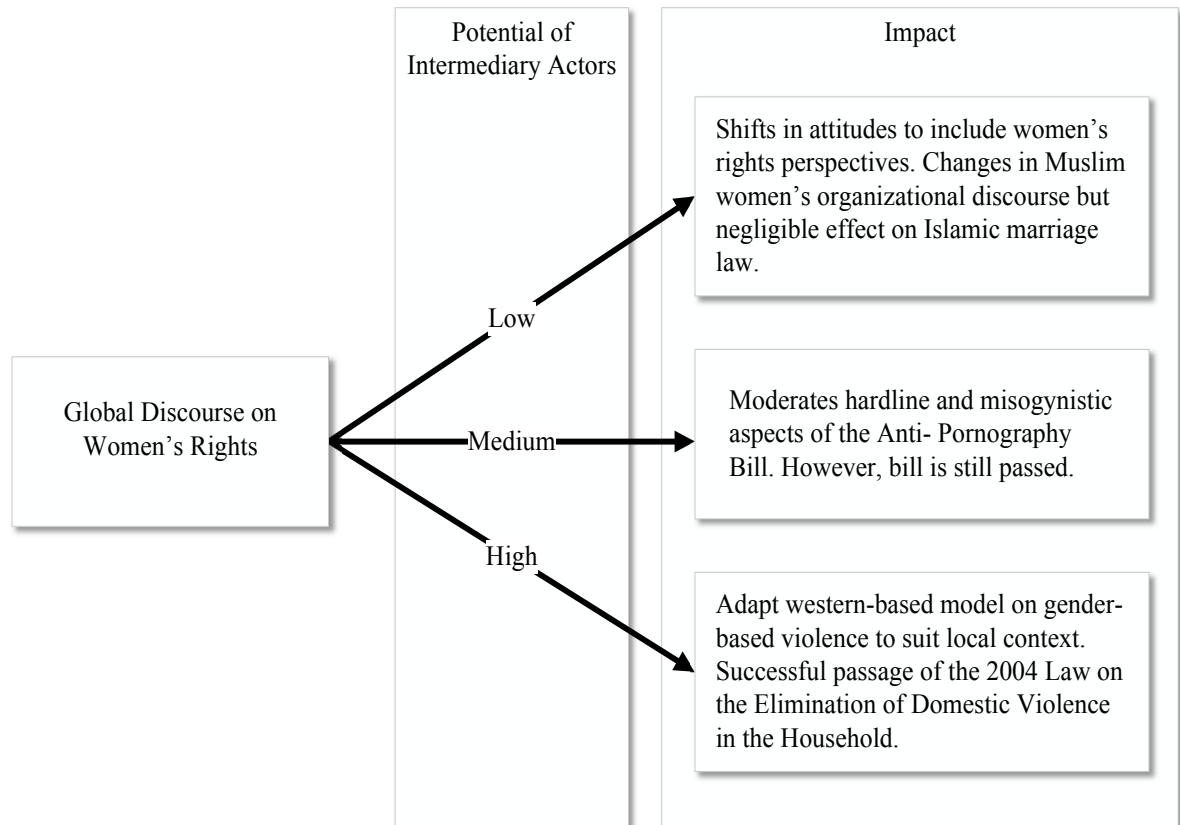
On the other hand, in the second and third case studies, when institutional power is not concentrated within Islamic institutions, Muslim women activists are able to advocate for change alongside secular women's groups. The second case study on the domestic violence law differs from the third case study on pornography law in terms of the nature of pre-established discourses on these issues. As I will explain in Chapter Six, discourses regarding gender-based and domestic violence were fragmented. Mainstream Islamic institutions, the government, and religious elites held multiple opinions related to issues on gender-based violence, such as, the permissibility of wifely beatings, male leadership and protection, as well as notions of wifely obedience. I argue that the fact that pre-established discourse was fragmented, and institutional power was not concentrated within Islamic institutions enabled Muslim women activists to shape opponents' and government's attitudes on gender-based violence, which in turn, led to the passage of the 2004 Law on the Elimination of Domestic Violence in the Household. As will be discussed for both the domestic violence and pornography laws, institutional power - the ability to influence the formal political agenda, and to shape and implement policy - was bound to the democratic process.

In Chapter Seven, I will explain how the pornography law was conceptualized not only as a policy regulating pornographic media, but it also entailed targeting women's behavior and dress codes as sources of pornography. I will discuss how existing ideas regarding female sexual freedom and morality articulated by Islamic institutions and

Muslim women's organizations are rigid yet, numerous. Rigid in this sense denotes that Islamic actors – both male religious elites and Muslim women activists from Aisyiyah and Muslimat NU - promoted a clear and inflexible understanding of *aurat* (permissible dress codes) provisions. However, these actors also espoused multiple interpretations regarding the codification of Islamic dress codes into state law. While male religious elites from Islamic political parties and Islamic institutions such as NU and Muhammadiyah were supportive of a state law that adopted Islamic dress codes and standards of public behavior, Muslim women activists affiliated with NU and Muhammadiyah were divided over the issue. Some were supportive of laws that promoted “modesty” while others believed that Islamic law should not impinge on national codes, especially in terms of affecting individual freedom. When the pre-existing discourse consists of rigid understandings of female sexual freedom, yet distinct interpretations of extending Islamic law into national codes, Muslim women activists are able to create opportunities to maneuver for social change. However, their discursive repertoires – frames, arguments and logic – are constrained by strict religious and cultural notions of female sexual freedom.

Together these three case studies demonstrate that the effect of global discourses on women's rights at the local level is varied. More importantly, the extent to which transnational ideas on women's rights are adapted, repurposed and remade to suit particular societies depend on the potential that intermediary actors have in shaping state's and opponents' narratives on such issues. The diagram below will provide a clear depiction of my argument.

Diagram 1.2: The Role of Intermediary Actors



### **Why a Southeast Asian Muslim Majority Country? Why Indonesia?**

Indonesia provides an ideal case for analyzing how global discourses on women's rights and transnational Islamist ideas are contextualized and localized for at least three reasons. Indonesia is home to approximately 235 million Muslims, the largest Muslim population of any state. This includes Muslim women's organizations affiliated to the

world's largest Islamic organizations, Nahdlatul Ulama and Muhammadiyah. Indonesian Islam has always been characterized in the mainstream media as more moderate and peaceful than Islam in the Middle East. Yet, since Indonesia's transition to democracy in 1998, the revitalization of religion in the public sphere has had a profound and contradictory effect on norms related to gender and sexuality. For example, national laws that protect women's rights, such as the 2004 Law Regarding the Elimination of Domestic Violence in the Household, the 2007 Law on Anti-Trafficking, and the Presidential Instruction<sup>9</sup> No 9 of 2000 on Gender Mainstreaming, exist alongside an increasing number of local level *Shariah* inspired by-laws, legislated and arbitrarily enforced by local governments. These local level regulations discriminate women by restricting their rights to movement, dress code, and public conduct. These Shariah by-laws have been accompanied at the national level with an equally discriminatory Pornography Bill introduced in 2005; this Bill targets women's bodies and behavior as the sole source of immorality. Such patterns reveal that Indonesia is currently experiencing dynamic ideological changes where Islamic conservatism coexists with liberal ideas on women's rights and human rights.

Such political dynamics are a reflection of the changing religious milieu in Indonesian Islam. In the 1980s Indonesia began witnessing the expansion of Salafi Da'wa<sup>10</sup> networks evident in the appearance of young men growing long beards, wearing

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<sup>9</sup> Presidential Instructions in Indonesia have a lower legal status compared to laws but are equally binding in courts. The Presidential Instruction on Gender Mainstreaming imposes an obligation on all Ministers, heads of government institutions (Governor and Regents/Mayors) to implement gender mainstreaming in planning, implementation, monitoring, and evaluating all development policies and programs.

<sup>10</sup> Da'wa networks refers to religious proselytizing, an activity Salafis argue are incumbent on all Muslims.

turbans and long Arabic garbs as well as women clad in black face-covering veils.<sup>11</sup> These members identified themselves as Salafis, or followers of the pious ancestors (*Salaf al-Salih*). They advocated a return to “pure Islam” and an understanding of the religion based on the Quran, Sunnah and tradition represented by the pious forefathers (*al-Salaf al Salih*).<sup>12</sup> Living in exclusive tight-knit communities, these Salafi networks operated under the radar during Suharto’s regime. Under changing political regimes, the 1990s witnessed the growth of da’wa activities in university campuses, and study circles (*halaqah*) conducted in mosques located in city outskirts and villages in rural areas. The Salafi movement in Indonesia has gained institutional presence through the construction of mosques and religious schools as well as the establishment of Salafi organizations such as Forum Komunikasi Ahlus Sunnah Wal Jama’ah (Forum for the Communication of the Followers of the Sunnah and the Community of the Prophet, FKAWJ) and violent Salafi groups such as Laskar Jihad (Jihad Force).<sup>13</sup> The inflow of Salafi networks in Indonesia is not a new phenomenon. Nevertheless, the open political climate has enabled the movement a certain degree of freedom to mobilize openly and, sometimes, violently with very little political and legal repercussions.<sup>14</sup>

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<sup>11</sup> While the 1980s also witnessed the growth of veil-covering for Muslim women, the black face-covering veil, also known as the niqab, is a distinctive Middle East style that emulates a more conservative and strict interpretation of women’s *aurat* (parts of the body that must be clothed).

<sup>12</sup> They are often taken to be the first three generations of Muslims, that is the generations of the Prophet and his Companions (*ṣahābah*), their Successors (*tabi’in*), and the Successors of the Successors (*tabi’in al-tabi’in*). See Encyclopedia of Islam. 1999. “Salafiyah”. Leiden: Brill.

<sup>13</sup> For an understanding of the history and development of Salafi networks in Indonesia, see Hassan Noorhaidi. 2007. “The Salafi Movement in Indonesia: Transnational Dynamics and Local Development.” *Comparative Studies of South Asia, Africa and the Middle East*. Volume 27 (1) pp. 83-94.

<sup>14</sup> The Setara Institute for Democracy and Peace found that police have been known to stand idly by while Salafi groups like Laskar Jihad attacked Ahmadiyya sites, churches and Shitte mosques. See Setara Institute January 2010 Report.

The rise of Salafi networks and political Islam have been accompanied by the growing participation in formal politics by parties calling for Islamic values and principles to play a central role in public life. In Indonesia, undergrown campus networks established during Suharto's time branched out into formal politics in the form of an Islamist party, Partai Keadilan Sejahtera (The Prosperous Justice Party, PKS). PKS was one of the few parties that played a central role in advocating for the Anti-Pornography Bill in 2005. The ascent of Islamist political parties in Muslim-majority countries – the Justice and Development Party (AKP) in Turkey, the currently banned Freedom and Justice Party with strong links to the Muslim Brotherhood in Egypt, the Islamist Parti de la Justice et du Developpement (PJD) in Morocco and the Ennahda Islamist political party in Tunisia – is indicative of the interplay between Islam and democracy.

Given the parallels between other Muslim majority countries and Indonesia, I am confident that, by learning from the Indonesian case, we are better able to discern the emergence and development of localized and shared understanding of women's rights in other Muslim contexts.

Second, existing research on progressive changes in personal status law has mostly focused on countries in the Middle East North African (MENA) region, primarily, on Tunisia and Morocco (Charrad 2012). The reforms of personal status codes as promulgated in Tunisia and Morocco have taken place mostly due to top-down efforts either to modernize the country, as in the case of Tunisia (Charrad 2001), or as a national response and symbol of opposition to Islamic terrorism, as in the case of Morocco (Salime 2012).<sup>15</sup> The Indonesian case shares similarities with Tunisia and Morocco, in

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<sup>15</sup> In Morocco, where the Maliki jurisprudence prevails, King Mohammad VI was able to use his authority as the supreme representative of the nation to announce reforms of the Moroccan Code of the

terms of the passage of the 1974 Indonesian Marriage Law as a compromise achieved between Islamic elites and an authoritarian government. The 1974 Indonesian Marriage Law restricts polygamy: men wanting to engage in polygamous marriage require consent from the first wife and approval by the Islamic courts. However, more recent developments amongst Muslim women's organizations, in particular, their critical interpretation of Quranic verses presumably permitting polygamy cannot be explained by existing top-down theories. In light of increasing globalization and diffusion of norms on women's rights, as well the burgeoning trend of Muslim women who practice Islam, on the one hand, and want to embrace equality and empowerment, on the other, there is a pressing need to understand how Muslim women activists synchronize their rights consciousness with ideas of morality and gender roles prescribed by the narrow tenets of religion.

Third, against the backdrop of Islamic resurgence in Indonesia, there are a growing number of studies examining the implications of Islamic conservatism on gender relations, female sexuality, and women's bodies (Blackwood 2007; Brenner 2011; Feillard 1997; Rinaldo 2013; Robinson 2008; Smith-Hefner 2006, 2009; Van Wichelen 2010). Similarly, another group of scholars has suggested that the trend towards conservative Islam has influenced leadership within Islamic institutions such as Muhammadiyah and NU (Bruinessen 2013; Burhani 2013). These studies, coupled with accounts of the progressive revitalization of Indonesian Islamic thought in the 1980s (Barton 1996; Bruinessen 2002; Fealy and White 2008; Hefner 2011) attest to the rich

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Family. Yet this is perhaps a simplistic assessment. Salime (2012) describes how feminist groups infiltrated state institutions to work out the details on reforms of the Code in the context of an international and U.S. War on Terror and the King's intent to position Morocco as an ally of neo-liberal regimes and ahead of other Arab-Islamic countries (110 – 133).

ideological variations in Indonesian Islam. The ideologically and culturally variant backdrop makes Indonesia a fairly typical (Gerring 2007, 91) case study to examine how democratic deliberations in diverse contexts have affected outcomes on women's rights. The Indonesia case is representative of how actors caught in the middle of conflicting discursive regimes have to navigate the field of power and opportunity to represent complex and multifaceted interests and identities. I am confident that investigating the processes of cultural translation in Indonesia will provide broad insights and identify new mechanisms of discursive and policy reforms that may apply to other Muslim majority countries.

### **Muslim Women Activists as Human Rights Translators and Intermediary Actors**

It is reasonable to wonder whether it is appropriate to call Muslim women activists—human rights translators. I focus here on Muslim women activists from Aisyiyah, Muslimat NU, and Fatayat NU, though not all Muslim women activists in Aisyiyah, Muslimat NU, and Fatayat NU are human rights translators. I refer here to a select group of individuals who, in addition to being members of Aisyiyah, Muslimat NU, and Fatayat NU, along belong to Islamic feminist groups in Indonesia, such as Alimat and Rahima. They also actively participate in activities organized by secular women's rights groups, such as Komnas Perempuan, LBH APIK, and Rifka Annisa. These Muslim women activists hold a double consciousness – both rights based and Islamic subjectivities. Depending on the context, these Muslim women activists may tap into either Islamic or human rights consciousness or combine transnational human rights concepts with local and institutional interpretations of Islam.

In the context of my discussion, I will use the term “translators” to signify people who occupy the middle position - participating in both Islamic and women’s rights discourse. The term is necessary to explain how Muslim women activists translate between Islam and women’s rights discourses, ideas, and concepts. They adopt and deploy identities that are grounded in both women’s rights and the Islamic frames of reference. As intermediary actors, they hold the power to look both ways and work within conflicting value systems. Yet, they are tied politically to Islamic institutions which provide them with the legitimacy to negotiate and bargain for social change. As such, they are vulnerable because the religious authority delegated by Islamic institutions can come into conflict with the demands made by women’s rights activists.

However, the use of religious knowledge may endow Muslim women activists with a different source of authority. For instance, in Chapter Five, I examine how Muslim women activists from Aisyiyah and Muslimant NU adopted a context-specific interpretation of the Quranic verses on polygamy. Muslim women activists argued that, given the context in which the verses were revealed, the main message of the Quran should be read as restricting polygamy rather than endorsing it. This revised interpretation led them to initiate institutional change within their parent organizations, simultaneously offering Muslim women’s groups religious authority independent from the institutions of which they were members. Thus, while religion involves authoritative relationships (Gill 2001), using religious knowledge to make religious claims holds the potential to diffuse centers of authority. Finally, I also demonstrate how secular feminist activists who are also Muslims may engage in similar processes of translation, but, by virtue of being institutional outsiders, their opinions carry less authority and legitimacy.

As intermediary actors moving between Islamic and women's rights activism, Muslim women activists work within established institutional and discursive fields that limit the repertoire of ideas and strategies available to them. Not all Muslim women activists who share the same social location and participate in both Islamic and women's rights discourses push for social and religious change in similar ways. For example, since the early 1900s, the two largest and longest surviving women's organizations in Indonesia, Aisyiyah and Muslimat NU, have been committed to addressing issues pertaining to women's rights in Islamic marriage law and women's access to education and healthcare. However, Muslim women activists from Aisyiyah and Muslimat NU have mobilized for women's rights in ways that differ from liberal norms of women's rights. Muslim women from these organizations demand particular aspects of equality in marriage law, women's protection from sexual harassment and domestic abuse, greater female reproductive rights, and representation in formal politics. While critical of western standards of morality, they push for standards of female sexuality that are empowering, albeit restrictive.

On the other hand, Fatayat NU, an affiliate of Muslimat NU, consisting of women between 20-45 years of age, has been considered one of the most progressive Muslim women's organizations in Indonesia (Marcoes-Natsir et al. 2012). Unlike Aisyiyah and Muslimat NU, Fatayat NU opposed anti-abortion statutes and the 2008 Pornography Law that restricted women's dress codes and movement on the grounds of protecting public morality. Furthermore, several members of Fatayat NU drafted what was considered to be the most progressive bill on Islamic marriage law. The bill, which was eventually rejected by the Ministry of Religious Affairs, promoted innovative Islamic principles that

upheld women's rights, pluralism, and democracy (Mulia and Cammack in Feener and Cammack 2007, 128). Amongst other controversial factors, the marriage bill allowed inter-religious unions.

The affiliation of Muslim women's activists to Islamic institutions also determines the religious resources they can employ when advocating for social change. Muslimat NU and Fatayat NU are women's organizations affiliated to Nahdlatul Ulama (NU), the leading traditionalist Islamic institution in Indonesia, which claims to represent 30 million members. Aisyiyah is the women's organization of Muhammadiyah, the foremost modernist Islamic institution in Indonesia, which claims to have approximately 25-30 million members. The terms modernist and traditionalist are most widely used to describe the two main groupings within Islam in Indonesia. While these terms accurately reflect a theological and sociological divide, they can be misleading. For example, modernist Muslims are more likely to be literal and rigid in their adherence to Islamic practices than traditionalists who are, in general, more flexible and accepting of local customs and practices (*adat*) that are combined with religious praxis and law.

In terms of theology, NU's religious canon comprises not only the *Quran*, *sunnah*, (actions of the prophet) and *hadith* (authoritative recorded sayings and actions of the Prophet) but also the traditional authority of Islamic legal scholars (*fuqaha*) from the four established schools of Islamic jurisprudence (*mazhabs*). While NU closely identifies with the al-Shafi'i school of legal thought, it also defers to other schools of Islamic jurisprudence before issuing decisions on religious matters. In terms of religious practice, traditionalists consider rituals such as the commemoration of the Prophet's birth, recitation of communal prayer formulas, celebration of death anniversaries, and visitation

to saints' shrines to be accepted.

On the other hand, Islamic modernism in Indonesia should be understood as influenced by the theological development of Islamic modernist ideas, most notably associated with the Egyptian reformist, Muhammad Abduh (1848-1905). Modernists reject the scholastic tradition of pre-modern Islam, emphasizing instead the rational interpretation of the *Quran* and *hadith*. At the same time, modernists seek to integrate western scientific education with Islamic principles. As a modernist organization, Muhammadiyah defers solely to the *Quran*, *sunnah*, and *hadith* as sources of law and general interpretation for religious behavior and conduct.

Scholars have argued about the implications of theological differences and distinct methods of interpreting Islamic law for the ability of Muslim women's activists to challenge dominant interpretations of Islam (Brenner 2011; Doorn-Harder 2006). According to Doorn-Harder (2006) Muslimat NU's method of interpreting Islamic law relies on multiple schools of Islamic *fiqh* (Islamic jurisprudence). This choice gives Muslimat NU the flexibility to choose between different opinions that best suit their circumstances. On the other hand, Aisyiyah's more limited reliance on scripture, the *Quran*, and *hadith*, propagates a religious culture that is stricter and defined by more rigid rules. Doorn-Harder's (2006) insight is corroborated by other scholars who suggest that Muhammadiyah's modernist theology in the realm of science and technology does not extend to its attitudes on social issues, especially in what concerns its views on women's roles and status (Bowen 2003; Nurlaelawati 2010; Ricklefs 2012).

Doorn-Harder (2013) re-assessed these claims in a later study. She found that the family programs established by Aisyiyah were used as tools to transmit reformist and

modern views on gender and women's position in marriage (56). She observed that Aisyiyah adopted philosophical and didactic, instead of prescriptive, methods to promote women's voices in the nuclear family without necessarily strengthening their authority within Muhammadiyah circles. Recent studies by Indonesian scholars on Aisyiyah and Nasyyiatul Aisyiyah, its affiliate consisting of younger Aisyiyah women, have shown that the expected rigidity in interpreting Islamic texts within younger modernist women is gradually changing (Dzuhayatin 2009; Syamsiyatun 2007). Armed with diplomas in gender studies, younger women within Aisyiyah and Nasyyiatul Aisyiyah have not only pushed for greater leadership roles within Muhammadiyah (Burhani in Bruinessen 2013) but also criticized the unrealistic gendered expectations placed on working mothers.<sup>16</sup>

By comparing Aisyiyah's and Muslimat NU's perspectives on gendered roles and responsibilities, notions of "wifely obedience" and "male leadership" in Islam between the 1950s and present, my dissertation further unravels the assumptions that women in modernist circles are less assertive of women's rights. I show how despite the traditionalists' ability to rely on a large corpus of scholastic traditions or schools of Islamic law, their interpretation of polygyny remains entrenched in cultural practices. Consequently, this phenomenon shapes Muslimat NU's mobilization around polygyny. At the same time, despite theological differences, Aisyiyah and Muslimat NU agree on a range of issues concerning female sexuality and female bodies.

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<sup>16</sup> Interview with Abidah on 20<sup>th</sup> April 2012 at Nasyyiatul Aisyiyah's Office . A recent statement released by Nasyyiatul Aisyiyah and Aisyiyah on their unhappiness about the candidates for the board of leaders for the 2015-2020 term also reflects this sentiment: <http://makassar.tribunnews.com/2015/08/02/nasyiatul-aisyiyah-sayangkan-tak-ada-perempuan-lolos-calon-pp-muhammadiyah>.

### **Alternative Claims and Common Assumptions on Islam and Women's Rights**

Scholars of political culture posit that societies follow a particular modernization trajectory: industrialization, post-industrialization, secularization. They asserted that these societies have experienced a weakening of religious values accompanied by a liberalization of attitudes towards sexuality and division of sex roles (Inglehart and Norris, 2003). The revival of religion-based movements and Islamic-led governments since the late 1970s has led several political culturalists to question whether Islam is compatible with women's rights. Given the nature of Islam in Indonesia and the current scholarship on gender and Islam, I claim that, instead of asking whether Islam is compatible with women's rights, we should be examining the context and processes under which a local production of shared meaning and ideas on Islam and women's rights has emerged. I contend that through an understanding of how seemingly conflicting values systems are reconciled, scholars open new ways of comprehending how meanings are produced; these meanings do not necessarily affirm women's rights or Islamic morality but are conceptualized as solutions to the concrete problems faced by groups of women. In order to understand the implications behind my approach, we need to analyze the literature which claims that Islam subordinates women's rights and has a negative effect on gender equality.

Using World Values Survey (WVS) data on 74 countries between 1995-2001, Inglehart and Norris (2003) presented an argument that follows this logic: a) agrarian societies are more religious compared to industrial and postindustrial societies; b) the poorer and less developed a country is, the more religious it is; c) Muslim states (measured by the percentage of Muslims in the country) are primarily agrarian (39 out of 49 Muslim states in the WVS are Agrarian); consequently, Islam is negatively associated

with gender equality. They argue that these patterns are confirmed even in their multivariate analysis that controls for levels of modernization across several religious denominations (Catholics, Protestants, Hindu, Jewish, Orthodox, Buddhist, and Non-denomination). Based on a composite gender equality score measuring attitudes on gender equality and sexual liberalization, including permissibility for women to seek divorce and abortion, and attitudes on prostitution and homosexuality, their results reflect a persistent gap in attitudes between Islamic societies and the West (2003, 68).

Furthermore, Inglehart and Norris asserted that inter-generational change in social attitudes apparent in the West is absent amongst the younger generation in Islamic societies. While the younger generation in the West is becoming more liberal and egalitarian, “young Muslims remain un-changed despite the transformation of lifestyles and beliefs experienced among their peers living in postindustrial societies” (2003, 68). Controlling for levels of societal development (in both agrarian and industrialized Muslim societies) and demographic differences in age, gender, and education, Inglehart and Norris concluded that “an Islamic religious heritage is one of the most powerful barriers to the rising tide of gender equality” (2003, 49).

Inglehart and Norris (2003) were not the first to point out that an Islamic cultural heritage is incompatible with modern liberal values such as gender equality, emancipation, and freedom. Their findings are based on public opinion surveys that measure support for gender equality in Muslim societies. Earlier studies relied on cross-national demographic indicators. For example, using literacy rate and sex ratio differentials and composite indicators such as Gender Empowerment Measure (GEM), Fish (2002) found a mutually reinforcing causal “feedback loop” linking autocracy and

women's rights in Islamic states. He argued that the democratic deficit in Muslim states could be explained by one factor: the subordination of women (2002, 5).

In a later study that replicated and modified Fish's (2002) data, Donno and Russett (2004) argued that the causal link between repression and women's rights in Islamic countries is more evident in Arab states as opposed to other regions (583). Using female empowerment measures across a variety of dimensions, including women's political and economic rights as well as health and educational attainment, they found that women's empowerment does not contribute to democratization. Hence, they concluded that the link between female subordination, autocracy and Islamic heritage/Arab tradition is more complex than Fish suggests. In a 2008 study, Tripp and Kang found that regional variation and the adoption of women quotas, instead of Islam, explained the variation in women's political representation. The relationship between Islam and women's political representation is limited as the study demonstrates that, with the exception of countries in the Middle East, predominantly Islamic countries do not have low rates of women's representation (356-357).

Similar to Dunno and Russett (2004), I argue that there are several theoretical and empirical shortcomings in the studies suggesting that Islamic values and norms engender patriarchy and authoritarianism. First, the commonly cited problem of sample selection bias occurs when a researcher generates causal inferences that are non-generalizable due to a lack of non-random samples. For instance, sample selection bias takes place because the studies which show a negative relationship between Islam and support for women's rights and women's rights outcomes are based on country selection that disproportionately favors Arab and North African Islamic countries. Furthermore,

Inglehart and Norris (2003) sampled 13.5% of Muslim-majority countries compared to 35.2% of Muslim majority countries in the world. Under-sampling limits the ability to generalize differences between Islamic countries and non-Islamic countries. Furthermore, India and Indonesia are missing from the nine Muslim countries included in Inglehart and Norris's (2003) study (Albania, Azerbaijan, Bangladesh, Egypt, Iran, Jordan, Morocco, Pakistan, and Turkey). Given that India and Indonesia account for 21% of 1.6 billion Muslims in the world (Pew 2013), it is misleading to infer public opinion about Muslims' lack of support for gender equality to the Asia-Pacific region.

The scholars' limited resources for gathering public opinion survey data across vital countries may account for this empirical oversight. However, shortcomings in resources do not justify inaccurate conceptual measurements. Here, I am referring to how Islam is often treated as a dichotomous concept where an Islamic country is classified according to the predominant population (Inglehart and Norris 2003, 63) or where a clear majority or plurality of Muslims exists (Fish 2002, 7). Such a measure of "Islam" points to the relationship between religious affiliation and attitudes (for example, how many percent of Muslims support democracy); but say very little on how religious orientation and varied interpretations of religion affect social attitudes.

The availability of public opinion data in Arab states has afforded scholars the opportunity to design more sophisticated measures to understand how Islamic beliefs and practices affect attitudes towards gender equality. Comprehensive value surveys of Egyptians, Iranians, Jordanians, and Saudis conducted between 2001-2003 provide a more fine-grained analysis of religious beliefs and practices (Moaddel 2006). Public opinion data distinguishes between self-described religious identities, religious identity

compared to national identity, mosque attendance, daily prayer, and whether religious authorities can provide adequate answers to social problems (84). Moaddel (2006) found that “except for self-described religiosity, other indicators of religiosity have no positive effect on the attitudes that promote gender hierarchy” (95). Furthermore, identifying oneself as primarily Muslim (as opposed to Saudi/Jordanian/Iranian/Egyptian) has a negative effect on attitudes to polygamy (95).<sup>17</sup> Religious habits, such as regular mosque attendance and daily prayer, have a negative effect on attitudes towards wife obedience (95).<sup>18</sup> Thus, a person with stronger religious habits expects more autonomy on the part of the wife.

Based on an earlier survey of 1500 Kuwaiti citizens in 1994, Meyer, Rizzo, and Ali (1998) found that Islamic beliefs are not incompatible with women’s political rights. They reported that “both between and within Islamic sects, there were respondents who favored increased participation for women in political life” (142).

In sum, this group of researchers used public opinion data and generated more sophisticated measures of religiosity to examine the impact of Islam on women’s status and roles, gender hierarchies, and women’s political participation. Hence, problems of internal validity, where the observed relationship is actually caused by extraneous or non-observable factors (Guala 2002), can be addressed with more context-specific knowledge of the region or country as well as a more sophisticated survey instrument (Adcock and Collier 2001).

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<sup>17</sup> The prompt is “Religious versus national identity,” to which those who answer, “Above all, I am Muslim,” are coded as having a “Muslim Identity.”

<sup>18</sup> Attitudes towards wife obedience are generated by the prompt, “A wife must always obey her husband,” to which respondents may “agree”, “disagree”, or respond, “neither.”

While public opinion data is reliable in measuring individual-level attitudes and is powerful in capturing social trends across time and countries, it is less useful in illustrating how changes in ideas, social attitudes, and beliefs emerge in the first place. To understand why political culturalists assert that Islamic heritage is a barrier to gender equality, we need to examine how Islam and Islamic law as a “lived tradition,” to borrow the phrase from Hallaq (2013), came to subordinate women’s rights.

A group of scholars have pointed out that women’s status in Arab countries is generally lower compared to that in other Muslim countries (Donno and Russet 2004; Rizzo, Abdel-Latif, and Meyer 2007). However, as Moaddel (2006) showed, conservative attitudes towards polygamy and women’s obedience are highest in Saudi Arabia even though the aggregate level of self-described religiosity is lower than in Jordan and Egypt (83). Measuring the frequency of religious worship or self-described religious affiliation does little to shed light on the nature and content of religious beliefs that shape the devotees’ attitudes on women and gender relations.

By now, it is clear that public opinion surveys are useful in providing a broad-brush approach to understanding the relationship between Islam and women’s rights. A more systematic and deeper analysis of language, ideas, and meanings is necessary to provide us with an understanding of the processes and mechanisms underlying the relationship between global discourses on women’s rights, transnational Islamist ideas, and gender equality in local contexts.

### **Existing Explanations on Islam and Feminism**

The sociological and anthropological literature on gender and religion has produced extensive scholarship examining the relationship between Islam and feminism

(Abu-Lughod 1998, 2013; Barlas 2002; Brenner 1996; Gole 1996; Mahmood 2005; Rinaldo 2008, 2013; Smith-Hefner 2007; Wadud 1999) Countering political culturalists, these scholars argued that Islam and feminism are compatible. This literature can be broken down into two distinct but interrelated themes: scholarship on Islamic feminism and scholarship focusing on Islamic piety and Muslim women's agency.

A central question posed by scholars of Islamic feminism asks whether we should understand Muslim women's activities centered on advancing women's interests within an Islamic framework as part of feminism's basic goal of achieving equality between women and men (Badran 1999; Cooke 2001; Moghadam 2002; Shahidian 1994). Proponents of Islamic feminism point out that gender discrimination is based on social and cultural values. Muslim women's efforts towards reclaiming the egalitarian and gender-progressive message in the *Quran* and *sunnah* contribute to an Islamic conception of "gender consciousness" (Chafetz 1990)—a condition where women question norms, ideology, and stereotypes that are disadvantageous for them. Proponents of Islamic feminism point towards the deconstruction of masculine Islam by leading Muslim women scholars such as Amina Wadud (1999, 2006), Asma Barlas (2002, 2008), and Ziba Mir Hosseini (1999, 2010). The latter group of scholars has deconstructed prevailing interpretations of *Quran* and *hadith* by seeking to expose the patriarchal underpinnings behind the dominant forms of *Quranic* exegesis and interpretations of *hadith*. They argue that there are gender-sensitive elements inherent in Islamic texts. By adopting various tools of Islamic jurisprudence such as *ijtihad* (independent reasoning) and a focus on *maslahah* (public interest), they argue that prevailing interpretations of the *Quran* and

*hadith* need to be contextualized.<sup>19</sup>

I suggest that the tension between critics and proponents of Islamic feminism lies in their understanding of agency. According to Moghadam (2002), the detractors of Islamic feminism who are skeptical about the successes of Muslim women activists are essentially denying women's agency, that is, if agency is broadly defined as an underlying sense of self and an ability to assess how one's actions impact one's future self-interests (Korteweg 2008; Mc Nay 2000). Skeptics of Islamic feminism, however, understand women's capacity to act as their resistance to forces of domination. In this vein, Muslim women's expressions of individuality and autonomy must be a "consequence of their own will rather than of custom, tradition, or social coercion" (Mahmood 2005, 11). Insofar as women's capacity to act and flourish is not expressed in terms of resistance, critics of Islamic feminism are doubtful as to the presence of agency.

Within the literature on gender and Islam, there is a growing emphasis on understanding how Islamic piety informs the transformation of self. Mahmood's (2005) ground-breaking work on women's piety movements in Egypt began with problematizing the association of freedom with autonomy and of agency with resistance, which are frequently taken for granted. That is, there is a common assumption that to be a free and autonomous agent, one has to resist and subvert patriarchal hegemony. Mahmood argued that this biased conception of autonomy ignores the fact that agency and the capacity for action are a result of locally specific historical trajectories rather than a universal set of norms. As such, liberal theories of freedom are unable to meaningfully evaluate the activism of Muslim women, which appears to reinforce ideas on gender difference and

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<sup>19</sup> In Indonesia, organizations such as Fahmina Institute, Rahima and Alimat can be categorized as Islamic feminist. In Chapter Four and Five, I discuss their roles in shaping discourse and policy on polygamy and gender-based violence. Please see Appendix XX for a brief description of these groups.

gender complementary roles. Mahmood proposes a way to think about agency as “modalities of action” where embodied practices (veiling, modesty in clothes, and behavior) cultivate women’s desire to behave according to Islamic standards of piety. That the cultivation of desires can be achieved through “actions” and “embodied practices” (for example, practicing the virtue of patience by praying) is a crucial element of how women of the mosque movement cope with difficult situations and strive to live life according to a moral code. In that respect, agency does not flow from freedom and its consequent subversion against domination but is contingently produced in direct contact with structures of subordination.

What are the implications of Mahmood’s (2005) understanding of agency for the politics of Muslim women activists? What is considered agentic behavior for Muslim women activists whose moral and ethical beliefs are influenced by distinct normative traditions? I agree with Mahmood’s (2005) conception of agency as that which is produced in direct contact with structures of subordination; however, I depart from her claim that pious actors “are ambivalent about the question of identity... In this sense, it is not toward recognition that the activities of the mosque or the piety movement are oriented but rather toward the retaining of ethical sensibilities so as to create a new social and moral order” (193). I assert that pious actors are navigating multiple identities, and, by doing so, they can ensure that their actions carry broader political implications that can affect public discourse and policy on Islam and women’s rights.

Indonesian scholars have also examined the public aspects of piety movements (Brenner 2005, 2006; van Doorn-Harder 2006, Rinaldo 2010, 2013). In particular, Brenner argued that during Suharto’s authoritarian regime, choosing to veil became a

political statement. Veiling provided pious Muslim women with a platform to challenge political authoritarianism. Doorn- Harder (2006) explained how the Islamic revival in Indonesia had ironically expanded institutional opportunities for pious Muslim women to pursue higher education and benefit from Islamic bureaucratic career opportunities.

Building on Mahmood's seminal work, in *Mobilizing Piety Islam and Feminism in Indonesia*, Rinaldo (2013) examined the relationship between Islamic piety and women's agency in the public sphere. Islamic piety can be conceptualized as foregrounding religious devotion through Islamic norms and practices, such as performing the five daily prayers, avoiding alcohol, consuming only permissible (*halal*) food, and dressing modestly. According to Rinaldo (2013), personal trajectories and social locations shape Muslim women's understandings of equality, Islam, and feminism. Building on Mahmood's (2008) understanding of agency as a retraining of sensibilities, Rinaldo (2013) identified two forms of agency: pious critical and pious activating. Pious activating is shaped by being embedded in a social arena where religious learning sticks closely to a literal and rigid interpretation of Islamic texts whereas pious critical is activated in circles that adopt a contextual and historically specific approach to Islamic doctrine. Rinaldo (2013) argued that these differences in pious practice shape distinct forms of political reform—one that attempts to undermine the patriarchal basis of Islam and another that strives to foster the Islamization of Indonesia.

In this study, I build on Brenner's (1996, 2005), van Doorn-Harder's (2006) and Rinaldo's (2010, 2013) research by conceptualizing the ways in which Muslim women activists engage in the public sphere. I will show how Muslim women activists affiliated to different Islamic institutions reconcile Islamic and rights-based subjectivities, adapt

transnational discourses on women's rights, and moderate extreme Islamic conservative policies. By mobilizing around Islamic and women's rights discourses, Muslim women activists have adopted several discursive approaches to reconciling Islamic family law, Islamic gender roles and obligations, and norms of Islamic modesty with rights-based subjectivities and freedom of sexuality. I will discuss three ways in which they approach these issues: first, by developing an expansive definition of the motherhood trope that encompasses women's rights to determine the terms of their marriage and make decisions that balance family welfare with individual happiness; second, by invoking the husband's responsibility to ensure that a woman's rights are protected; and third, by positioning Islamic ethical principles of social justice and caring for the vulnerable against neoliberal policies that foster consumer culture and lax moral standards. These three discursive approaches are common themes espoused by Muslim women activists from Aisyiyah, Muslimat NU and Fatayat NU when mobilizing for reforms around Islamic marriage law, pushing for a law protecting victims of domestic violence, and challenging aspects of the pornography law that positioned women as primary sources of immorality. Furthermore, by delineating the context in which intermediary actors hold the potential to reconcile conflicting value systems and adapt transnational discourses to suit local contexts, my dissertation contributes to the current literature on gender and Islam in several ways. I offer the first systematic account that explains the processes of cultural translation and illustrates it in three different case studies—one where women's rights were stalled, another where women's rights were successfully adapted for a particular context, and the last case where Islamic conservatism was moderated through rights-based approaches and Islamic ethical principles of social justice. Second, I highlight two factors that affect the

potential of intermediary actors to influence discourse and policy on Islam and women's rights. Together these contributions help produce a more systematic analysis of how Muslim women activists engage in the public sphere.

## **Research Design and Data**

### Case study selection

In this dissertation, I examine discourse and policy related to Islam and women's rights. To identify how and whether discourses pertaining to Islam and women's rights have evolved, I will examine three different types of policy change: one where policy on women's rights was adopted, another where policy based on Islamic conservatism was adopted, and a third policy where feminist and Islamic groups have historically clashed, and, as a result, policy change has been stalled. Because my focus is on understanding how global discourses on women's rights and Islamism are adapted in local contexts, I will trace the discourses related to these three types of policy changes. In order to understand how distinct discursive and institutional contexts affect the potential of intermediary actors to shape policy and discourse on gender and Islam, I chose three different policies, which vary in terms of discursive power and institutional power.

In the first case study I examine discourse and policies related to Islamic marriage law. Islamic institutions, in particular, the Ministry of Religious Affairs has historically controlled Islamic marriage law. Yet, Muslim women activists' critical perspectives on controversial issues like polygamy have defied other scholars' expectations that Muslim women activists' decisions are controlled by their parent organizations (Feillard 1999). This case study is an example of how discourse related to Islamic marriage law has

evolved and policy related to Islamic marriage law was contested by Muslim women's organizations despite Islamic institutions' control over the domain of marriage law.

The second case study, which follows changes in discourse and the eventual passage of a law on gender-based violence, challenges conventional wisdom. Even though there was strong resistance by Islamic religious leaders in the early 1990s towards women crisis centers, discourse as espoused by Islamic institutions (Muhammadiyah and NU) eventually evolved in terms of acknowledging the occurrence of gender-based violence in the domestic domain. What explains these changes? More importantly, how were seemingly conflicting value systems, one that prioritizes women's autonomy and rights and the other that emphasizes wifely obedience and family unity, reconciled? As I will demonstrate in Chapter Six, the second case study provides an excellent opportunity to understand how a western-centered model of gender-based violence was adapted to suit the structural, legal, and cultural context of Indonesia.

The third case study challenges conventional expectations in the context of the Islamic resurgence in Indonesia and the legislation of local regulations influenced by Islamic law (Bush 2011). This case study reveals that instead of Islamic organizations unanimously supporting a law that targeted women's bodies as sources of pornography, there was contention between several Muslim women activists, and Islamic institutions and political parties over several aspects of the bill. This case study examines how several Muslim women activists together with secular feminists were able to moderate hardline aspects of bill inspired by Islamic standards of morality.

## Methods

In order to understand how discourses related to these policy changes across time and across groups, I gathered and analyzed my data in three ways: first, through tracing archival material and secondary sources; second, through discourse analysis of religious edicts (*fatāwā*), parliamentary transcripts, organizations' policy statements, and organizational magazines; third, through semi-structured and structured interviews of Muslim women activists, Islamic institutional elites, national-level legislators, and women activists from secular women's groups. Process tracing was undertaken to identify the actors, their dilemmas, and decisions they undertook, the alliances they formed, and the general choices that they made to determine events and outcomes (Bates et al. 1998, 13). Discourse analysis of a variety of material, which will be detailed below, was pivotal in elucidating the arguments, reasoning, rhetoric, and frames adopted by different actors. My aim was to examine how some arguments and frames were more resonant than others and, as such, I relied on official minutes of parliamentary transcripts in understanding how certain frames were more popular than others. Finally, interviews with principal informants from different groups were key in triangulating the data from several sources. While process tracing provided me with a general picture of actors and timeline pertaining to policy changes, and discourse analysis allowed me to interrogate the argument, logic, and frames adopted by actors, interviews enabled me to verify the information and data generated in the earlier processes. Below I provide a more detailed description of each process and the sources I relied on.

**Process tracing.** Process tracing was performed by triangulating the data obtained through secondary historical accounts (with insider knowledge) and archival material

with the historical accounts of Indonesian Islam and women's movement in Indonesia. For the history of Indonesian Islam and the Ministry of Religion, I relied on works by M.C. Ricklefs (2001), Takashi Shiraishi (1990), Deliar Noer (1963, 2009), and Daniel Lev (1972). I also drew on the works of Herbert Feith (1962), William Hefner (2000), Greg Barton (1996), and Fealy (1998) to understand the role of the state and key politicians in the period from 1950s to 1970s. This insight enabled me to develop an understanding of the political dynamics between the government and different Islamic parties as they wrestled for control over different parts of the government.

I relied on the works of Locher-Scholten (2000), Elizabeth Martyn (2008), Susan Blackburn (2004), Cora Vreede-De Stuers (1960), and Saskia Wieringa (2002) for the history of Indonesian women's movement. In Chapter Five, where I compare attitudes on polygamy in the 1950s and presently, I relied on several secondary historical accounts with insider knowledge and access to sources, in particular, Nani Suwondo's *The Status of Women in Indonesian Law and Society* (1981). Focusing on the period during colonial rule and Indonesia's initial phase of parliamentary democracy, Scholten (2000), Martyn (2008) and Vreede-De Stuers (1960) interrogated the contention surrounding the codification of Indonesian marriage law. To understand the perspectives of Muslim women's organizations, I relied less on the three latter accounts. While these accounts provide a thorough historical background on the debates on national marriage law, they are limited because they subsumed Muslim women's activists' behavior under ideological motives and interests of Islamic institutions. Nonetheless, these books were informative in fleshing out the main points of contention between Islamic institutions and secular women's groups over marriage law.

I obtained archival material dating from 1950s to the present from Muslim women's organizations and the national archives of Nahdlatul Ulama and Muhammadiyah. I also visited the Indonesian National Library to obtain archival material on the Indonesian Women's Congress which provided me with coverage from the 1950s onwards; those materials were necessary in my analysis of marriage law debates. For Aisyiyah, both *Suara Aisyiyah*, Aisyiyah's flagship magazine published monthly since 1926, and *Suara Muhammadiyah*, as well as notes from national meetings (*Muktamar* and *Rakernas*) enabled me to trace the patterns of evolving attitudes in Muslim women's organization and Islamic institution. Unlike Aisyiyah and Muhammadiyah, archival material on NU and Muslimat NU is patchy, not as systematically kept, and less of their archival material has survived. I managed to retrieve several editions of NU's newspaper *Berita Nahdlatul Ulama* and Muslimat NU's magazine *Gema Muslimat NU* while at the Nahdlatul Ulama Library. However, most of my analysis on Muslimat NU emerged from the notes the organization compiled at their national level meetings (*Muktamar*) and pre-national level meetings (*Rakernas*). To fill in the gaps for earlier periods of analysis regarding Muslimat NU's and NU's behavior, I have had to rely on several secondary sources, in particular, those by Robin Bush (2009), Greg Fealy (1998), Suzaina Kadir (1999), and Van Doorn-Harder (2006).

**Discourse Analysis.** Discourse analysis was conducted on religious edicts (*fatāwā*) produced by both Muhammadiyah and Nahdltual Ulama. These religious edicts were relatively easier to obtain compared to other organizational material. This is because local Indonesian and foreign scholars as well as Muslims in Indonesia refer to these edicts as

standard guides of behavior. In early 2000, both Muslimat NU and Aisyiyah convened independent sessions to discuss Islamic legal opinions (known as *Bahstul Masail* in the NU community and *Majlis Tarjih* in the Muhammadiyah community). While these sessions did not result in issuing religious edicts, the compilation of notes obtained from these sessions reflects how Muslim women leaders and elites in these organizations employ their authentic understanding of Islamic doctrine (Quranic exegesis, *hadith* and *sunnah*) in ways that are distinct from Islamic institutions.

I have used the notes compiled by Muslim women activists from these meetings for two theoretical reasons. First, these notes enabled me to discern and verify the reasoning, argumentation, and, in some cases, different conclusions and rhetorical strategies Muslim women's organizations employ that are distinct from Islamic institutions. In some cases differences are not evident, for example, the debates on the anti-pornography bill. However, for other cases such as the issues of polygamy and domestic violence, there are clear differences in the types of Quranic verses and *hadith* that are employed as textual evidence. Second, by referring to Islamic institutions' religious edicts on women in the early period from 1920s to 1990s (before Muslim women's organization convened autonomous sessions to discuss legal opinions), I was able to discern the extent to which Islamic institutions had factored in the perspectives (if at all) of Muslim women's organizations. Third, an analysis of Islamic institutions' religious edicts enabled me to trace the degree to which these institutions deviated from strictly traditional or modernist interpretation of Islam.

I also collected parliamentary transcripts relating to recent bills such as the 2004 Anti-Domestic Violence Law, the 2008 Pornography Law, the 2007 Anti-Trafficking

Law, and the 2009 Health Law (the two latter laws are not examined in this dissertation). These transcripts were attained through various bureaucratic procedures at the Indonesian National Parliament (DPR). While some of the parliamentary transcripts were readily available at the library, others, such as the 2008 Pornography Law and the 2009 Health Law, required several “persistent” visits on the researcher’s part. These transcripts were useful in several ways. First, they enabled me to verify the perspectives of different groups I attained through secondary sources and interviews. Because the transcripts were verbatim, they were useful in understanding the roles certain gatekeepers played (the chair of the committee or *pansus*) in censoring individuals by cutting them in mid-sentence or not allowing them to interject to make a comment. Third, the transcript gave me insight into how actors employed different uses of words and phrase choices, and the biases and misunderstandings that accompanied their perspectives. Finally, access to the verbatim transcripts enabled me to identify issues that were extremely controversial and trace the development of those issues in the bill and, subsequently, the consequences of those issues as reflected in social media.

Organizational materials such as policy statements were used to verify the organizations’ perspectives and policy stance. Policy statements usually consisted of one-page documents elaborating an organization’s policy prescription that would have already been made apparent in national level meetings and discussions. Apart from indicating the organization’s policy stance, these statements are usually released to signal Muslim women’s organizations’ support for Islamic institutions.

Finally, I relied on organizational magazines for coverage of the contemporary period from the 1990s to the present. These were comprised of Aisyiyah’s *Suara*

*Aisyiyah*, Muhammadiyah's *Suara Muhammadiyah*, Fatayat's flagship magazine *Suara Fatayat*, Fatayat NU's Welfare Foundation (YKF) newsletter *Newsletter Kespro*, and Hizbut Tahrir's primary magazine *Al-Wa'ie* and national level meeting (*muktamar*) notes in 2010. Discourse analysis was performed with attention to several issues: first, identifying the motivation and moral reasons behind the provision of services such as healthcare, education, women's empowerment, and women's rights, and how these discourses have evolved over the years; second, examining how the discourses on motherhood and women's family roles have evolved over time; third, examining the discussion and argumentation against or for specific policy issues; fourth, discerning the similarities or differences in the reasoning, moral arguments, and references to Islamic doctrine between Muslim women's organizations and Islamic institutions on specific policy issues.

*Suara Fatayat* and *Newsletter Kespro* were particularly helpful in identifying and verifying the organizations' perspectives on women's issues. These magazines are printed on glossy attractive paper with fairly eye-grabbing headlines. They are disseminated to Fatayat NU members throughout Indonesia and act as a platform to discuss alternative views. Aside from interviews (elaborated below), I also relied on case documentation notes compiled by Fatayat NU's Institute for Counseling and Women's Empowerment (LKP2). These notes are presented in a question and answer format documenting the actual plethora of cases received at Fatayat NU's LKP2. The cases range from issues such as sexual conduct between husband and wives to different forms of domestic violence and women seeking advice on pregnancy termination. In most issues, the argumentation, moral reasoning, and references to Islamic doctrine stated in

*Suara Fatayat* and *Newsletter Kespro* mirror the actual advice given to women at LKP2 centers (as reflected in the documentation notes). On other occasions, they differ. These documents provided me with initial (pre-interview) information to parse out and verify (through interviews) the context and conditions under which Fatayat NU would advocate for change and challenge the traditional interpretation of Islamic doctrine.

**Semi-structured and unstructured interviews.** My sample of interview informants consisted of several groups: Muslim women activists from the four organizations (Aisyiyah, Muslimat NU, Fatayat NU, Muslimah Hizbut Tahrir), Islamic elites from the three Islamic institutions (NU, Muhammadiyah and Hizbut Tahrir), independent feminist and feminist NGO activists, activists from Islamic NGOs, parliamentarians involved in the bills of interest, and legal drafters of those bills (see Interview list).

The informants from Muslim women's organizations included national and provincial level representatives located in Jakarta and Yogyakarta. I specifically requested to interview members from different divisions (*majlis for* Aisyiyah or *bidang* for Muslimat NU and Fatayat NU), in particular, the proselytizing (*dakwah*), social welfare, health, law, and human rights divisions. I also interviewed Muslim women activists from Aisyiyah who were members of Muhammadiyah's Committee for Religious Problem Solving (*Majlis Tarjih*). I managed to interview one activist from Muslimat NU who was involved in several autonomously convened forums to discuss Islamic legal opinions (*Bahstul Masail*). Islamic elite members from NU and Muhammadiyah I spoke to included religious scholars in the *Majlis Syurah* (law-making body). These interviews enabled me to clarify any questions I had regarding organizational structure and clarify the members' perspectives within the organizations.

Individual level perspectives as a whole enabled me to gain a clearer picture of the motivations, conflicts, and forms of reconciliation members adopt in support of or against particular controversial policies such as abortion, polygamy, gender-based violence, and the pornography bill. These interviews would usually range from an hour to ninety minutes. I had repeat interviews with particular activists who appeared very interested in my project. The second interview offered me opportunities to ask more direct question and often receive quite candid and honest remarks.

As Hizbut Tahrir is a fairly closed and very disciplined organization, I only managed to interview a couple of women members who were chosen by the senior leadership. I also interviewed the spokesperson (*jubir*) of the women's wing. These interviews enabled me to further interrogate the logic behind Hizbut Tahrir's stance on social and political issues, including their repudiation of women's rights.

I also interviewed activists from several feminist organizations such as Kalyanamitra (one of the oldest feminist organizations in Indonesia), Foundation of Legal Aid for Women (LBH APIK), and the organization that pioneered Indonesia's first women's crisis center, Rifka Annisa. I also spoke with Islamic activists from the NU community who had formed Islamic NGOs such as P3M and Forum Kitab Kuning. These NGOs emerged and flourished in the post-independence period. While P3M is currently defunct, several of its pioneer members having broken away to form Fahmina, a progressive Islamic educational and advocacy institute, Forum Kitab Kuning is still up and running. The wife of the late former President Abdurrahman Wahid, Sinta Nuriyah chairs forum Kitab Kuning. These interviews were important to gather evidence identifying how relationships between Muslim women's organizations, feminists, and

Islamic NGOs were formed, and to determine the issue areas where there was collaboration and the types of collaborative efforts.

Interviews with parliamentarians were important to confirm the contentious aspects of bills and to ascertain the groups of people the committee (*pansus*) approached to gather consensus on controversial issues. The interviews with feminist activists from the Foundation of Legal Aid for Women (LBH APIK) were used to verify the information obtained from parliamentarians, as activists from LBH APIK monitored closely the development and debates of women-related bills. Information attained through interviews with legal drafters allowed me to identify how particular word choices carried symbolic meaning and cultural baggage and became the subject of contention between different groups.

All these interviews were conducted in Indonesian and were transcribed and translated into English by me. Finally, several of the insights I obtained were from informal chat sessions and through bonds of friendship I formed with Muslim women from Aisyiyah, Muslimat NU, and Fatayat NU. These women met with me more than once in my repeated visits to Indonesia, once in 2009 and later throughout my twelve months of fieldwork between late 2011 to late 2012. I was also fortunate to have stayed in my informants' house during my time in Jogjakarta, where I was privy to different facets of her life as a professor at the University Muhammadiyah, an activist for Aisyiyah, leading the organization's Research and Development Institute, and a mother of two teenage children.

## Looking Ahead

This dissertation is divided into three parts. The first part introduces the theoretical framework, the second part establishes the background and history, and the third part discusses the empirics and applies the theoretical framework.

In this chapter, I have started the task of outlining the theoretical framework to examine how global discourse on women's rights and Islamic conservatism have been adapted in local context. In Chapter Two, I extend the theoretical framework by discussing the literature on transnational feminism and the international literature on global norms diffusion. Building on the anthropological literature on cultural translation, I will underline this dissertations' contribution to the literature on transnational feminism by highlighting the role of intermediary actors in shaping discourse and policy related to gender and Islam.

Chapters Three and Four include a detailed history of the Indonesian women's movement and Muslim women's organizations from the 1920s to 2000 against the backdrop of state-religious relations. In the chapters, I will identify the main players, including Muslim women's organizations, their affiliated Islamic institutions, as well as feminist and Islamic NGOs. By focusing on the history of interactions and linkages between Muslim women's organizations and the women's movement in Indonesia, as well as the development of conservative Islam, I will expand on the ways in which feminist, Islamic, and nationalist discourses as it relates to gender and sexuality have overlapped and clashed.

Chapter Five will compare Muslim women activists' perspectives on polygamy between the 1950s and the present. This juxtaposition will show how shifts in subjectivity

towards a rights perspective have enabled Muslim women activists to adopt a critical interpretation of Quranic verses on polygamy. In the next section of Chapter Five, I will examine the impact of the monopolization of discourse and the concentration of institutional power by Islamic institutions and what these mean for reforms in Islamic marriage law. In Chapter Six I will detail the processes of cultural translation where women's rights were adapted to suit the particularities of the Indonesian context. Subsequently, in Chapter Seven, I will examine how discourse and policy based on conservative and hardline standards of Islamic morality were moderated through collaboration between secular women activists and several Muslim women activists from Aisyiyah, Muslimat NU, and Fatayat NU. Chapter Eight ends with some concluding thoughts on how the processes of cultural translation in Indonesia can be applied to other Muslim majority countries, in particular Morocco and Egypt.

In this study, *Contextualizing the Global and Remaking the Local: Islam and Women's Rights in Indonesia*, I combine a multi-method strategy and three distinct case studies to explain the mutual construction of global and local ideas, discourse and legal frameworks on gender equality. This dissertation focuses on the ideas, reasoning, frames and argumentation—the discourse—adopted by elite state actors, Islamic institutions, and Islamic and secular women's rights groups around three policy changes to explain how shared ideas on Islam and women's rights are produced, repurposed, and refashioned.

## Chapter Two

### Remaking Human Rights and Islamic Conservatism

The global production of ideas and resolutions related to women's rights and social justice is often assumed to originate from Western countries. Within the discourse of human rights activism, local traditions and practices are often perceived as sources of problems and obstacles to women's empowerment (Bunch 1997 in Merry 2006b, 12). In the past three decades there has been a dominant trend in the evolution of women's movements across countries in the Middle East, Latin America and Southeast Asia. Given the influx of foreign funding and a steady rise of non-governmental organizations (NGOs), we have witnessed the flourishing of NGOs dealing with aspects of women's lives such as health, income generation, rights advocacy, and political and legal literacy (Alvarez 1997, 1998, 2000; Hadiwinata 2003; Jad 2004). While it is possible for NGOs to have independent agency, the heterogeneity of funding sources can shape an NGO's agenda. When NGOs receive international funding, their engagement is often conditional on certain objectives and demands made by donor countries from economically developed countries in the Western hemisphere. (Hadiwinata 2003, 16). For example, village and religious leaders maybe resistant to aspects of economic and political programs introduced by foreign funded NGOs that trigger changes in gender and family relations. In the same vein, other scholars have also described how NGOs are perceived as vehicles exporting notions of "modernization", "democratization" and "individualism" against the backdrop of expanding neo-liberal economic reforms (Hann and Dunn 2004; Hanafi and Tabar 2002).

On the opposite end of cautious estimations by scholars regarding possible repercussions of international human rights diffusion, a number of studies have measured the positive impact brought about by international ideas and resolutions on women's rights. In a comparative study of 160 states Sweeney (2004) finds that a government's respect for women's economic, social and political rights is directly linked to democracy, political secularism and the internationalization of human rights norms. In the same vein, Simmons (2009) demonstrates that the ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) has had a positive effect on many governments' commitment to promoting gender equality in education and providing access to modern forms of birth control (212-230). Similarly, based on a data set of 180 countries, Gray, Kittilson and Sandholtz's (2006) found a positive correlation between CEDAW ratification and women's status measured in terms of female life expectancy, female literacy rate, female share in labor force and percentage of women in parliament. Gray, Kittilson and Sandholtz (2006) preface their findings by admitting that there is evidence of "indirect path connections...between women's level of literacy, labor force participation and representation in parliament" (321). Thus, this suggests that while CEDAW ratification may be the most consistently important factor affecting women's status, there are other dynamics at play in each domestic success story.

Although large-sample statistical studies have shown that there is a general positive association between the international regime of women's rights and outcomes on women's empowerment, we still lack an understanding of the most relevant factors, the strategies of local rights advocates and their opponents, and the role of the state in affecting women's status. Our failure to understand how discourses on women's rights

are adapted, applied and have evolved in local settings, including how universal rights activism presents opportunities and limitations for local women's activism, speaks to the cautious approach of rights opponents and scholars that I presented earlier. Contrary to macro-statistical approaches, it is the intention of this study to specify the actors and the concrete mechanisms explaining the impact of global women's activism on local women's rights.

The resurgence of various forms of religious fundamentalism in different parts of the world and the revitalization of religion in the public sphere since the 1980s (Juergensmeyer 2003), including the political openings of Muslim majority countries, have had profound implications on norms related to gender and sexuality. While we are witnessing a proliferation of civil society organizations mobilizing around universal ideas and resolutions on rights and justice, at the same time, several studies have stressed the crucial role of religion in providing the ideological basis for collective action (Brenner 1996, Casanova 1994, Deeb 2006). The complex interplay between rights and religious activism is even more perplexing when we consider how presently, 187 out of 194 countries<sup>20</sup> have ratified CEDAW.

Several scholars have pointed out that when global norms are disconnected with local normative contexts, they would either be delegitimized, (Foley 2004) or global norm implementation will carry unintended outcomes (Friedman 1999, Alvarez 2000). At the same time, another group of recent studies have shown how local women's movements have successfully adapted rights discourse to suit local contexts. Kamrani's

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<sup>20</sup> Fast Facts about CEDAW. <http://www.womenstreaty.org/index.php/press-room/fast-facts-about-cedaw>. Accessed: 17 March 2016.

(2007) study on women's organizations in Malaysia demonstrates that women activists have consciously resisted the uncritical application of women's rights ideas. However, by rejecting communitarian and patriarchal models of family relations, these activists have in fact refashioned the notion of rights and equality in a couple of ways: first, they interrogate a more critical understanding of context-relevant women's rights and second, they develop a discourse examining the construction of patriarchal hegemonies in local settings. In the same vein, Sharafeldin's (2015) doctoral research on NGO reforms of the Egyptian family law reveals how NGOs adapt international women's rights documents to mediate Islamic legal traditions stipulating male guardianship and authority (Sharafeldin 2015). Her study emphasizes that rights-based NGOs working in normatively distinct settings seek philosophical compromises while seeking inspiration from international women's rights documents such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

These scholars have presented evidence of local case studies that demonstrate several trends in which transnational feminism has affected local women's movements. First, the emancipation of women has received influence from multiple directions and is not, as is commonly assumed, a product of Western countries (Tripp 2006, 51). Second, local women's movements are not subsumed by global ones or engaged in sustained resistance to global influences (Basu 2000, 69). Third, there is a degree of local consensus on women's emancipation that has evolved quite independently from global trajectories (Basu 2000, 69; Tripp 2006, 52). Both Tripp (2006, 54) and Basu (2000, 77) point towards the shaping of local consensus on women's rights, discourse on gender relations and strategies for policy advocacy that have emerged as a result of national

political, economic and cultural trends. In other words, while local women's movements have been inspired by ideas on social justice and equality emerging from international forums and benefited from transnational networks, the development of local women's movements in the global South have generally been organic and local.

My dissertation contributes to this strand of scholarship by arguing that *local discourse and policy on gender relations and women's rights in Indonesia have been influenced and have been inspired by global women's activism, but, at the same time, Indonesian women activists have utilized discursive rhetoric and logic, legal frameworks and strategic resources that appeal to local cultural, religious and nationalistic trends*. In particular, I highlight the role of Muslim women activists as intermediary actors, in the "middle" of Islamic and women's rights activism and discourses. I draw on anthropological literature on cultural translation and vernacularization (Merry 2006a, 2006b) to show how Muslim women activists move between discourses of Islam and women's rights to adapt and contextualize ideas on human rights.

I also apply the concept of transversal politics (Yuval-Davis 2006), to examine how people in different social positions and with different values develop shared meanings and ideas on women's rights and gender equality. "Transversalism" refers to an approach that refutes a universalistic, ethno and Western centric construction of women's rights and feminist solidarity. At the same time, the concept developed as a reaction to identity politics that assumed any members of any social category can speak for all members within that group. By collapsing individual identities into multiple collective groups, the identity politics approach proved not only to be exclusionary, but reified stereotypes and assumptions about marginal identities. Hence, a transversal politics

approach envisions the “construction of a radical political group as a collective subject in which there is constant flow of communication both horizontally and vertically” (Yuval-Davis 2006, 281). Applying the concept of “transversal politics” to the Indonesia case enables us to see how as “translators” of women’s rights, Muslim women activists are also engaging in “transversalism”. By deliberating over issues such as wifely beatings, marital rape, and female sexual freedom with secular women’s rights activist, religious elites and the government, Muslim women activists have political agency to challenge authoritative religious discourses and gendered power relations and, in turn, affect policy related to Islam and women’s rights.

In the following section, I discuss the literature on transnational feminism. I suggest that the literature is abundant with scholarship that rejects a unifying feminist framework and a Western-centric approach to addressing global women’s concerns and issues. At the same time, I elaborate on studies demonstrating influences of local women’s movement on global women’s activism. These studies illustrate the shift away from the global North’s dominance on the international regime of women’s rights. The second part of the chapter argues that by drawing on the anthropological literature on cultural translation (Merry 2006a, 2006b) and by applying the concept of “transversal politics” (Yuval-Davis, 2006) we are able to see how local consensus on women’s rights is produced through a process of mutual construction between the local and global. Finally, to understand the conditions under which Muslim women activists are able to shape discourse and policy on Islam and women’s rights, I examine a set of factors that influence the different ways activists are able to influence discourse and policies

regarding Islamic marriage law, gender-based violence and female sexual freedom (e.g., the pornography law).

### **Transnational Feminism**

The literature on transnational feminism developed in response to two parallel phenomena: first, the global diffusion of feminist ideas, the transnational spread of women's advocacy networks and multilateral resolutions on ideas of social justice and equality; second, the recognition that feminist or women's organizations in different contexts confront unique issues that can neither be subsumed nor be directly addressed by global feminist strategies. The concept of transnationalism feminism debunks ideas that presuppose a simplistic one way global-local cause and effect, which arose from a homogenized understanding of "first world"/ "developed" and "third world/ "developing" divides (Grewal and Kaplan 1994). The main thrust behind such an approach is premised on an understanding of the world as a "world-system." Widely associated with the writings of Immanuel Wallerstein, the world-system theory adopts a macro understanding of social change and conflict where the world-system is the primary unit of analysis. "World-system" then refers to countries at the "core," "periphery," and "semi-periphery". The center-periphery model has been critiqued for reifying the views that groups are monolithic and are not multiply constituted. For example, binary oppositions cannot account for the marginalization and oppressions that poor people and women experienced in core countries. According to Grewal and Kaplan (1994), feminist theory and world systems theory have fallen into a "kind of relativism" – where entities are measured according to a universal scale ranging from superior to inferior, or progressive to

regressive (11). Eschewing such dichotomy, Grewal and Kaplan (1994) call for understanding transnational flow by focusing on what it *does*, as opposed to what it *is*.

Grewal and Kaplan (1994) discuss three ways to debunk ideas portraying global-local divisions as monolithic formations. First, it is important to recognize that local subjects are not “passive receptacles” who “mechanically reproduce norms, values and signs of transnational power” (Matterlart in Grewal and Kaplan 1994, 13). In fact, Matterlart (1994) argues that there is a need to understand how local feminist movements may engender discourse and praxis that resist or co-opt modernity. Second, by acknowledging the agency of local subjects, it is necessary to discern the production and reception of diverse forms of feminism as well as delineate how crucial key terms and concepts circulate (Grewal and Kaplan 1994, 2). These terms, they suggest, may get co-opted and “disciplined” by political agendas or they also contain the possibilities of critical use by opposition actors (2). Finally, rejecting dichotomous and monolithic formation of the center-periphery necessitates an understanding of multiple peripheries and “scattered hegemonies” (7). In other words, feminist scholars have to understand the “historicized particularity” of women’s relationship to multiple patriarchies within the context of global/social/cultural/economic forces. There is an imperative need, Grewal and Kaplan (1994) argue, to trace the historical and temporal specificity that has shaped power relations and the relationship of gender to scattered hegemonies. To do so, “feminists must question the narratives in which they are embedded, including but not limiting ourselves to the master narratives of mainstream feminism” (18). These conceptual approaches attempt to circumvent the dichotomies and, in turn, the essentialized understanding of global-local flows.

Several scholars have shown how global principles may be applied in ways that wittingly or unwittingly lead to the oppression and exploitation of many women. These scholars demonstrate that a universalistic rights-based solution inspired by neo-liberal economic principles can run counterproductive to poor women and marginal groups. At the same time Western activists' strategies to critique neo-liberal economic and trade policies might not translate so smoothly when applied in different contexts. For example, Lanyan Chen (2015) convincingly demonstrates how the Chinese government's adoption of neoliberal principles and the state's use of power to protect capital over the rights of labor have resulted in the systemic erosion of rights and subjugation of industrial women workers, migrant women workers, and rural women to the state's growth-oriented agenda (Chen 2015, 579). Examining economically marginal rural women's struggle for sustainable livelihood in India, Krishna (2015) argues that while the narrative of "tree hugging women" may have informed transnational feminist discourses, it has done little to improve women's ecological resource base or change oppressive traditional patriarchal structures (Krishna 2015, 837). In *Second Wave Neoliberalism*, Christina Ewig also illustrates how the Peruvian state's family planning program based on "rights-based principles" ironically ended up exploiting and harming poor, indigenous women through a massive sterilization campaign. Although this program was championed by urban feminists, in practice, it was applied to perpetuate policies on population control to the detriment of women's reproductive rights (Ewig 2010, 26). In sum, these scholars problematize the assumption that there exists a universal understanding of human right norms and practices that undercut patriarchal relations and institutions in different settings. Moreover, by showing how global and transnational ideas and practices

promoting women's rights have either been non-significant or detrimental to certain groups of women, these scholars eschew the monolithic view of the superiority of "core" countries over the "periphery."

Another group of scholars has demonstrated how a unifying feminist framework for action undermines local struggles, power dynamics and intersectional identities. These local particularities necessitate addressing women's issues and developing policies that do not necessarily correspond to trends emerging from dissimilar contexts. For example, Maityaree Mukhopadhyay (2004, 2014) warns against an overly rosy depiction of transnational feminist organizing. Her critique of current trajectories of transnational feminist movements lies in her analysis of global policy arenas as a homogenizing space that defines women's needs and interests to the extent that there is a "derecognition of the local and context-specific struggles around women's rights and the erasure of the structural and redistributive issues that lead to the denial of rights" (2014, 607). Similarly, Carty and Mohanty (2015) interviewed feminists from the North and South to highlight similarities and differences experienced by feminists in confronting neoliberal policies by states in both the global North and South. Their study examined how structural adjustment policies were detrimental to women's lives across race, class, sexuality, and ethnic divides. While their study drew some commonalities between the experiences of women from the global North and South, it also problematized the complexity of transnational feminist alliance building and the creation of solidarities across political, racial, and cultural divides. In several articles, Alvarez has illustrated how Latin American women's movements are becoming more bureaucratized as a result of working more closely with foreign NGOs, political parties, and state institutions.

Bureaucratization, in Alvarez's view, means focusing "almost exclusively on policy-centered activism, to the actual or potential neglect of the symbolic, ludic-cultural dimensions of feminism" (Alvarez 2000, 55). Alvarez cautions us against particular types of what she terms, "transnational feminist logic" – that which describes how local movement actors pursue international linkages (31). In her view, bottom-up, intraregional activists' exchanges inspired by an identity-solidarity logic has fostered debate and promoted networking amongst feminist in the region (38), even while the direct effect on policy has been negligible (39). The second type of logic she describes is spurred by the NGO forums in the 1990s, that has driven intraregional feminist networks to create policy focused networks and regional advocacy coalitions (43). According to Alvarez the policy- and advocacy-focused transnationalist networks among Latin American feminists are largely guided by pragmatic, policy-driven objectives. This advocacy-focused logic results in watered-down versions of policy that ignores gendered power relations central to women's rights and feminist demands (53). In sum, Alvarez points to the opportunities and drawbacks of transnational feminist organizing. In particular, she suggests that local policymaking inspired by regional policy and advocacy coalitions tend to produce outcomes that accommodate instead of challenge cultural expectations of gender and family relations. The research emerging from these scholars suggests that a "one size fits all" solution is both ineffective and counterproductive to promoting women's empowerment.

Thus far, I have elaborated on studies that are cautious and critical of the direct application of universalist rights-based approaches and policies in dissimilar contexts. These scholarly reservations bring to light an important question that Basu (2000) calls to

our attention: Should we be optimistic or cautious about the effects of transnational feminist organizing? Basu's inquiry speaks right to the heart of the question posed in this dissertation: How has the global discourse on women's rights affected gender equality in Indonesia? Have transnational discourses on women's rights contributed positively or negatively to the Indonesian women's movement and efforts to overcome cultural, religious, and political discrimination against women? The answer, according to Basu (2000), is complex, and varied (69). It is "inaccurate to depict local women's movements as being subsumed by global ones or as engaging in sustained, overt resistance to global influences" (69). Rather, she argues, "what prevails is a more complex and varied situation in which local and transnational movements often exist independently of one another and experience similar challenges and dilemmas" (70). Basu's arguments resonate with Grewal and Kaplan's (1994) repudiation of discourse based in monolithic binaries such as a "global/local" (11), "first-world/third-world" (14), and "colonial/postcolonial" (15).

Egyptian feminist Nawal El Saadawi popularized the term "glocal" to describe how it is not possible to separate global and local struggles. "Glocal" refers to issues and phenomena where the local and global converge. It describes how transnational feminist movements often work simultaneously at the global and local levels. Following the "glocal" scholarship a group of scholars have further illustrated the intersection between the global and local with respect to transnational feminist movements coalescing around global policy change arenas. For example, violence against women and gender-based violence have an important genealogy within transnational feminism. Dairiam (2015) traces feminist mobilization of the United Nations system, culminating in the adoption of

the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) at the UN First World Conference on Women in Mexico in 1975. She explains that the framing of the convention drew on contemporary feminist scholarship, knowledge, and theory from the global North and South in the areas of political and public life, education, employment, health, rural women, law, marriage, and family life (367). In the same vein, Tinker (2015) shows how the UN agenda related to women's rights and gender equality – women and development (WAD), gender and development (GAD), and gender mainstreaming – has evolved in response to critiques by feminists in the global South (201).

Tripp's (2006) study on the changing influences and discourse of transnational feminist activism from the 1880s to the twenty-first century empirically demonstrates how ideas on women's emancipation have had influences from multiple directions. Local feminist and women's movements may have benefited from the political opportunity structure afforded by transnationalist networks, but ultimately they have adopted strategies and resources that have been independent from one another. Tripp (2006) emphasized that starting from the suffrage movement in 1880s to the fight to secure independence from colonizers and improve women's status in the mid 1940s, local women's movements have drawn on universal and transnational feminist aspirations. However, "the forms the movements took were shaped by national events" (56) and did not necessarily correspond to Western trends. Her study also traces the shift away from a Northern-dominated agenda for global feminism beginning in the UN Mexico Conference in 1975 (61). The inclusion of development issues as women's concerns, the creation of transnationalist networks such as Development Alternatives with Women for

a New Era (DAWN) and Women Living Under Muslim Laws, and the establishment of transnational networks formed around violence beginning as early as 1974 marked the pivot towards a global feminist agenda influenced by the South. The mutual construction and influence of feminist concerns from the North and South was reflected during the 1995 UN Beijing conference. The conference was focused around advocacy and policy approaches that emphasized the development of socio-economic and political structures to promote equality, sustainable human development and social justice (63).

In sum, Dairiam (2015), Tinker (2015) and Tripp (2006) argue that, regardless of the common assumptions that rights-based principles, and international resolutions on social justice and equality have emerged from homogenizing spaces, the influences from the global South and local women's movements have, in fact, been integrated into the international regime of women's rights since at least the last two decades (Tripp 2006, 64).

### **Transversal Politics**

Transversal politics (Yuval-Davis 2006) describes an alternative conceptual paradigm that could resolve the tension within global feminist activism that commonly adopts one of two approaches: first, a universalistic solution that assumes a Western-centric view (as demonstrated in large sample case studies that conclude global norms and institutions positively impacts the quality of life and status of women) or, alternatively, an identity politics paradigm that refutes a unifying feminist framework for perpetuating an essentialist view of the discriminated women. However, by collapsing individual identities into fragmented and multiple "representative" voices, the identity

politics paradigm is guilty of reifying boundaries and homogenizing identities within a political group (Yuval-Davis 2006, 281). In the context of our discussion, transversal politics, which is premised on the recognition that from each positioning the world is seen differently, it is imperative for people within different collectivities or social categories to communicate with one another to transcend boundaries. However, as Nira Yuval-Davis points out, it is challenging to transcend the “binary divisions of those who are in different positionings in the dialogue” (Yuval-Davis 2006, 284). In her view, identity creation requires “active imaginings” which, when they are established and “rooted,” are tricky to “shift.” According to Yuval-Davis, this “shift” – that is, the ability to position oneself in the situation of those with whom one is in dialogue – is possible, when different participants share compatible value systems that can cut across differences in positioning and identities (Yuval-Davis 2006, 284). Yuval-Davis cites the work of Alison Assiter (1996) who employs the conceptual framework of epistemological communities to illustrate how people of diverse social and political groupings may learn notions of right and wrong and share certain fundamental interests and beliefs (Yuval-Davis 2006, 285). Members of epistemological communities are able to shift beyond and transcend common historical and material boundaries and forge towards common values, points of meaning, and principles.

Yuval-Davis’ essay ends with a thought-provoking question: How are such transversal epistemological communities created? She concludes by suggesting that transversal politics “is not only a dialogue in which two or more partners are negotiating a common political position, but is a process in which all the participants are mutually reconstructing themselves and the others engaged with them in it” (286). Yuval-Davis’

concluding remark is an excellent point that brings us to the heart of the argument made in this dissertation. By showing how Indonesian feminist groups, Muslim women's organizations, Islamic institutions, and the government are shaping shared meanings and new understandings on gender and family relations, I demonstrate the "mutually reconstructing" processes underlying global and local ideas, discourse and legal frameworks on gender equality and women's rights. In the next section, I describe how I apply the concept of "transversal politics" and "cultural translation" (Merry 2006a, 2006b) towards examining how *local discourse and policy on gender relations and women's rights in Indonesia have been influenced and inspired by global women's activism. Yet, at the same time, Indonesian women activists have utilized discursive rhetoric and logic, legal frameworks and strategic resources that appeal to local cultural, religious and nationalistic trends.*

### **Cultural Translation**

The anthropological literature on cultural translation (Bohannan 1997; Gluckman 1997; Merry 2006a; Merry 2006b) examines how concepts and cultural categories derived in one setting are transformed when applied in a different context. By delineating the processes and mechanisms underlying cultural translation, this literature demonstrates the implications behind the mutual construction of ideas and meanings espoused by actors in different social categories and political groups. The Gluckman-Bohannan debate in legal anthropology points towards an enduring controversy on cultural translation that has yet to be resolved. Whereas Max Gluckman argues that the law of the Baroste people can be interpreted through the categories of Western Law, Paul Bohannan counters that legal categories are folk categories that should be understood in their own terms. In

Bohannan's view, Gluckman has engaged in "backward translation" and imposed Western legal terms and logic on folk categories. In the context of our discussion on Islam and women's rights, the Gluckman-Bohannan debate reflects that we have yet to understand how "translating one set of cultural categories and meanings into another, transforms them" (Merry 2006a, 41). In other words, how are human rights ideas and concepts transformed when they move from one cultural setting to another?

The rapid circulation of ideas and institutions in this globalized age necessitates an understanding of how human rights are conceptualized, transplanted, and adapted in local settings. I discuss three case studies in which women's rights discourses had transformed subjectivities at the organizational level, had affected policy by adapting the transnational model of gender-based violence, and moderated conservative Islamic ideas. In this manner, my dissertation offers an empirical study that delineates the context and the processes in which women's rights concepts can be translated between social and cultural particularities.

Social movement theories have employed the concept of framing to show how transnational rights discourses can be adopted in different contexts. The content of ideas may be pitched in different ways to achieve the intended effect for various audiences. This process of identifying which ideas fit "in the picture" (Ferree and Merrill 2000, 456) is known as framing. Framing is a central and widely used concept in social movement research that is rooted in the study of how ideas are communicated and interpreted in different linguistic and cultural contexts. Frames are "individual cognitive structures" (Oliver and Johnston 1999), which "enable individuals to locate, perceive, identify, and label occurrences" (Snow et al. 1986, 464). Frames are also mechanisms that link pre-

existing cognitive schemas to new lines of interpretation and thinking (Scheufele 1999). Frames may exist in a combination of symbols, phrases, metaphors, or catchphrases that provide cognitive cues for received information to be easily integrated with pre-existing ideas.

Framing is the active process or ongoing cognitive activity of selecting different phrases, symbols, or catchphrases from discourse and “the social negotiation involved in writing, speaking, and composing communications that relate events, ideas, and actions to each other” (Ferree and Merrill 2000, 456). According to David Snow, framing refers to the signifying work of social movement actors: “They frame, or assign meaning to and interpret relevant events and conditions in ways that are intended to mobilize potential adherents and constituents to garner bystander support and to demobilize antagonists” (Snow and Benford 1988, 198). The rich literature on framing and frames demonstrates that frames can produce powerful shifts in an individual’s and a group’s consciousness in ways similar to religious conversion (Snow 2004: 393). To do so, frames need to be resonant with cultural traditions and narratives in order to be appealing (Snow 2004, 400). Yet, as Myra Marx Ferree points out, employing resonant frames reduces the possibility for changing mindsets, values, and ideas (2003). She argues that resonant discourses are less radical than non-resonant ones, thus limiting the possibility of change in “non-epistemological communities” or in communities that do not share similar values and principles.

In other words, can communicating ideas that are compatible with pre-established ways of thinking lead to cultural and social change in the long-term? Chanock (2000) argues that human rights activists’ capacity to challenge existing power relations offers

radical possibilities for change. I add to this insight by suggesting that discourses undermining the patriarchal and hegemonic interpretation of Islam offer possibilities for radical change. At the same time, I show how framing ideas in ways that resonate with Islamic law and ethics, and challenging patriarchal discourses underpinning the interpretation of Islam, can happen simultaneously and are mutually reinforcing processes that offer the potential for social and cultural change.

Anthropologists have long examined how ideas in different cultural contexts and settings are adapted to local institutions and meanings. The anthropological term, “vernacularized”, can be applied to understand how human rights language is “extracted from the universal and adapted to national and local communities” (Merry 2006a). A key component in the process of vernacularization lies in the roles of the people in the middle or, in other words, people who translate discourses and practices from the arena of international law and legal institutions to specific situations of suffering and violation (Merry 2006a, 39). Translators perform the dual function of adapting global rights agenda for local contexts and reframing local grievances in terms of global human rights (Merry 2006a, 39).

I employ Merry’s conceptual framework to highlight the processes in which human rights are appropriated and adapted in particular settings, but I also demonstrate how translators have political agency to challenge authoritative religious discourses and gendered power relations and, in turn, affect policy related to Islam and women’s rights. I highlight the role of Muslim women activists who move between discourses of Islam and women’s rights to demonstrate empirically how human rights discourses are adapted and how ideas on Islamic conservatism are moderated. As human rights translators, Muslim

women activists may adapt transnational models and preserve the overall mission and ideology of an intervention while allowing for the local context to provide its distinctive changes. When challenging authoritative and hegemonic religious discourses, Muslim women activists are seen as moderating discourses on Islamic conservatism. As such, I see the process of translation more as an interactive process, where ideas, values, and discourses are “changing each other and inventing each other to be able to coexist” (Yuval-Davis 2006, 285).

For now, I wish to clarify my usage of the term “Islamic” discourse. I follow anthropologist Talal Asad’s conceptualization of Islam as a discursive tradition to demonstrate the diverse range of Islamic thought and practice in Indonesia. His understanding of Islam as a historically evolving set of discourses embodied in the practices and institutions of Islamic societies (Asad 1986, 20) is helpful in understanding how Muslim women activists are also active producers of Islamic discourse in Indonesia. As I will demonstrate throughout my dissertation, by engaging with Islamic texts, Aisyiyah, Muslimat NU, and Fatayat NU have displayed a capacity to identify the gendered biases underlining dominant interpretations of Islamic practice and laws that discriminate against women. At the heart of this interpretive project lies Muslim women activists’ in-depth knowledge of the Quran, hadith, the narrated tradition of the Prophet Muhammad, and different schools of Islamic jurisprudence, Islamic *fiqh* (jurisprudence)

### **Cultural and Power Dynamics**

The problem with the anthropological research on cultural translation cited above is that we lack a framework for measuring existing power dynamics that buttress

established discourses on discrimination and perpetuate inequalities. Talal Asad (1986) informs us that due to the inequalities of wealth and power, languages themselves may be unequal. Thus, intermediary actors may be successful when they translate from a “weaker language” into a “stronger one” such as from a “Third World” into a “First World” language or vice versa. Merry (2006a) explains that “cultural translation can be an act of power, especially when it means reinterpreting one set of experiences and categories in terms of another, more powerful one” (42). However, in order to understand how “cultural translation” is an act of power, we first need to develop a baseline for understanding established power dynamics and, in turn, the language and frames, or discourse, associated with them. In the context of our discussion on Islam and women’s rights, I highlight two factors – discursive power and institutional power – to evaluate the potential influence intermediary actors have on shaping discourses and policy on Islam and women’s rights.<sup>21</sup> Before elaborating on these factors I present the framework below:

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<sup>21</sup> In Chapter One, I discuss why I consider these two factors as important conditions affecting the ability for Muslim women activists to adapt global discourses on women’s rights

Table 2.1: Cultural and Power Dynamics and the Potential for Cultural Translation

Factors Shaping Discourse	Islamic Marriage Law	Anti- Domestic Violence Law	Pornography Law
Nature of discursive power?	Centralized	Fragmented	Rigid and Multiple
Who holds institutional power?	Islamic Institutions supported by the State (Concentrated)	State (Democratic Process)	State (Democratic Process)
Impact			
Potential for Intermediary Actors to Influence Discourse and Policy	Low	High	Medium
Cultural Translation	Shifts in subjectivity to include human rights' perspectives.	Frame human rights model in local vernacular. Adapt transnational ideas on human rights.	Highlight the absence of "social justice" and "rights" in moral legal solution. Remake conservative ideas on Islamic morality.

### Nature of Discursive Power

While discourse often denotes language or modes of expression, this dissertation adopts a sociological understanding of discourse as the covert embodiment of values, underlying beliefs, and worldviews. Philosophers such as Antonio Gramsci<sup>22</sup>, Pierre Bourdieu (1994), and Michel Foucault (1999) take on a more critical and political level of understanding of discourse as a means of legitimization of social and political practices. Pierre Bourdieu (1994) asserts that the primary objective of a discourse is the

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<sup>22</sup> Please refer to Gramsci, Antonio, *The Antonio Gramsci Reader: Selected Writings, 1916-1935*. Ed.

“recognition of legitimacy through the misrecognition of arbitrariness” (163). Through the proliferation of discourse, values and ideas that are in fact particular to a social and historical context are legitimized by their seemingly universal and natural appearance. Following Bourdieu, I define discursive power as the ability to determine the legitimate and rightful course of actions and words. Institutions and actors who monopolize discursive power are able to shape the social and political agenda by framing issues and flagging them as situations of moral crisis. They apply existing belief patterns and leverage to established ideas and values to frame their interests as solutions to perceived moral dilemmas.

I do not mean to suggest that discourse conceptualized in this manner is monolithic. Discourses are “broad systems of communication that link concepts together in a web of relationships through an underlying logic...that is riddled with conflict, controversy and negotiation over the meaning of specific words and ideas” (Ferree and Merrill 2000, 455). As discourse can contain both concurring and conflicting ideas, it represents several forms of underlying logic on particular issues. The numerous discourses on Islam and women’s rights in Indonesia all reveal a distinct gender logic – that which specifies and explains the relationship between men and women, masculinity and femininity (Ferree and Merrill 2000, 455). The dominant discourse within a political culture determines a particular gender logic that specifies the relations, roles, and hierarchy between individuals of different sex, race, and class. Those who hold discursive power are usually thought leaders and shapers of dominant discourses in a particular society. They determine the legitimate actors involved in discursive conflict and the items which can or cannot be put on the political agenda.

With respect to the issue of Islamic marriage law, Chapter Five will demonstrate how discourse on Islamic marriage law is centralized. When discourse is centralized, particular actors in society monopolize arguments and rhetoric that embody values, norms and practices. Islamic institutions, such as the Ministry of Religious Affairs which is comprised of elite religious leaders largely from NU and Muhammadiyah, have historically controlled the discourse regarding Islamic marriage. Thus, when discursive power is centralized and uniform, discourses can be rigid, monolithic, and intolerant of difference. Acting effectively in such a society poses a greater difficulty for intermediary actors attempting to integrate other values and ideas into the discourse.

Conversely, ideas on issues related to gender-based violence (Chapter Six), such as the permissibility of wifely beating, wifely obedience and, male leadership and protection, are less uniform. Islamic institutions and religious leaders convey varied and fragmented perspectives on the issues mentioned above. Hence, when discursive power is fragmented and multiple, discourses tend to be more flexible. In such a context, intermediary actors are able to incorporate new ideas and pursue social and cultural change.

In the third case study on pornography law, discourse espoused by Islamic institutions and political parties, and to a certain extent, Muslim women's organizations, were rigid in terms of the Islamic expectation for female dress codes and conduct. Rigid discourse in this context refers to inflexible mindsets regarding particular aspects of an issue. However, rigidity in discourse can be accompanied by variation, when we think about how people's opinions on an issue can change depending on the context. By this, I mean that, even though Islamic institutions and political parties, as well as Muslim

women's organizations held strict and inflexible perspectives on permissible female attire and behavior, Muslim women's organizations espoused varied opinions and distinct interpretations compared to Islamic institutions regarding the applicability of including Islamic standards of morality into national law. While Muslimat NU and Aisyiyah were supportive of clauses in the pornography bill that restricted female sexual freedom, they rejected aspects of the bill that ignored the government's double standards in failing to restrict the pornographic industry and economic injustices that drive poorer women into the sex industry. On the other hand, Fatayat NU rejected the bill because they perceived the bill as regulating sexuality, which intruded into the realm of individual freedom and beliefs. Hence, in such a discursive context, there is room for intermediary actors to leverage on different opinions and mindsets, but ultimately the space for maneuverability is still limited.

### **Institutional Power**

By institutional power, I refer to the ability of actors to shape policies, implement policies and determine the availability of allies for opponents seeking to enact cultural and social change. Social movement scholars consider allies to be an important factor in organizations' political opportunity structure (Tarrow 1989). For instance, when Islamic institutions, such as NU, Muhammadiyah, and the Islamic courts, hold institutional power over Islamic marriage law, they indirectly limit Muslim women's organizations' ability to work with secular women's organizations to revise Islamic marriage codes. In addition, even Islamic NGOs that advocate for change based on ideas such as individuals' rights, women's rights, and democracy are perceived as unsuitable allies for Muslim women activists. Because the codification of Islamic marriage law in Indonesia has historically

been and is still dominated by elites in Islamic institutions, only actors who are privy to Islamic resources, knowledge, and vernacular are seen as legitimate actors to voice dissent.

On the other hand, when the state holds the institutional power to shape policies and implement them, other actors can be involved in the democratic process. Since the collapse of Suharto's authoritarian regime in 1998, Indonesia has gradually democratized. Remarkable changes have been introduced to the constitution and electoral laws, including the institution of direct elections for both the president and executive leadership at the sub-national levels. The democratic process allows for other organizations and actors to mobilize resources and influence to push for their interests. Thus, the democratic process that unfolded during the deliberation of the two bills on gender-based violence and pornography witnessed secular, Islamic, ethnic-minority, and youth groups all involved in mobilizing either against or for the bills. These organizations held street-protests, conferences, workshops, and published opinion pieces promoting their interests and demands regarding the bills. On the flipside, not much public attention was observed outside Islamic circles regarding the revisions on Islamic marriage law. The demands of Muslim women activists that were pro-reform were not backed by secular feminist organizations. The latter meanwhile were involved in their own version of reforming the national marriage law. Hence, when institutional power is concentrated within Islamic institutions and elites, there is less potential for alliance building between secular and Muslim women activists.

## **Forms of Cultural Translation**

### *Shifts in subjectivity to include human rights' perspectives*

When discursive power is centralized and uniform, as when dominant discourses are shaped by Islamic institutions, and when institutional power is concentrated within Islamic institutions, the potential for intermediary actors to shape opponents' discourse, and in turn affect state policy is limited. Intermediary actors with one foot in Islamic discourse and the other in human rights discourse galvanize their opposition by starting from within. Actors in the middle embark on cultural and social change, working at changing mindsets from within the organization rather than targeting the state for reforms in policy. In Chapter Five, I explain how Aisyiyah and Muslimat NU have managed to assimilate norms and values of women's rights and brought them into conformity with Islamic ethical principles on marriage and cultural gender roles. By comparing Muslim women activists' attitudes towards polygamy between the 1950s and the present, I show how both Aisyiyah and Muslimat NU have experienced shifts in their attitudes towards accommodating a more rights-based approach in their perspectives towards marital relations. At the same time, I show how new forms of subjectivity rarely displace old ones. Both Aisyiyah and Muslimat NU continue to reify women's roles as mother and wife. Presently, the motherhood trope enables women of Muslimat NU and Aisyiyah to challenge gender hierarchies especially in ways that empower women to determine the terms of marriage, prioritizing between marital duties and work commitments, and ultimately making decisions that determine their *individual* happiness and welfare. Yet, the prospects for reforming Islamic marriage law remain limited while discursive and institutional power is firmly under the grasp of Islamic institutions.

*Adapting transnational ideas on human rights*

Intermediary actors hold the potential to transform opponents' discourse and affect policy when discursive power is fragmented and when the state holds institutional power. Actors moving between Islamic and women's rights discourses translate transnational ideas and practices as ways of grappling with local problems. They then frame human rights ideas and practices using Islamic vernacular. In doing so, they adapt the transnational model advocating protection for victims of gender-based violence. In Chapter Six, I specify these processes by examining the Indonesian women's movement mobilization around the anti-domestic violence law.

The anti-domestic violence law was initially introduced as the bill on the Elimination of Domestic Violence in the Household, issued by members of the Indonesian parliament. This bill was based on a draft written by a women's legal aid group that included input from Muslim women activists such as Aisyiyah, Muslimat NU, and Fatayat NU. Through dialogue between "people of differential positioning" (Yuval-Davis 2006, 281) – and in this case, feminist activists espousing rights-agenda and Muslim women activists - the bill that was introduced in parliament displayed several adaptations of the transnational model of gender-based violence. First, the draft bill excluded any mention of polygamy as a form of gender inequality in marriage and family relations, even though it is clearly specified as a form of gender inequality in the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), Article 16. At the same time, polygamy was strategically excluded from the bill even though several feminist and secular women's groups fought initially to institute

polygamy as a form of “psychological violence” against women. The concession made by secular women’s groups in Indonesia is indicative of the fact that alliance building and cohesion were present between feminist and Islamic women’s groups. A large part of this, I argue, is due to the fact that discursive power was fragmented and institutional power was beholden to the democratic process. The institutional and discursive context provided the space for Muslim women activists to act as translators, referencing human rights ideas as solutions to local problems, and framing women’s rights violations in religious and cultural vernacular.

Second, the government, represented by the Ministry of Women’s Empowerment and Child Protection, redefined the target population and excluded the notion that married women could be victims of sexual violence. Third, the government excluded individuals who did not share biological or legal ties within the household as possible victims of domestic violence. The Ministry argued that it would be morally unseemly for unmarried women and ex-wives to fall in the category of victims of domestic violence. Only individuals with marital and biological relations are seen as “morally upright” and are deserving of protection from the state.

However, given the fragmented discourses on gender-based violence and the decentralized nature of institutional power, Muslim women activists were able to work with secular women’s rights groups and bargain for the inclusion of controversial clauses such as “marital rape”. Moreover, Muslim women activists invoked the concept of social justice, and argued that domestic helpers should receive protection from the state, should they be mistreated by their employers. Arguing for an enlightened interpretation of the objectives and purposes of Islamic law (*maqasid al-Shariah*), Muslim women activists

argued that state law should reflect the egalitarian message of Islam. In other words, the state should protect vulnerable groups when these groups lack the means and resources to protect themselves.

These demands were eventually accommodated by Islamic parties and the government who were initially opposed to the clauses. The aforementioned clauses were included in Law 22/2004 on the Elimination of Domestic Violence in the Household. The process of adapting and remaking the transnational model on women's human rights is depicted as follows:

Local grievances → Human rights violation → Frame human rights initiative in local terms → Adapt transnational ideas on human rights

Figure 2.1: Adapting Human Rights

#### *Moderating and remaking conservative ideas on Islamic morality*

In Chapter Seven, I examine the processes related to moderating the pornography bill. When it was first issued in parliament, the pornography bill had little to do with the regulation and restriction of pornographic content. Instead, the bill focused on disciplining women's dress codes, behavior, and male-female interaction. While Islamic institutions (NU and Muhammadiyah) and Islamic political parties had clear and established guidelines about moral conduct and women's dress codes, they differed in their interpretation on the codification of Islamic moral codes into state law. At the same time, Islamic actors who were proponents of the bill reinterpreted existing policies that promoted women's rights. Law 22/2004 on the Elimination of Domestic Violence in the

Household had established a discourse on “women’s rights” based on an understanding of the husband’s “responsibility” and “protection.” Islamic institutions and Islamic political parties appropriated discursive themes of “responsibility” and “protection” to argue that it was the state’s responsibility to prevent the objectification of women by banning erotic images, behavior, and dress codes.

The Pornography Law placed women’s sexuality in the spotlight. Muslim women’s activists had to maneuver around conservative and hardline interpretation of immorality that located women’s bodies, behavior, and conduct as potential sources for *zina*-related acts (illicit sexual activity). When the nature of the discursive power is rigid, yet manifold, this indicates a narrow interpretation of certain aspects of religious and cultural practice (Islamic dress codes and moral behavior) that exist alongside multifaceted interpretations of other aspects of religious and cultural practice (the codification of Islamic law into state law). These conditions contain the possibilities for intermediary actors to critique dominant discourse and build alliances with secular women’s organizations. At the same time, different intermediary actors moderated conservative Islamic discourse in distinct ways. By applying the transversal politics approach, Chapter Seven will show that not all Muslim women activists, who are in similar social and political groupings, share similar values regarding the application of Islamic moral conduct and dress codes into state law. Hence, their critiques of the bill varied in distinct ways.

Muslim women activists, by virtue of being affiliated to different Islamic institutions, work within established discursive fields that constrain the repertoire of ideas and practices available to them. For instance, women of Aisyiyah are embedded within a

discursive field that signifies morality through strict dress codes. As such, women of Aisyiyah referred less to concepts such as freedom and individual rights in their advocacy for the bill. Instead, they invoked Islamic ethical concepts such as “social justice” for women and children forced into pornography and sex trafficking, and sociological concepts such as “the exploitation of women in a capitalist-consumerist culture” to reveal the flaws in earlier drafts of the bill. They stressed that the Pornography Law should not victimize women and children and should address the sources of pornography – that is, they urged for stricter regulation of the production and distribution of pornography in printed and televised media including the internet.

On the other hand, women of Muslimat NU and Fatayat NU were able to invoke ideas on individual rights and women’s rights because of a more flexible understanding of *aurat*<sup>23</sup> provisions and greater institutional support within a fringe section of NU. While women of Muslimat NU advocated for a “context-appropriate” understanding of dress codes and behavior, women of Fatayat NU argued for the application of individual rights in moral and personal choices. In doing so, both Muslimat NU and Fatayat NU are navigating a middle ground, balancing between accommodating individual rights with safeguarding public morality.

By focusing on the concrete injustices women and children would confront without significant moderation of the bill and by applying sociological understandings of inequity and individual rights to tangible dilemmas experienced by women and children, intermediary actors were able to alter dominant Islamic narratives biasing women’s

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<sup>23</sup> Intimate parts of the human body that must be covered by clothing. For women this is conventionally interpreted to include every part of the body except for face, hands and feet.

bodies as sole sources of immorality. At the same time, working together with secular women's groups, they led the initiative and bargained with Islamic political parties to reject several clauses in the bill that heavily targeted women's behavior and dress codes as sources of pornography. The bill was eventually passed with the exclusion of several of these articles. The process of adapting and remaking conservative ideas on Islamic morality is diagrammed as follows:

Local grievance → Violation of Islamic morality and legacy on “women's rights” → Highlight the absence of “social justice” and “rights” in moral legal solutions → Remake conservative ideas on Islamic morality

Figure 2.2: Moderating Islamic Conservatism

## Conclusion

The existing scholarship on transnational feminism has thus far examined the impact of global activism on local women's movement in terms of a unidirectional or multidimensional approach. Drawing upon anthropological research on cultural translation (Merry 2006a, 2006b) and through the concept of transversal politics (Yuval-Davis 2006), I argue for an approach that highlights the mutual construction of global and local ideas, discourse and legal frameworks on women's rights. I argue that while the Indonesian women's movement has been influenced and inspired by the global regime of women's rights, they have utilized discursive rhetoric and logic, legal frameworks and strategic resources that appeal to local cultural, religious and nationalistic trends. To illustrate this process of mutual construction between the global and local, I identified the conditions and examined the processes underlying different ways human and women's rights ideas are adapted and refashioned to suit the Indonesian context. I highlight the

context (who holds institutional power and the nature of discursive power) and processes (changing of subjectivities, adapting human rights, and moderating Islamic conservatism) to suggest that the impact of transnational feminism on local women's rights is varied and complex. Each of these processes will then be thoroughly examined in the case study sections – Chapters Five, Six, and Seven – of this dissertation.

### **Chapter Three**

#### **The Women's Movement and Muslim Women's Organizations in Indonesia (1920-1965)**

This chapter focuses on the historical background and political context shaping the advocacy of women's issues by the women's movement and Muslim women's organizations. I will assess the development of the Indonesian women's movement and Muslim women's organizations against the backdrop of Indonesia's changing political contexts throughout three different time periods: National Awakening (1900-1937), Independence Struggle (1942-1950), and the Sukarno era (1945-1965). Chapter Four will then examine the relationship between Islam, the state, and the women's movement during the Suharto era from 1966 to 1998. The second part of Chapter Four will trace the emergence of Islamic feminism and conservatism.

As the discussion below will demonstrate, during the period of 1900-1950 both Aisyiyah and Muslimat NU were focused on the internal development of their organizations and, as such, were organizational and ideational extensions of their parent institutions. In the 1950s, and within the context of political competition between modernist and traditionalist Islamic parties, nationalist, and communist parties, Muslimat NU, more than Aisyiyah, was provided with opportunities to participate in politics. Whilst NU's decision to include more women's representation at the executive, legislative, and judicial branches of government can be seen as an expedient political strategy, these decisions provided the foundation for Muslimat NU to push for greater women's representation within NU in the 1990s. As a result, by the end of Sukarno's

regime, Muslim women activists from Muslimat NU were more vocal in asserting their demands and challenging the opinions of religious leaders in NU compared to their counterparts from Aisyiyah.

The broader implications of this chapter will suggest that Islam and nationalism have each provided opportunities and presented obstacles to Muslim women's organizations' ability to represent Muslim women's interests, and develop as autonomous organizations. Before presenting the historical context, I will provide a brief sketch of the Muslim women's organizations and the Islamic institutions to which they are affiliated.

### **Nahdlatul Ulama (NU)**

Nahdlatul Ulama (often referred to as NU) is the largest Islamic organization in Indonesia, with approximately 30 million members (Mujani and Liddle 2004). NU was formed in East Java on January 31, 1926, by a group of traditional religious scholars. At the time of establishment, the aim of NU was to represent the interests of traditional Islam, especially the *pesantren* (Islamic boarding school) system (Arnez 2010). Kiai Hasyim Asyari and Kiai Abdul Waham Chasbullah, the most famous amongst the group of traditional religious scholars, established their own Islamic boarding schools and had large local followings. They realized the emerging threat to traditional Islam had given rise to two movements: reformist and modernist Islamic groups, such as Muhammadiyah, and Marxist-inclined political Islamic groups, such as Sarekat Islam (Doorn-Harder 2006).

In 1938, the idea of establishing a separate women's organization affiliated to NU was initially met with resistance during the 13th Nahdlatul Ulama National Congress held in Banten, West Java. Even though the chairman of NU himself, Kiai Muhammad

Dahlan, suggested the idea of a women's subsidiary organization similar to the likes of Aisyiyah, the final decision reached in that Congress stated that women could only be "silent" observers and members within the male-dominated NU organization. Between the 13th and 14th congress, Kiai Muhammad Dahlan, his wife Nyai Chadidjah, and women members in NU continued to push for the establishment of a subsidiary women's organization with a leadership structure independent and separate from that of NU.

Despite the concerted demands by the NU women members, the participants of the 1946 NU National Congress were unable to reach a consensus. A secret meeting between Kiai Dahlan, Kiai Hasyim Ashari, and Kiai Wahab Hasbullah (the father of Indonesia's fourth president, Abdurrahman Wahid) led to a written agreement that allowed the establishment of Muslimat NU as an autonomous organization with an independent leadership structure.

### **Muslimat NU and Fatayat NU**

In terms of organizational structure, NU has autonomous branches for male and female youths and students, women, and several professional organizations. The social and educational programs conducted by these NU affiliated organizations share a common mission: social development through community involvement. NU has two main women's organizations, Muslimat NU and Fatayat NU. While Muslimat NU represents NU women over the age of 40, Fatayat NU includes women between the ages of 20-45. Both Muslimat NU and Fatayat NU conduct trainings, seminars, and workshops around the country and run healthcare clinics for women. As the older women's organization, Muslimat NU holds more conventional perspectives on gender roles and relations. Nevertheless, since the early 1990s, Muslimat NU has been introducing gender-

related perspectives in its discussions of women's issues. On the other hand, leaders of Fatayat NU see their organization as part of the women's movement as well as a means to promote religious reform. They disseminate interpretations of Islamic texts that emphasize women's rights, using events such as gender trainings as a way to inculcate women-sensitive interpretation of Islamic scripture. Similar to NU and Muhammadiyah, the Muslim women's organizations affiliated to these institutions are structured at the national, provincial, district, sub-district and local levels and have local leaders in more than 14,000 villages all throughout Indonesia (Candland and Nurjanah 2004).

For conceptual purposes, it is important to note here the theological distinction between traditionalist and modernist Islam. The theological foundation of NU is built on *Ahl al-Sunnah wa Jama'ah*, which literally translates as "the people of the tradition and community." This means that NU's religious canon is comprised not only of the Quran, *sunnah* (actions of the prophet), and *hadith* (authoritative recorded sayings and actions of the Prophet), but also of the traditional authority of Islamic legal scholars (*fuqaha*) from the four established schools of Islamic jurisprudence (*mazhabs*).

The traditional schools of Islamic jurisprudence or *fiqh* that anchor much of traditional Islam were established after the third and fourth Islamic centuries. Today, there are four major Sunni schools, each named after the four *imam*<sup>24</sup> who founded them: Hanafi, Hanbali, Shafii, and Maliki. Each school came to dominate different regions, with the Shafii *mazhab* largely shaping Islamic religious conduct and worship in East Africa and Southeast Asia (Esposito 2011, 47). In Islamic historiography, modernists such as Muhammad Abduh (1825-1905), a teacher at Al-Azhar and later Grand Mufti of

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<sup>24</sup> Imam is an Arabic term that denotes an Islamic leader and a religious scholar. In Indonesia, an imam may lead prayers in the mosque but they are not Kiai(s), who are religious teachers, scholars and community leaders.

Egypt, and his prodigy Rashid Rida believed that the “golden age” of Islam was the period marked by activism of the early Muslim community (*ummah*) and its *Salaf*, three generations of the community of elders and companions of the Prophet (Bowering and Crone 2013, 578).<sup>25</sup> The epistemological core of modernist Islam consists of stripping “the traditional practice of Islam...adulterated by impurities of custom and belief derived from *adat* (customs) and from other religions” (Roff 1994, 58). To modernists, an authentic recovery of “pure” Islam meant a complete disassociation from syncretism and customary practices, and re-orienting the faith towards scripturalism, including the *sunnah* and *hadith*.

In other words, according to the historiography of Islam, the four *imam* who founded the schools of Islamic law were not authentic *Salaf* themselves, but merely followers of the *Salaf*. Hence, modernists see followers of *mazhabs* as subscribing to an inauthentic interpretation of Islam by virtue of it evolving outside the context of the development of *hadith*. As such, modernists see *taqlid* (uncritical acceptance of textual sources), which typifies traditionalist Islamic pedagogy, as a fallible mode for the transmission of religious truths. In the context of Indonesian Islam, many of these divisions are captured in the ways modernist Muhammadiyah and traditionalist NU comprehend theology, interpret and apply Islamic law, and perform religious worship.

### **Muhammadiyah**

Muhammadiyah was established on November 18, 1912, by Muhammad Darwis who later came to be known as Kiai<sup>26</sup> Haji Ahmad Dahlan (or KHA Dahlan). At the time, the main purposes of Muhammadiyah were to spread the religious teachings of the

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<sup>25</sup> Muhammad Abduh’s perspectives on women’s roles in Islam had a large influence on Ahmad Dahlan’s vision for Aisyiyah and Nasyiatul Aisyiyah.

<sup>26</sup> Kiai is a title for venerated religious scholars in Indonesia

Prophet Muhammad to indigenous citizens in Yogyakarta, to enhance religious worship amongst its members, and to purify Islamic teachings from animistic and mystical elements. As a modernist organization, Muhammadiyah refers strictly to the Quran, *sunnah* (actions of the prophet), and *hadith* (authoritative recorded sayings and actions of the Prophet) as sources of law and general interpretation for religious behavior and conduct.

Over time, Muhammadiyah has gone through a number of changes reflecting the development of society. They sought to integrate religious education with the western scientific education. Their educational and socio-economic commitment to the welfare of their members, alongside their ideological commitment to rational exegesis, continues to motivate their activities. Muhammadiyah has approximately 25-30 million members, based primarily in urban areas and engaged in both social and formal political activities (Mujani 2003). Besides religious activities, the main activities of Muhammadiyah are related to education, health, and economic enterprises. For example, Muhammadiyah has built thousands of Islamic schools and owns several hundred medical clinics and hospitals in Indonesia.

### **Aisyiyah**

Aisyiyah is one of the oldest women's organizations in Indonesia, officially recognized as an autonomous body of Muhammadiyah. In reality, Aisyiyah is affiliated to Muhammadiyah, adheres to Muhammadiyah's hierarchical structure, and adopts its vision. Aisyiyah's autonomy is realized in terms of its relative independence in developing charitable and welfare programs for its community. Before elaborating on Aisyiyah, it is necessary to explain how Muhammadiyah's power structure and

organizational culture has shaped Aisyiyah and Nasyyatul Aisyiyah (Aisyiyah's sister organization, meant for younger women of Aisyiyah).

Aisyiyah was set up in 1917 as a result of the founder of Muhammadiyah Kiai Ahmad Dahlan's personal conviction that religious education and knowledge should be taught and made available to both men and women. The Egyptian reformist who was also a teacher at Al-Azhar and later the Grand Mufti of Egypt, Muhammad Abduh (1848-1905), had shaped much of Ahmad Dahlan's views on the role of women in Islam. Muhammad Abduh's call for social reform and the renewal of Islamic thought hinged on the role of women as important contributors to the development of a functioning healthy environment composed of family units. He believed that "Man and woman are equal in rights and duties; they are also equal in reason, feelings, and sense of self" (Abduh c.1890 in Haddad 1995, 56). He emphasized that men have a degree of superiority over women only if women are rebellious (Abduh in Haddad 2005, 57). As such, women should be educated in both religious and secular knowledge, and if women have the qualities of leadership and decision-making, they should optimize their skills for the betterment of society. Educating women in both religious and worldly affairs was a radical concept, challenging traditional Javanese culture where the ideal Javanese women were portrayed as loyal and obedient wives and mothers.

What began as a religious reading and discussion circle for women, known as Sapa Tresna, eventually grew into the first and oldest Muslim women's organization, known as Aisyiyah (Darban 2010; Doorn-Harder 2006). Led by Kiai Ahmad Dahlan's wife, Nyai Walidah, Aisyiyah was instrumental in providing religious (and later secular) education to generations of Muhammadiyah women. Aisyiyah believes that their Islamic

mission should not only consist of preaching and teaching, but also the delivery of services. Aisyiyah's broad range of activities comprise infrastructure building and service provision for kindergartens, mother and children clinics, nurses and midwives academies, health and sanitation programs for the poor, reproductive health workshops, and savings and loans projects for women's businesses.

Nasyiatul Aisyiah, henceforth known as Nasyiah, is the branch for young Muslim women between the ages of 17-35. Members of Nasyiah originate mostly from Muhammadiyah families. Like its sister affiliate, Nasyiah is represented at the national, provincial, municipality, district, and hamlet level. Nasyiah has evolved from a female pupil association in 1919 to become an organization that focuses on "women's empowerment in order to create a virtuous Muslim community" (Pimpinan Pusat Nasyiatul Aisyiyah 2001, 63). After the 9th National Congress, Nasyiah's vision of becoming a young Muslim women's organization was translated into the establishment of several departments. Apart from the department on religious proselytization, Nasyiah started departments focusing on worldly affairs, social and economic affairs, art and culture, research and organizational development, as well as a bureau of public relations and foreign affairs. My focus in this dissertation is mostly on Aisyiyah. Although Nasyiah is more progressive than Aisyiyah, it still displays hierarchical obedience to its older counterpart, Aisyiyah.<sup>27</sup>

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<sup>27</sup> See Syamsiyatun (2007) for an interesting discussion of Nasyiah's role in initiating gender perspectives to examine women's issues in Islam.

### **1900 – 1937: National Awakening and the Development of an Indigenous Women’s Movement**

Aisyiyah was one of the few Muslim women’s organizations that actively participated in the diverse and growing women’s movement in Indonesia in the early 1900s. What started as an epiphenomenon of the nationalist movement – the women’s movement of the 1900s – evolved into a diverse social movement that played a pivotal role in shaping policies related to education, employment, marriage, and divorce.

The Dutch colonization of Indonesia began with the establishment of a capital in Batavia (now Jakarta) by the Dutch East India Company in 1595. Since the 16<sup>th</sup> century, Dutch domination of the East Indies was a matter of business and trade. It was only in the early 1900s, as a result of Dutch national expansionism that the Dutch began implementing a series of welfare-oriented policies, known collectively as the Dutch Ethical Policy. Beginning in 1901, the Dutch Ethical Policy arose out of colonialists’ sense of ethical responsibility to improve the welfare of their colonial subjects. The search for potential markets for Dutch-produced goods and a supply of cheap labor incentivized Dutch colonialists to improve educational opportunities and material living conditions for the indigenous population. By the 1930s, the increase in expenditure on public health and poverty programs resulted in minimal benefits set against an escalating population growth in Java (especially central and East Java). Educational reforms under the Ethical Policy were devised with a dual-edged purpose of equipping Indonesian elite with European style education whilst suppressing Islamic education. Choosing to educate the elite class in Indonesia was a strategy to ensure that indigenous leadership would be closely affiliated with the Dutch government as opposed to Muslim leaders.

One of the first collective expressions of nationalism emerged from a group of students who eventually formed an organization in 1908 called Budi Utomo. While endeavoring to represent the interests of not only the *priyayi* class<sup>28</sup>, but also Indonesians as a whole, Budi Utomo was unable to galvanize indigenous Indonesians for political mobilization. Budi Utomo eventually became an organization that fought for the cultural and educational demands of the people of Java and Madura (Ricklefs 2001).

This strand of nationalist aspiration was accompanied by a top-down push for women's education by the director of the Department of Education, J.H. Abendanon. Even though Abendanon was the primary supporter of the elitist approach towards education in the East Indies, he was a strong proponent of female education, especially for Javanese women of aristocratic background. Abendanon faced strong resistance from members of the colonial government and Javanese officials, as well as religious teachers. Nevertheless, Abendanon continued to promote his ideas. To gain support from the locals, he traveled with his wife, Rosa Abendanon, to meet a local *bupati* (executive chief of a regent) Raden Adipati Ario Sosronigrat, in central Java, Jepara. Known for coming from a family of intellectuals, Sosronigrat had sent his daughter Raden Ajeng Kartini (henceforth Kartini) to a European elementary school at a time when the idea of female education was entirely unacceptable in Indonesia.

Kartini is now revered as the progenitor of the Indonesian women's movement. However, like many other young Javanese girls of her time, she was later confined at home after graduating from elementary school at the age of 12. Through letter correspondence with several Dutch friends and Rosa Abendanon, Kartini further

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<sup>28</sup> The term *priyayi* refers to the descendants of the royal family, but also implies Muslims from the upper and middle class in terms of economic, social, and educational status.

developed her feminist views. She began to contribute regularly to a European feminist journal, writing articles and letters on women's and Javanese issues. Joost Cote (1995), who translated these letters, asserts that Rosa Abendanon and Kartini's Dutch friends formed part of a colonial network of progressive reformists who wanted the imperial government to improve the welfare and educational opportunities for native women. Nevertheless, Kartini's demise a few days after giving birth to her first child dashed the hopes for any substantial reform.

As a result, in the early 1900s, women's education did not have the government's priority. In a governmental report, Abendanon noted that, in 1913, around 13 years after the expansion of educational opportunities for non-aristocratic Indonesian boys, there was still not a single government school provided for native girls. In 1911, Abendanon published the letters that Kartini wrote to his wife and others under the title *Door duisternis tot licht* (Through darkness into light) (Ricklefs 2001).

The neglect of girls' education by the colonial government, combined with the resistance by traditional *bupati(s)*, resulted in the pioneering efforts for women's education being led independently by Indonesian women. Subsequently, individual women, including Kartini's sisters, realized that it was necessary to work together to maximize their efforts to educate women. In July 1908, Kartini's sisters sent a letter to prominent figures involved in the nationalist struggle for independence (Suryochondro 1984). Nationalist figures were supportive of women's demands for education, perceiving that the emancipation of women carried positive implications for the anti-colonial struggle. In 1912, with the support from Budi Utomo, Putri Madika (The Independent Woman) was founded. Apart from advocating for education to be more widely

accessible, Putri Madika was one of the first few organizations that addressed controversial practices such as polygamy and child marriages (Vreede-de Stuers 1960). In the same year that Putri Madika was founded, several other women's organizations were established in Java and the outer islands of the archipelago. From 1915 to 1920, around six women's organizations were established in Java, three in West Sumatra, and one in Sulawesi (Vreede-de Stuers 1960). At the same time, nationalist youth movements such as Youth of Java, Federation of Young People of Sumatra, Youth of Minahasa, and Youth of Ambon also began to encourage women's participation. Thus, there is merit in Adi Negoro's statement that "Feminism (in Indonesia) was born in the twentieth century as the younger sister of Indonesian nationalism" (as quoted in Vreede-de Stuers 1960, 67).

In the late 1920s, Aisyiyah began expressing its support for and participated in nationalist causes. Aisyiyah members participated in the October 1928 Youth Congress where a monumental agreement known as *Sumpah Pemuda* (Youth Pledge) was reached. This pledge outlined three nationalist aspirations, consisting of the formation of one fatherland that is Indonesia, one nation, and one language, Bahasa Indonesia. Muhammadiyah and Aisyiyah conformed to these ideals by changing the names of its organizational sections, educational and health institutions as well as its programs into Indonesian or Arabic terms. Subsequent national congresses of both Aisyiyah and Muhammadiyah were conducted in Indonesian.

As mentioned earlier, by the 1920s, nationalist organizations, such as Budi Utomo, had their own women's wings. Independent women's organizations as well as women's organizations affiliated with the army, Islamic, nationalist, and communist

organizations consolidated their efforts and held the first women's congress in Jogjakarta, Indonesia, in 1928. Over 1000 delegates attended the congress from 30 women's organizations (Martyn 2005). The date of the first congress, 22 December 1928, continues to be celebrated as the anniversary of the founding of the women's movement in Indonesia. The objectives of the congress were to bring together disparate women's organizations and form a unified position on women related issues.

Given the variety of ideologies and diverse affiliations of individual women's organizations within the federation, the leaders of the congress defined it to be a non-political entity focused on social and nationalist pursuits. In 1935, the congress defined nationalism and social activities as its basis (Martyn 2005). The reasons for doing so were driven by both tactical and survival motives. Against the backdrop of political struggles, a consolidated women's movement that supported the nationalist efforts meant legitimizing the role of women within the fight for independence. At the same time, taking the non-political route meant a short-term strategy of non-alignment with any particular ideology (socialist, Marxist, or Islam).

The attempts of the women's movement to be inclusive and non-political proved to be ineffective in dealing with issues beyond education, health, and welfare. Marriage laws became a stumbling block that led to conflict between secular and religious women's groups. From 1928 to 1942, while the discussion on women's health, economic, and labor issues, as well as education, progressed, the discussion on marriage laws grew increasingly volatile. The issue of polygamy was divisive as Christians and non-religious women's organizations saw polygamy "as an unpardonable humiliation for women, against which they actively fought" while Islamic organizations "only wanted to improve

the conditions under which polygamy was allowed to occur, not to abolish the institution itself” (Wieringa 1985, 8).

Despite disagreements over polygamy between secular and Muslim women’s organizations, in 1928, the Women’s Congress issued a unanimous resolution restricting men’s unilateral right to divorce as outlined in Islamic law. The congress proposed to the Dutch government that the groom read the *talik-talak* during a Muslim marriage ceremony. *Talik-talik* normally exists in the form of a document that is read and signed at the time a marriage is registered. The document lists the acts by the husband, which would provide the wife with grounds for divorce, should the husband fail to comply with the acts listed therein.<sup>29</sup>

In 1930, decisions were made by the congress to avoid discussing the controversial issue of polygamy. However, by 1932, the divisions between the women’s movements could not be contained any longer. *Isteri Sedar* (The Conscious Woman) strongly opposed polygamy while *Isteri Indonesia* (The Indonesian Woman), led by Maria Ulfah Santoso, articulated its opposition to polygamy in more moderate terms. Two separate congresses were held regarding marriage laws. *Aisiyiah*’s congress focused on the position of women within Islam and the permissibility of polygamy in Islam. *Aisiyiah* defended polygamy by implying that support for monogamy would mean advocating the prevalence of illicit relationships and prostitution. Meanwhile, *Isteri Sedar* held another conference where the organization decided to unequivocally reject polygamy. Soewarni Pringgodigdo, the president of *Isteri Sedar*, argued that polygamous

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<sup>29</sup> It is unsurprising that *Aisiyiah* and two other Muslim women’s organizations at that congress were agreeable to the requirement that the *talik-talak* be read during the marriage ceremony. Known also as “delegated divorce,” *talik-talak* is an acceptable practice in the Hanafi mazhab and is widely recognized in Ottoman lands. In 1928, in their 3<sup>rd</sup> Congress, *Nahdlatul Ulama* discussed the issue of the validity of *talik-talik* that was pronounced after the marriage in their 3<sup>rd</sup> Congress. They considered it permissible.

relationships did not improve women's economic situation, nor were they a feasible solution to overcome gaps in gender demography (Vreede-de Stuers 1960, 106).

In 1937, the Dutch government proposed a new marriage ordinance where marriage was based on monogamy and married women had equal rights to divorce. Apart from secular women's organizations such as Isteri Sedar, Poetri Boedi Sedjati, and Pandang Pajang, which supported the ordinance, other women's organizations refused to support it, viewing the ordinance as a Dutch policy to interfere with indigenous affairs (Blackburn 1999, 36). At this time, nationalist interests took precedence over women's interests. The failure of the Ethical policy and the continued repression of the Indonesian masses, as well as the impact of the 1930s Depression, drove the women's congress to reject the 1937 Ordinance, seeing it as a symbol of continued Dutch oppression and interference with local laws.

By 1938, Aisyiyah's efforts to carve an independent space for women to pray paid off. The Council for Religious Rulings (Majlis Tarjih) of Muhammadiyah issued a *fatwa* that permitted and endorsed women's collective prayer and other religious activities in female prayer halls. They remained silent, however, on the issue of women traveling without the accompaniment of a male relative (*muhrim*).<sup>30</sup> The discussion above reflects the fact that Aisyiyah's interpretation of Islam enabled women to exert their rights to religious worship, a sphere dominated traditionally by men. At the same time, by abiding with Muhammadiyah's decision on polygamy, Aisyiyah was able to secure greater credibility with its parent organization, which subsequently endorsed Aisyiyah's wishes for independent religious spaces.

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<sup>30</sup> Nevertheless, even by early 1920s, Muslim women of Aisyiyah were travelling to remote villages to propagate Islam.

### 1942 – 1950: The Struggle for Independence

The initial response of Indonesians from various backgrounds towards Japanese occupation which began on March 8, 1942, was rather favorable. The Japanese realized the cultural authority of Muslim groups, otherwise known as *santris*. In 1939, the Japanese initiated contact with the modernist group, the Great Islamic Council on Indonesia. Furthermore, most Indonesians were hopeful that the Japanese, as Asian colonialists, would aid in their struggle for independence. Moreover, the Japanese also recruited Muslims into the state administration as a result of their assessment of strong connections between Muslims leaders and their communities (Hefner 2000; Kahin 1952).

At this point, it is important to clarify the distinctions between different socio-religious streams in Indonesian Islam. These classifications held more explanatory power for distinguishing religious, social, and political conduct in the 1950s. According to Clifford Geertz (1956, 1960), Muslims in Indonesia can be divided based on their piety and devotion to Islam. They can be classified into three socio-religious categories or streams (*aliran*): *priyayi*, *abangan*, or *santri*. The term *priyayi* refers to the descendants of the royal family, but also implies Muslims from the upper and middle class in terms of economic, social, and educational status. *Abangan* refers to Muslims who adopt a more syncretic understanding and implementation of Islamic practices. *Santris* refers to devout Muslims who abide strictly by scriptural Islam or a combination of scriptural Islam and Islamic *fiqh*. *Santris* include both modernist and traditionalist Muslims. The division between *santri*, *abangan*, and *priyayi* had some explanatory power for voting patterns in

the 1950s. However Islamic resurgence, economic development, and urbanization, as well as regime changes, have led to a blurring of these categories.

By early 1942, the exploitative and self-interested motives of the Japanese occupation became evident. In 1942, Japanese dealt with revolutionary movements in Banten, Cirebon, and Surakarta with a heavy hand by arresting, shooting, or beheading the leaders of these movements (Ricklefs 2001). At the same time, all native nationalist and religious organizations, including women's groups, were dissolved and replaced by Japanese-controlled associations such as the Triple A Movement and subsequently the Central People's Power (Kahin 1952).

Beholden to Japanese authority and organizational structure, the women's movement no longer focused on issues of direct importance such as education, health, marriage laws, labor, and economic issues. Instead, women's organizations had to support the Japanese war efforts by participating in Fujinkai (women's clubs). Women were mobilized in wartime roles where they participated in frontline activities by administering first aid, running communal kitchens, and sewing uniforms. Women not involved in the war tended crops, wove yarn, ran literacy campaign and provided social welfare and health care (Martyn 2005).

As all of Aisyiyah's programs were banned, and its schools as well as medical clinics were shut down, its members reluctantly took part in Fujinkai. Nevertheless, Aisyiyah was allowed to run religious training classes under strict guidelines that included teaching only material that had been vetted by Japanese authorities. While the women's movement stagnated under Japanese occupation, it was during this period that

women learnt skills that proved to be useful during Indonesia's struggle for independence from the Dutch shortly after the Japanese left.

Another important development during the Japanese occupation was the establishment of two key institutions: first, the Department of Religious Affairs instituted in 1946 and, second, the creation of a federation for all Muslim organizations, Masyumi (Majlis Syura Muslimin Indonesia) founded in 1943. While, in principle, both modernist Muhammadiyah and traditionalist Nahdlatul Ulama were represented in Masyumi, throughout the 1950s, the modernist faction came to dominate Masyumi.

While the Japanese courted Muslims into administrative posts and later trained a Muslim militia, they also recruited non-Muslims and secular-nationalists into the government. Secular-nationalists were also given leadership positions in the auxiliary army. The Japanese co-opted both Muslims and secular nationalists because this move was expedient to their strategy of balancing the divisions within the natives.

Discussions over the formation of an Islamic state began as soon as the Japanese, foreseeing their imminent defeat, allowed the native community to form an Investigative Committee for the Preparation of Indonesian Independence (Hefner 2000). Before the committee resolved issues pertaining to the role of Islam within the state, Suharto declared independence for the Republic of Indonesia on August 17, 1945. Attempting to overshadow the debates between secular-nationalists and Islamic leaders over the application of Shariah (Islamic law) to the constitution, Suharto promoted the principle of Pancasila as the philosophical foundation of the country. Pancasila was comprised of a "unique synthesis of nationalist, Muslim, Marxist, liberal democratic, and populist-Indonesian" (Hefner 2000, 42) ideology that aspired to transcend ethnic, religious, and

regional boundaries. To the Islamic leaders, the republican government led by Soekarno and Muhammad Hatta had yielded to the demands of Christians, Hindus, and non-religious nationalists, leading to the rejection of the Jakarta Charter. The Jakarta Charter is a document containing the preamble to the 1945 constitution that would have enforced Shariah law for the adherents of Islam. Although Soekarno was raised as a Muslim, he embraced a concept of nation that transcended ethnicity, religion, and region. His political party, The National Indonesian Party (PNI), was based on multi-ethnic and multi-religious nationalism.

In the war for Independence, Soekarno and Muhammad Hatta's republican government faced internal insurrection by communist and Islamist factions. In what is now known as the Madiun Rebellion that took place in 1948, an influential wing of the PKI (Indonesian communist party) mobilized the party to perform strikes and land seizures in a bid to transform the independent struggle into a social revolution. These actions led to increased strife and mistrust between *santri* Muslims and communists since the landowners were predominantly *santri* Muslims from both Muhammadiyah and NU. As the crisis developed, both sides eventually committed massacres. The Madiun Rebellion left a lasting impression on the social memory of *santri* Muslims and continued to be a source of antagonism between the two factions (PKI communists and *santri* Muslims) throughout Sukarno's government. The Madiun Rebellion was a huge loss for the PKI.

With the exclusion of the Jakarta Charter from the state constitution, an Islamist organization Darul Islam established an extra-paramilitary organization within West Java with the aim of making Shariah (Islamic law) the basis of the Indonesian state. When the

Republican controlled army withdrew from West Java in 1948, Darul Islam continued to struggle against the Dutch and eventually came to control vast parts of the province (van Bruinessen 1996). The confrontation between the Republican army and Darul Islam took place when the former returned to West Java in 1949. By then, Kartosuwirjo, the leader of Darul Islam, had formed ties with Muslim leaders in Aceh and South Sulawesi who were also against a secular-nationalist Republic. Darul Islam desired the creation of an Islamic state with a constitution explicitly based on Shariah (Islamic law) and a judicial system controlled by Islamic scholars. Throughout Sukarno's government, the Darul Islam rebellion remained active until Kartosuwirjo's capture, and the surrender of other West Javanese leaders in 1962 (van Bruinessen 1996). The rebellion in South Sulawesi lasted a little longer and ended with the killing of its leader in 1965 (van Bruinessen 1996).

Apart from countering Dutch military offensive, fighting against internal Islamist rebellion, and communist revolutionary attempts, the Republican government was wrecked internally with unstable governments. Between 1945-1949, the country witnessed the changing of six different governments. Nevertheless, it was during this period that women held important positions, serving as cabinet minister (Maria Ulfah Subadio) and Minister of Labor (Trimurti) (Martyn 2005).

For the national women's movement, of which Aisyiyah was a part, helping the National Government became its first priority. In 1946, the women's movement convened a national forum, *Kongres Wanita Indonesia* (The Indonesian Women's Congress) or Kowani as a way to collaborate on multiple issues and interests of the diverse Indonesian women's movements. At the 1948 congress, Kowani aligned itself

officially with the republican government, declaring its support for Pancasila, the Indonesian philosophical doctrine of unity. Kowani also became one of Indonesia's international diplomatic vehicles. Kowani delegates were sent to international women's conferences to support the international recognition of an independent state, as well as to impress upon international participants the human toll behind continued Dutch military aggression.

A second congress was held a year later where Kowani agreed on three big issues. The first was that in order for women's organizations to retain their identity but work together, they formed a federation. Second, the congress decided that underage and forced marriages should be banned. Third, the congress declared that women paramilitary forces should be formed to aid in Indonesia's fight for liberation against the Dutch. In 1946, following the demands made by the women's congress (including representatives of Aisyiyah), the Ministry of Religion issued an instruction prohibiting child and forced marriages. A few months later, a new law was promulgated requiring the registration of marriages and divorces in Java and Madura (Vreed-de Stuers 1960).

As an active member of Kowani, Aisyiyah participated in military training and sent its youth section, Nasyiatul Aisyiyah, to handle weapons, treat the wounded, and run communal kitchens. Despite the strained relations between the Islamic party, Masyumi, and the Indonesian communist party, PKI, Aisyiyah and Gerwani (the women's wing of PKI) tried to work together towards the primary goal of Indonesia's national Independence.

The development of Muslimat NU and Fatayat NU during the struggle for independence

The establishment of women's wings by Muhammadiyah, Masyumi, and PKI spurred women within the traditionalist organizations to push for a women's wing within NU. The establishment of Muslimat NU was in itself a stride for the traditionalist organization. Since the early 1930s, women within NU had envisioned the creation of their own organization; however, due to fear of being ridiculed for lack of sufficient knowledge, they and their aspirations were sidelined within the male-dominated community (PP Muslimat NU, 1979). With the support of NU's chairman Kiai Muhammad Dahlan, around a thousand women attended NU's 13th National Congress in 1938. During that particular congress, two women – Nyai R. Djunaisih and Nyai Sitti Syarah – delivered speeches declaring women's rights to seek and learn Islamic knowledge. They proclaimed that Islam is reserved not only for men and that men should not be the only group to learn about issues and questions related to religion. They argued that women should be allowed to seek religious knowledge for the betterment of this world and the next (PP Muslimat NU 1979).

A year later, several hundred women from different provinces in Indonesia attended NU's 14th National Congress. Several women were given the opportunity to speak and address the entire congress. Their speeches captured three main points. The first point, made by Nyai Saodah, was that women should be allowed to work for the benefit of their families and society. The second point, made by almost all six women speakers, was that NU should support the establishment of Muslimat NU as an organization because of the concrete advantages that Muslimat NU had achieved for the community. The third point, stressed by all speakers, was the importance of educating

mothers because a mother's primary role is to educate her children and a mother is normally a child's first teacher (PP Muslimat NU 1979). Women of Muslimat NU articulated a vision of motherhood roles that extended beyond the private domains and comprised also community and social work.

Apart from Kiai Muhammad Dahlan, other kiai(s) rejected the establishment of an autonomous women's organization. Only eight years later, after much political tussling between various kiai(s), Kiai Hasyim Asyari and Kiai Wahab Hasbullah were able to endorse the establishment of Muslimat NU in 1946, during NU 16<sup>th</sup> National Congress.

At the same time, in the early 1940s, younger women within NU had also envisioned the creation of a branch within NU that would represent their interests.<sup>31</sup> The birth of Muslimat NU and support by Kiai Muhammad Dahlan were the central catalysts that enabled three young women – Aminah Mansur, Khuzaimah Mansur, and Musthosiyah – to establish Fatayat NU. It took ten years, from 1940 to 1950, for Fatayat NU to persuade organizational leaders of NU to agree to the formation of an autonomous organization for young Muslim women (PP Fatayat NU 1984). In the early stages, recruitment was conducted through encouraging younger females from NU families to participate in Fatayat NU activities. Eventually, Fatayat NU members themselves traveled to NU districts and encouraged young females to participate.

NU women fulfilled important functions but ultimately played subsidiary roles during the Dutch and Japanese occupation of Indonesia. In 1945, even though they

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<sup>31</sup> Before Muslimat NU was officially formed in 1946, women closely linked to NU families were organizing a range of activities comprised mostly of religious learning and preaching. Regular religious gatherings called *Majlis Ta'lim* were held where women gathered to sing praises to the Prophet, recite the Quran (*pengajian*), listen to sermons that could range from issues associated with a pious practice to issues pertaining to women's daily lives. Moreover, more learned women within the organization would hold informal sessions teaching others to read and write (PP Muslimat NU 1979).

participated directly in the struggle for independence against the Dutch, their interests were ultimately put on hold for the pursuit of nationalist goals. During this period, Muslimat NU and Fatayat NU focused on the internal development of their organizations by establishing functional departments, installing a chain of command and organizational rules, expanding local chapters across Indonesia, and consolidating the roles, responsibilities, and activities of their organizations.

The founding of Muslimat NU and Fatayat NU, compared to Aisyiyah, reflects the vast differences in power structures between Muhammadiyah and NU. As a centralized organization with a disciplined hierarchical structure, Aisyiyah was able to conduct its activities and programs as long as they received support from elite religious leaders. On the other hand, NU operated in a decentralized structure. Thus, even after Muslimat NU was formed as an official autonomous body in 1946, not all *kiai(s)* supported the establishment of Muslimat chapters in their communities (PP Muslimat NU, 1979). Hence, from 1950s onwards, both Muslimat NU and Fatayat NU focused on expanding their membership across Indonesia. Their recruitment source was within the NU *pesanteran* (village religious schools) system where they recruited daughters or sisters of *kiais* or *santris*. Eventually *kiai(s)* who were opposed to Muslimat NU agreed to the establishment of its local chapters because of the tangible benefits brought to their community.

### **Sukarno Era (1950- 1966)**

The international condemnation of the Dutch occupation and United States' threat to cut off reconstruction aid to the Dutch led to a military and political handover from the

Dutch government to the Republican units. By 1949, Indonesia had secured its independence. Operating under a provisional constitution from 1950 to 1959, this era marked Indonesia's experiment with liberal democracy. Even though the country was overwhelmed with social and economic problems such as poverty, lowly educated populace, corruption, and nepotism, there was a general consensus between secular and Islamic parties that democracy was the way to go forward.

One of the first few roadblocks the elected Constituent Assembly encountered was the role that Islamic law was to play in the country's legal codes and society. The provisional constitution specified that the elected Constituent Assembly would eventually decide on a definitive constitution. For the moment, Jakarta politicians decided that participative political system would entail the creation of a unicameral multi-party parliamentary system. Throughout this period, Indonesia was to experience multiple changes in cabinet and prime ministers until the dissolution of the Constituent Assembly.

Much to the chagrin of Muslim political parties, who demanded early elections, the first election was held five years after independence in 1955. Despite the proliferation of political parties in this period, Masyumi, Indonesian Nationalist Party (PNI), Communist Party (PKI) and the Nahdlatul Ulama political party were the few that represented large interests within society. Although Masyumi was the largest political party in the 1950s representing both traditionalist and modernist Islamic interests, in 1952, the traditionalist faction within Masyumi split to form the Nahdlatul Ulama political party.<sup>32</sup> Masyumi's base consisted of *santri* Muslims, religious teachers, and Islamic scholars (*kiai* and *ulama*). Nevertheless, Masyumi's official political program did

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<sup>32</sup> Between 1952 and 1984, Nahdlatul Ulama was both a political party and a mass-based social-welfare organization.

not include the establishment of an Islamic state (Ricklefs 2001). As a communist party, PKI led by the youthful leadership of Dipa Nusantara Aidit and his comrades, sought to build alliances with PNI, rather than with Masyumi. Adapting Marxist ideology to the Indonesian context, PKI identified elite bourgeoisie networks and feudal class as targets of oppression and mobilized around the interests of petit and national bourgeoisie. PKI and Masyumi both targeted indigenous bourgeoisies as their voter base, resulting in a rivalry between Masyumi leaders who were anti-communist and PKI. The results of the 1955 election revealed that Muslim parties received almost 7 percent more votes than the Indonesian Nationalist Party (PNI). Nevertheless, the Muslim vote was split between the modernist Masyumi and the traditionalist Nahdlatul Ulama. As such, Sukarno's PNI emerged with the largest number of votes and the highest number of seats within the parliament.

After the electoral standoff between Masyumi and NU in the 1955 elections, a second round of voting was held which yielded the same results. The assembly that was tasked with drafting a constitution to replace the provisional constitution could not come to a consensus on the role of Islam in the state. At the same time, a regional rebellion in Sumatra and Muslim-led insurrection in southern Sulawesi threatened the fragile democratic arrangement between the Communist Party (PKI), Nationalist Party (PNI), and Muslim parties. In 1959, frustrated with the stalemate in the Constituent Assembly and the regional and Muslim rebellions, Sukarno, with the backing of the military (ABRI), dissolved the assembly and announced the return to the executive-dominant constitution of 1945 (Ricklefs 2001). This move marked the beginning of the Guided Democracy in Indonesia's history.

Sukarno formed a national unity government known as NASAKOM (an acronym which in Bahasa Indonesia stands for nationalism, religion, and communism), in an attempt to unite the disparate social forces within society (Hefner 2000). The modernist Masyumi was excluded and later banned in 1960 for vociferously opposing the dissolution of the Constituent Assembly and for involvement in the PRRI rebellion.<sup>33</sup> Unlike Masyumi, NU was more willing than the modernist faction to make concessions to the Sukarno government and, in return, NU members received posts within the Ministry of Religion (Bush 2009).

After the Madiun Rebellion in 1948, PKI underwent a period of rehabilitation. It expanded its base with the support of Sukarno who later leaned on the Communist Party in his final years of rule. By 1957, PKI had transformed itself into the largest Indonesian political party, mobilizing Java and Bali's poor (Hefner 2000). Animosity between the now banned Masyumi and Communist Party grew, as a result of the latter's success in recruiting more followers. Furthermore, the passage of agrarian laws in the late 1950s which set limits on landholdings and a landlord's share of a tenant's harvest fuelled greater animosity between the Communist Party and *santri* Muslims who were predominantly landowners.

Military opposition to the Republican government escalated in the final years of Sukarno's guided democracy. In order to counter several regional and religious rebellions led by Darul Islam, Aceh, and PRRI, in 1957, the military declared martial law. There were factions within the military that were discontent with the way the Republican government dealt with regional rebellions and the increasing reliance of Sukarno on the

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<sup>33</sup> Led by several regional army commanders in Sumatra, the PRRI rebellion reflected the mounting grievances against the republican government's management of economy and a desire for greater political autonomy.

Communist Party. By early 1960s, the expanding influence of PKI on the national unity government was met with a loosely strung alliance between the military, NU, and the conservative faction within the nationalist party (Hefner 2000). In 1963, anti-Sukarno factions within the military collaborated with NU against the implementation of agrarian reform laws.

The tumultuous political situation was exacerbated by worsening economic and bilateral relations with Malaysia. The *Konfrontasi* campaign began as Indonesia's political armed opposition to the creation of Malaysia, where Indonesia intended to force the British colony into the Indonesian republic. The British and American governments viewed *Konfrontasi* as expanding the sphere of communist influence and placed sanctions on Indonesian exports and encouraged the dissolution of foreign investments. *Konfrontasi* led to spiraling inflation, worsening unemployment and poverty levels. By mid-1965, the Indonesian economy was near collapse.

The attempted coup of senior anti-communist army generals on September 30, 1965, by the pro-communist faction within the military, provided a prime opportunity for a young and powerful commander General Suharto to take over the control of the army. The crafty and politically astute general devised a propaganda campaign aimed at attacking Sukarno's authority and wielded the anti-communist forces within society towards physically disabling the communist forces. PKI was the subject of Suharto's vitriolic propaganda campaign against the communist. Suharto portrayed PKI and Gerwani as responsible for the wanton and lascivious killings of the anticommunist army generals who were captured in the coup. Without a coherent policy to incriminate PKI and its members, retributive assaults and gratuitous violence took place in towns with

large communist followings. By the end of 1965, Suharto presided over one of the darkest periods of Indonesian history where some five hundred thousand people had been killed and the core cadres of PKI eliminated (Hefner 2000). A carefully calibrated campaign directly attacking the PKI (but not Sukarno) was devised by Suharto and culminated into the transfer of broad powers from Sukarno to Suharto on 11 March, 1966, as outlined in the document commonly known as *Supersemar*. The very next day, Suharto with his new authority banned the PKI.

The intensification of welfare and religious activities for Aisyiyah and growing women's involvement in leadership and politics for Muslimat NU

The ban on Masyumi in 1960 affected not just modernist Muslims' participation in politics. Within the socio-religious and welfare domain, modernist members of Masyumi who were also involved in Muhammadiyah's programs intensified their proselytizing and socio-religious activities. As a testament to how Islamic institutions directed the activities of their affiliated women's organizations, Aisyiyah's activities in the late 1950s and early 1960s were less political than those of Muslimat NU and Fatayat NU. When previously Masyumi was a part of the national liberation struggle and a political contender in the 1955 elections, members of Aisyiyah and Nasyiatul Aisyiyah (Aisyiyah's youth section) were recruited in military trainings and involved in canvassing for votes; in the 1960s, with the ban on Masyumi, Aisyiyah channeled all its energy into social development projects. Aisyiyah established kindergartens, schools, and health clinics for women and children, and pioneered micro-credit programs for small business owners.<sup>34</sup>

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<sup>34</sup> In 1963, Aisyiyah founded Maternity and Child welfare centers, orphanages, and girls'

While the establishment and organizational development of Muslimat and Fatayat NU were driven partly by the ambition of women, their participation in politics should be viewed within the context of Nahdlatul Ulama's growth as an independent political party. Following independence, in 1952, NU left Masyumi because of the dominance of modernist elements within Masyumi under the leadership of Mohammad Natsir (Fealy 1996). Subsequently, NU formed an independent political party and required members of all ages and sex to participate in the political process.

Women of Muslimat NU and Fatayat NU realized the importance of participating in the democratic process.<sup>35</sup> Asmah Sjachruni identified Muslimat NU women who were smart, confident, and possessed leadership qualities and encouraged them to participate in politics. At the 1954 NU Congress, Muslimat NU and Fatayat NU decided on three important forms of action to pursue at the national level. First, they agreed that political parties should include women in their party lists; second, they decided to pressure the government to pass the Marriage Bill, which would restrict polygamous marriages and increase the marriage age for boys and girls; and third, to allow women judges in both secular and religious courts (PP Fatayat NU 2005). In a speech given during the 1954 Congress, Asmah Sjachruni asserted:

Women who are not educated, poor, and are widowed are issues of grave concern for us. When women's associational activities are restricted, their participation in politics will dwindle and women will be deprived of opportunities to articulate these issues and improve women's conditions. Addressing and improving this situation is our (Muslimat and Fatayat NU) foremost concern. Hence, in the 1954 Muslimat and Fatayat NU's Congress, we declared that women should be

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homes. In terms of education, Aisiyiah established vocational schools such as schools for midwives and schools for kindergarten teachers.

<sup>35</sup> Asmah Sjachruni, the Chairman of Muslimat NU for 16 years and also Member of Parliament for 30 years, described how the plight of women who were poorly educated and mired in economic problems motivated her and her colleagues to get involved in politics (PP Fatayat NU 2005).

nominated to stand for political office. (Pimpinan Pusat Fatayat NU 2005, 70)

The decision made in Muslimat NU's Congress in 1954 paved the way for NU's Central Religious Council (*Majlis Syuriah*) to grant women the permission to participate in politics and run for national legislative positions. By 1957, NU had authorized women's participation in the legislative and judicial process. Shortly after, in 1962, NU's National Congress held in Salatiga announced a landmark decision, allowing women to run for executive posts such as a Village Leader, a position traditionally dominated by influential and revered males in the community (Pimpinan Pusat Muslimat NU 1996).

Eager to mobilize a large constituency against the modernist Masyumi and Communist Party (PKI), less conservative *kiai(s)* within NU offered Muslimat NU and Fatayat NU women more opportunities to participate in the political process. Muslim women leaders from South Kalimantan, Central Java, and East Java were appointed and chosen as representatives in parliament (Affifah 2005).<sup>36</sup> Doorn Harder (2006) provides a detailed account of how Muslimat NU women leaders encouraged its members to participate in the political process in the early 1950s. She described how the communist threat portrayed by the NU leaders was one of the primary ways NU mobilized women to participate in politics. NU women were even encouraged to go to remote villages on horseback to lobby for votes (Doorn-Harder 2006, 219).

Women's participation in the political process was not without objection. Muslimat NU member Ibu Sri Mulyati<sup>37</sup> recalled in an interview with me how women

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<sup>36</sup> Apart from Asmah Syahrani from South Kalimantan, Maryam Kartasumpena from Central Java, and Maryam Junaidi from East Java.

<sup>37</sup> The interview was held in Muslimat NU office on March 3, 2012. Ibu Sri's account was not based on personal experience, but on what she heard from older members of Muslimat NU. Ibu Sri

were eager but nervous and lacked confidence in participating in politics. Given that the more conservative *kiai(s)* were against women's participation in politics, Muslimat NU members invited a respected and revered *kiai* who was supportive of women's participation in politics to discuss the issue. He issued a fatwa stating that women were just as capable as men in representing their communities. While the fatwa was an opinion of a single religious teacher and not the opinion of Nahdlatul Ulama as a whole, it enabled a few NU women members to be appointed as legislative members.<sup>38</sup>

#### The path towards greater autonomy for Fatayat NU

NU's decentralized power structure and the expansion of women's political roles within NU in the 1950s encouraged Fatayat NU to demand greater independence from Muslimat NU. Fatayat wanted to run their own activities, manage and find their own funds, and decide independently on their yearly agenda. Fatayat NU wanted to be seen as more than "mere helpers" of Muslimat NU (PP Fatayat 2005). In December 1962, during NU's National Congress in Solo, Fatayat NU officially became an autonomous organization affiliated with NU. This meant that Fatayat NU had a wider prerogative in determining its organization's mission, objectives, programs, and funding sources.

Nevertheless, from the 1950s to the 1979, the relationship between Muslimat and Fatayat NU remained a close one, and their activities and programs often overlapped (PP Fatayat

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herself was around 60 years old and would have been too young to recall these details.

<sup>38</sup> Asmah Sjachruni also recounted how she faced significant opposition regarding her decision, as a woman, to participate in politics and stand for office. In order to settle the dispute, she sought advice from a highly respected religious scholar, Anang Zaenal Ilmi from Kalimantan Selatan, who issued a fatwa stating that women can be political representatives. Armed with approval from a revered male religious scholar, Asmah and her colleagues continued their political campaigning during the 1955 elections (PP Fatayat NU 2005). Asmah Sjachruni emphasized the role of political participation in improving women's economic, social, and educational status.

NU 2005, 74). In its early days, the chairman of Fatayat NU would be the same person as the chairman of Muslimat NU. The general secretary of Muslimat NU would be a Fatayat NU member. In terms of activities, Fatayat and Muslimat NU often collaborated with each other. For example, if Muslimat NU started a school, Fatayat NU would supply the teachers. Since 1979, and especially after NU's exit from formal politics in 1984, Fatayat NU began running programs, activities, and seeking avenues of financing that were independent from Muslimat NU (PP Fatayat 2005).

### **Conclusion**

Although Muslimat NU, Fatayat NU, and Aisyiyah are insider organizations that maneuver between the roles and expectations of their parent organizations, and are striving for greater control over resources and autonomy, both organizations have embarked on separate paths to do so. Women's agency, as framed by the leaders of Muslimat NU, was embedded in the political structures that NU (as a political party) was engaged in. As such, one aspect of improving women's lived conditions involved Muslimat NU's active participation in formal politics. Political participation was one of many ways Muslimat NU contributed to improving women's lives. Women leaders of Muslimat NU framed Muslim women's involvement in politics as an important and vital aspect of service for the community. Political participation in this sense was linked to addressing women's access to education, healthcare, nutrition, and problems associated with underage and forced marriages.<sup>39</sup>

In contrast, because of Muhammadiyah's centralized power structure, women's normative roles as mothers and housewives were fore-grounded and emphasized instead

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<sup>39</sup> Women have long held important economic roles as petty business owners and farmers. They are visible in the public sphere.

of their engagement in politics. Although women of Aisyiyah were owners of small businesses and allowed to work, they were encouraged to do so in order to supplement the household income. In reality, women of Aisyiyah who did own small businesses (in batik production or food business) were taught how to juggle their responsibilities and divide their time equally between their careers and family.<sup>40</sup> Nevertheless, before the 1990s, women of Aisyiyah focused predominantly on socio-religious, education, and healthcare programs as forms of service towards the community. While a few women in Aisyiyah did participate in politics via Masyumi and later PPP (PP Aisyiyah 1992), before the 1990s, the emphasis for Aisyiyah was not on political participation as a way of improving Muslim women's lives and the community.

Another aspect that facilitates the decentralized power structure within NU is the relationship between student and teacher or *santri* and *kiai*. The student-teacher relationship in NU allows for individual *kiais* to have complete and independent control over their students. The authority of the *kiai* is ultimate, and, as much as this engenders obsequious and at times, non-critical learning, the leadership of an open-minded, inclusive, and tolerant *kiai* allows injustice and suppression of women and minorities to be overcome with a grounded and contextual interpretation of Islamic law. *Kiais* are strongly encouraged, but not obligated to abide by the fatwa released by NU Religious Council.<sup>41</sup>

When confronted with obstacles, women of Muslimat NU and Fatayat NU are

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<sup>40</sup> Interview with Ibu Tri Hastuti Nur from Aisyiyah, April 12, 2012, at Aisyiyah's National Headquarters in Yogyakarta.

<sup>41</sup> Interview with Kiai Maman from NU on 14<sup>th</sup> February 14, 2012, and Interview with Kiai Hussein on February 16, 2012. Both interviews took place at the National Commission of Violence Against Women (Komnas Perempuan).

able to identify and seek support from respected male religious scholars. At the same time, Islamic tradition within the four main schools of Islamic *fiqh* (Islamic jurisprudence) proves to be fairly flexible in accommodating certain issues associated with women's rights. In order not to offend their peers, an individual *kiai* whose perspectives on an issue is contrary to commonly held practices might offer ambiguous opinions.<sup>42</sup>

In the next chapter, I continue explaining the evolution of Muslim women's organizations and the women's movement in Indonesia beginning with political developments during the Suharto era (1966-1998). I will show how Muslim women's organizations evolved from being "insider" organizations – maneuvering and navigating for power from within Islamic institutions – to "intermediary" organizations – mediating and participating in both Islamic and women's rights discourses and networks.

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<sup>42</sup> For example, Muslimat NU declared that women should be allowed to receive training in Islamic law, so that they may serve as judges in religious courts. Wahid Hasyim, then minister of religious affairs, avoided mentioning whether women could be allowed into the program for Islamic Law. His cautious stance belied his actual support for women to study Islamic Law. Following that in 1953, the NU Religious Council, decided that women were allowed to study Shariah Law but did not rule on whether they could be judges in state and religious courts (PP Muslimat NU 1979). Muslimat NU's request for women to be judges in Islamic courts was eventually granted in 1977 (PP Muslimat NU).

## Chapter Four

### **The Emergence of Islamic Feminism and Islamic Conservatism**

Analyst and scholars of Indonesian politics often account for the suppression of political Islam during Suharto's era and the very gradual democratization process in Indonesia as the primary factors behind the rise of Islamic extremism (Hefner 2001, Fealy 2007, Bruneissen 2013). At the same time, feminist commentators in Indonesia trace the rise of non-political NGOs during the 1980s as the moment in which feminist ideas began spreading in Indonesia. The goal of this chapter is to provide the background for the development of Islamic feminist and conservative thought and networks in Indonesia. I begin this chapter by tracing the relationship between Islamic institutions, Muslim and secular women's groups, and the government during the Suharto regime. The second part of this chapter then examines the emergence of transnational ideas on women's rights and Islamic conservatism in Indonesia beginning from the early 1990s onwards.

#### **The Suharto Era: 1966-1998**

The end of the Sukarno's Guided Democracy ushered in the era of New Order politics, dominated by an army-created party Golkar (Golongan Karya or Functional Group). Suharto relied on consensus decision-making between powerful groups in particular, nationalist, religious organizations, the army, and the bureaucracy. However, when consensus was hard to obtain, the regime would pit one group against the other to preserve its survival. The New Order regime relied on two newly created organs within state bureaucracy – Bakin (State intelligence Coordinating Body) and Kopkamtib (Operational Command for the Restoration of Security and Order) – to ensure that different groups compromised with one another according to the regime's agenda and

adhered to the regime's implementation of policies (Suryakusuma 1988). Civil servants were obligated to pledge loyalty to Korpri, otherwise known as the Corps of Civil Servant, the compulsory official association of Indonesia's government officials. They were prohibited from being members of any other political parties apart from Golkar and marshaled support for the government during elections.

The Indonesian military, more than ever before, was playing a dual function (*dwifungsi*) managing both external defense and internal security. The military participated in key roles in both defense and socio-economic affairs. Apart from the fact that Suharto's cabinet was filled with politicians who were formerly military men, the military also secured diplomatic positions, national economic contracts, and attained leadership positions within the National Logistic Board (Bulog) and media outlets. The military-dominated government created an economy where growth was driven by exports of raw materials, including the tapping of natural reserves by multinational companies and foreign direct investments. Gross domestic product (GDP) growth was accompanied neither by long-term investment in infrastructure and telecommunications nor the wider provision of public social services. This pattern of economic growth impeded the development of an indigenous bourgeoisie. International interests, networks of elite groups and cronies of the government, quickly dominated nationalized sectors like oil and mining. The nexus between politics and economics manifested itself in terms of intra-party and inter-party fighting for ministerial appointments, government contracts, and concessions. While the marginal redistributive effects of growth led to the rise of middle-class Indonesians, near the end of Suharto's regime the openness of the economy to international capital escalated the impact of the 1997 Asian Financial Crisis, leading

the economy to a near collapse.

### The New Order and the suppression of political expressions of Islam

Suharto's management of political Islam can be categorized in two phases. The first phase took place from 1966 to 1990 where the regime adopted, controlled, intimidated, and violently suppressed any expression, associational activity and mobilization connected to political Islam. At the same time, the Suharto regime accommodated and supported Islamic piety and education as well as co-opted Muslims organizations into an expanded Islamic bureaucracy. Religious policies that appeared to favor greater Islamization were implemented with the intent of stabilizing the regime and bringing Muslim organizations and parties under greater bureaucratic supervision. The second phase witnessed a complete shift in Suharto's strategies. Dwindling support from the military led Suharto to appeal to regime-supportive, conservative Muslims whose agenda was based on sectarian logic and toppling the anti-democratic movements (van Bruneissen 2013; Hefner 2000).

### Muslim political parties

In the beginning, Suharto excluded modernist Masyumi and traditionalist NU from important political positions. Even though NU had collaborated with the military to overthrow Sukarno, Suharto and NU leaders differed on matters regarding the revival of the Jakarta Charter (stipulating that Muslims adhere to Shariah Law) and the implementation of Islamic law by the government. Almost 20 percent of Muslim parliamentarians were kicked out of office under the parliamentary restructuring, and

fewer than five appointments within the cabinet were given to Islamic parties. In 1971, NU lost its ministerial control over the Ministry of Religion, a position that provided NU with substantial sway within the government. Similarly, Suharto did not lift the ban on Masyumi despite various concessions made by the Islamic political party. Instead, Masyumi regrouped to form Parmusi in 1967. Parmusi was an alternative representation of modernist Muslim interests whose existence was accommodated by the Suharto government under the strict order that the group's leadership did not emerge from the ranks of Masyumi; it specifically excluded Masyumi's leader, Mohammed Natsir. Parmusi's impact on politics was short-lived and riven by internal power struggles between accommodationists (with Suharto's government) and those who desired more independence from the government.<sup>43</sup>

In 1973, Suharto's tactic of gradually weakening the support base of Muslim political parties and kicking out Muslim representatives from powerful political positions gave way to control and intimidation. Under advisement by one of his closest military aides Ali Moertopo, Suharto embarked on a series of restructuring measures to centralize power, limit political expression, participation and association that were not favorable to the regime. First, the restructuring program consisted of fusing nine political parties into two broad party alliances – Indonesian Democratic Party (PDI), intended to represent the interests of the Nationalist parties, Catholic and Protestant Parties; and the Party of Unity and Development (PPP), comprised of four Islamic parties of which the two largest were Nahdlatul Ulama and Parmusi (modernist political party). Second, political parties were

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<sup>43</sup> Parmusi's share of the vote that dropped from 20.9 percent in 1955 to 7.36 percent in 1971 elections reflected the internal split within the modernist leadership and its supporters. NU however, remained a threat to the Suharto regime gaining 18.7 percent of the national vote during the 1971 elections.

forbidden from mobilizing their constituents at the provincial, sub-district, or village levels. As a result, Muslimat NU and Fatayat NU were temporarily paralyzed. Finally, Suharto transformed the corporatist entity established by Sukarno “Association of Functional Groups (Golkar)” into a state party dominated by the military and bureaucracy. Civil servants within state bureaucracy were obligated to declare their allegiance to Golkar. This posed a problem for bureaucrats within the Ministry of Religion, many of whom were in Islamic parties. Nevertheless, authoritarian control over aspect of the political system meant that political parties were subordinate to Suharto and his aides. Every so often, political platforms, legislative appointments or recalls, and political parties’ candidate lists would be altered not to suit any particular nationalist or Islamist ideology, but to secure regime’s interests (Hefner 2000).

Confronted by increasing repression, Masyumi supporters split between the senior leadership, loyal to Mohammed Natsir, and the younger modernists. The majority of the younger modernists came from the middle-class within society that had benefitted from the employment opportunities within Suharto’s enlarged bureaucracy, especially the Ministry of Religion and the State Islamic Institute Colleges (IAIN). Younger modernists from the middle-class were less inclined to be politically critical of the government and preferred a strategy of constructive engagement with the government so as to instill constitutional democracy from within. Regime-abiding former Masyumi members also joined Golkar and by 1980s, the proportion of nominal Muslims within Golkar was a minority. By 1990s, conservative Muslim bureaucrats within Golkar and other state bureaucracies such as ICMI<sup>44</sup> provided Suharto with the support that he needed in

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<sup>44</sup> ICMI or the Association of Indonesian Muslim Intellectual was established in 1990. ICMI was originally initiated by individuals within the *pembaruan* movement but later became the regime’s

confronting his diminishing authority within the military. Established in 1990, ICMI or the Association of Indonesian Muslim Intellectuals was the regime's apparatus to court conservative and regime supportive Muslim groups.

At the same time, growing suppression of Masyumi between the mid 1950s to the 1960s convinced senior and conservative-minded supporters that working with the government to bring about the state's greater commitment to Islam was futile. The senior leadership, loyal to Natsir, and regional supporters of Masyumi grew increasingly frustrated with accommodationists within Parmusi and the regime's restriction of the modernist party. In light of growing repression, and the perceived success of Christian evangelicals' conversion of nominal and communist-sympathizing Muslims, Masyumi's senior supporters led by Mohamed Natsir formed Dewan Dakwah Islamiyah Indonesia (DDII). Established in 1967, DDII still promoted the concept of democratic proceduralism (based in Islamic and not liberal ideology), but called on its followers to stamp out the evangelical tide of Christian missionary efforts and encouraged the fostering of closer ties with the international Muslim community (Hefner 2000). DDII established close ties with the Islamic World League and became a vocal opponent of Suharto's political economic ties with the United States government. DDII accused U.S. of its complicity in the 1967 Arab-Israeli war and the spread of western journalism that promoted sexual hedonism and liberation. DDII became one of the most vocal opponents of the renewal movement led by liberal-leaning thinkers such as Nurcholish Madjid and Abdurahman Wahid.

## Pancasila as the nation's sole foundation

The indoctrination of Pancasila as the sole philosophical foundation of the Indonesian nation was promptly adopted as a reactive measure against competing ideologies, regional rebellions in Aceh and East Timor, as well as opposing political parties. The government publically declared its plans for the mass indoctrination of Pancasila through training programs called P4, the Guidelines for the Appreciation of the Pancasila Experience. These indoctrination courses were conducted for private and public employees, housewives, and school-going children. Muslim political parties such as NU (since 1973 NU was reorganized as part of PPP) publically opposed the government's plans to impose Pancasila as the sole ideology for the nation as it meant undermining Islam. Even though attempts were made to assuage the concerns of Muslim parties by explaining that Pancasila was compatible with Islamic principles and that the government was in fact, against Islamic extremism, and not Islam, NU was not satisfied.

In the 1978 People's Consultative Assembly (MPR) session, NU and a few other members from the umbrella Islamic party, Party of Unity and Development (PPP), walked out of the assembly protesting the indoctrination program (Machfoedz 1982). Sukarno retaliated strongly against PPP, in what was considered to be the most radical form of protest ever seen during the New Order (Radi 1984). Ali Moertopo, Suharto's right-hand man, replaced PPP's chairman with one of Moertopo's man Jaelani Naro (Bush 2008). Subsequently, conflict between PPP's chairman and NU escalated further. In the lead up to the 1982 elections, Naro who was also the leader of Parmusi allocated seats within the candidate list in such a way that the proportion of seats reserved for NU were lower than what NU wanted. Moreover, NU candidates were listed far lower on the

candidate list.

Apart from disciplining political parties by appointing regime supporters in leadership and influential positions, Suharto utilized the military to coerce non-compliant members of the public to accept Pancasila as the sole ideology of the nation. Suharto instructed all Muslim parties such as PPP and non-governmental organizations, including student organizations such as the Indonesian Student Association, HMI (modernist university students 'association), and Indonesian Islamic Association, PII (modernist high-school association) to replace Islam with Pancasila as the organization's basic principle. When the Mass Organization Law, which required all voluntary organizations to adopt the Pancasila as their sole ideological principle took effect in 1985, PII's continued resistance to the law led to its dissolution. Although NU had walked out of the 1978 MPR session, by 1985, both NU and Muhammadiyah accepted Pancasila but maintained that Islamic principles still formed the core of their faith and identity.

Apart from PII, Muslim protests against Pancasila took the form of violent bomb attacks on nightclubs, movie theatres, hotels, and churches in Sumatra. Komando Jihad, a small radical group whose main objectives were the establishment of an Islamic state based on Shariah Law perpetrated some of these acts of religious violence. The core members of the group had direct links to the now defunct Darul Islam movement.<sup>45</sup> In

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<sup>45</sup> Apart from Komando Jihad, Muslims continued to protest against the Pancasila indoctrination, culminating in the Tanjung Priok incident in September 1984. Sermons conducted in mosques within the Tanjung Priok neighborhood were known to be more scathing and antagonistic towards government policies. What started as a trivial conflict with a local security personnel who had allegedly desecrated a mosque turned into massive rioting that involved military personnel and the use of fire arms. While the official reports of the incident conveyed low levels of casualties, eyewitness accounts stated that the riots led to the deaths of a few dozen people. The disproportionately violent response by the military was effective in silencing opposition to the Pancasila indoctrination. While vitriolic public displays against the government gradually abated, they did not completely disappear. Muslim groups such as former HMI and PII members focused their efforts on proselytizing and formed discussion groups emphasizing personal and moral devotion.

the final sections of this chapter, I will discuss the evolution of campus Islam or “Tarbiyyah (education) movement,” comprised of orthodox youth groups (amongst which some of the members were from the dissident wing of HMI and PII) that were connected to Darul Islam and were driven underground as a result of Suharto’s suppression of political Islam.

#### The Indonesian Women’s Congress during the New Order

After 1965, with the obliteration of Gerwani (the women’s wing of the Indonesian Communist Party, PKI), a broad-based women’s organization called Perwari gained more influence within the Indonesian Women’s Congress, also known as Kowani. Perwari was very active in the 1950s. It was one of the largest women’s organizations that was neither affiliated to a political party nor limited its membership of women by the husband’s profession or religious beliefs.

Kowani’s independence, however, was short-lived because as soon as Suharto took over the presidency, he appointed Kowani as the umbrella organization for all women’s groups, including professional, social, and religious organizations. While Gerwani and Perwari were at the helm of leadership before, now women representatives of Golkar took on leadership roles within Kowani. Women representatives from Golkar gradually infiltrated Kowani. By May 1974, at Kowani’s 16th Congress, at least seven of eleven members of the executive board elected were from Golkar (Boileau 1983).

Kowani represented 55 member organizations, but, unlike the divisions that fractured the effectiveness of the organization before, Kowani abided by the gender ideology of the New Order.

Throughout Suharto's New Order, Kowani grew out of touch with the lived realities and challenges of Indonesian women as its members consisted mostly of urban elites. Kowani's organizational objectives that were once "to fight for women's rights and children" had devolved to "women as loyal companions of the husband, as procreators for the nation, as educators and guides of children, as regulators of the household and as useful members of society" (Panca Dharma Wanita). What had been before an independent and radical women's organization was reduced not only to another bureaucratic organ to be manipulated for regime's interest, but to being a symbol and representation of ideal womanhood for the entire nation.

#### Gender roles in the New Order and family planning

Under Suharto's New Order regime, women's organizations of all types (Islamic, Catholic, secular feminist, independent, or affiliated) were banned. Suharto created yet another bureaucratic organ – Office of the Enhancement of Women's Roles (Kantor UPW) – to control, manage, and regulate women's organizations. These organizations were known as "wives organizations" consisting of women married to men within the military and civil service. Dharma Pertiwi was affiliated to the military while Dharma Wanita was affiliated to the civil service. Suharto also established a network of village women's organizations incorporated into the Family Welfare Movement (PKK). The PKK, comprised of a nation-wide network of locally active governmental organizations, was essentially a vehicle for the implementation of government development programs in rural areas (Marcoes-Natsir 2002, 187).

Members of Dharma Wanita were elites in society and included wives of civil

servants, officials of government institutions, State Secretariat, Office of Attorney General, state banking institutions, as well as wives with husbands working in private institutions with close ties in government (Suryakusuma 1988). Membership in Dharma Wanita was compulsory. Wives were strongly encouraged to participate in official ceremonies, engage in charitable activities and in general support the official duties of their husbands. Non-elite women on the other hand were organized into village organizations within the Family Welfare Movement (PKK). The 1983 Broad Guidelines in State Policy (GBHN) outlined the definition of women's wifely citizenship as portrayed in the functions of PKK. They were given a budget of around Rp 16 500 million per annum for the implementation of PKK programs in all 66 437 villages in Indonesia (Suryakusuma 1988).

PKK served both ideological and practical functions. In order to unify the nation, pursue developmental goals, and create a stable and harmonious society, state's gender ideology promoted women's roles not only as mothers to their families, but also as custodians of the Indonesian nation. According to Shirashi (1997, 84) the family foundation concept originated in Javanese nationalism and has an inherently hierarchical idea of family based on the parent-child relationship model. Applying this model within the state meant that a "family state" was comprised of the wise father, the caring mother, and their children who knew their places, duties, and responsibilities. By extension, a homogenizing conception of femininity and motherhood were promoted as the regime valorized the family unit as the cornerstone of the nation and the wife as "pendamping suami" (Robinson 2008, 71) that is, the husband's companion who is by his side. With Indonesia's entry into the market economy, more emphasis was placed on the

wife/mother role by expressing her biologically given nurturing capacities to provide comfort and care from the “harsh realities of the outside world” (Robinson 2008, 71). These gender ideologies promoted by PKK were not only idealized but also unrealistic. The majority of middle-income women (and below) held multiple jobs, and their lives were not limited to housewifery. In fact, since the 1970s, women became a source of cheap labor in various manufacturing sectors, in particular, the textile industry (Caraway 2007).

Apart from its ideological function, PKK mobilized women and children to participate in maternal and child healthcare programs (Robinson 2008). Mothers and their children were strongly encouraged to visit health stations (*posyandu*) that catered specifically to their basic health care needs. Women and children received medicine, vaccinations, and were educated on ways to improve their nutrition and health. Even though these programs have succeeded in reducing infant and maternal mortality rates, Indonesia still has one of the highest maternal mortality rates in Southeast Asia (Badan Pusat Statistik Indonesia 2013). In the late 1960s, PKK was also one of the main organizations tasked with promoting and administering the family planning program.

#### Muslimat NU and Fatayat NU

Muslimat NU and Fatayat NU members I interviewed often referred to the Suharto era as an organizational “vacuum” because the political intimidation and suppression of NU and its affiliated organizations meant that Muslimat NU and Fatayat NU were wary of conducting any of their programs and activities. Asmah Sjachruni describes this period vividly:

When the new government took control in 1967, we decided that, as representatives of the community, we should check and regulate the government. However, we were made obsolete with the policies of the new government. We experienced an organizational and political vacuum for almost twelve years and lost almost 80 percent of our management staff from the provincial to the village level. For twelve years we were “quiet” because our organizational structures at the provincial, district, sub-district, and village level were depleted of their resources. As most of our members are teachers, nurses and part of the civil service, they were afraid that their participation in Muslimat and Fatayat would cause them to lose their jobs. We were frightened because of government’s intimidation.<sup>46</sup>

By early 1980s, a faction within NU’s leadership argued that NU would be a more effective organization if it became a social and religious welfare organization that was not involved in politics. In 1984, NU decided to return to its initial organizational roots as a socio-religious welfare organization, a decision known in NU-parlance as *Kembali Ke Khittah 26*. The lack of clear communication and dissemination of the *Kembali Ke Khittah 26* decision led to further misperception regarding NU’s status. NU members were afraid of being involved in community activities, as they perceived the new directives from Jakarta as meaning that they should not be involved in all forms of politics, including community building exercises. NU’s central leadership (PBNU) themselves were at times uncertain about what “*Kembali ke Khittah 26*” meant (Bush 2009).

By 1984, Muslimat NU and Fatayat NU had already begun collaborating with PKK on disseminating information and services on birth control, as part of the state’s developmental agenda to reduce birthrates. However, after *Kembali ke Khittah 26*, PBNU gave Muslimat NU and Fatayat NU strict instructions not to work with PKK.

Nevertheless, Muslimat NU and Fatayat NU argued that working with PKK to educate

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<sup>46</sup> This quote was taken from a Muslimat NU publication of their history. See PP Fatayat NU 2005, 77.

women on contraceptive techniques did not equate to being involved in politics. Asmah Sjachruni describes the situation:

PBNU prohibited us from working with PKK because they were afraid that people would affiliate us with a certain (read: Golkar) political party. But we immediately objected because, if we had kept quiet, it would have been difficult for us to continue with our activities and we had to (continue with out activities) because most of our members are targets (of contraceptive services) by the Family Welfare Movement. That is our experience of going against NU's decision. We didn't intend to oppose NU but that was what we had to do in order for our organization to survive. We had to ensure women understood their options of different birth control techniques. In my opinion NU is too soft and gentle; Muslimat and Fatayat are much more aggressive and progressive.<sup>47</sup>

Aisyiyah

The political paralysis encountered by Masyumi drove Muhammadiyah to intensify its religious proselytizing efforts. Moderates from Masyumi and Muhammadiyah decided to work with the government in order to develop a more pious and religious society. These moderate modernist Muslims were recruited largely as bureaucrats working in various government development and planning agencies. Religious scholars were recruited to work within the department of religion and education.

In the early 1970s, Muhammadiyah was involved in intense discussions on the role of women in the family and the community. This was in part Muhammadiyah's response to demands by feminist and Muslim women's groups for the government to discuss the Marriage Bill. In 1966, Suharto moved the responsibility for marriage law from the Ministry of Religion to the Ministry of Justice. Suharto instructed the Ministry of Justice to draft a marriage law based on the philosophical foundation of Pancasila.

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<sup>47</sup> Ibid.

Suharto's message to Muslim political parties (in particular NU that had a sizable constituency and following) was clear. Before Sukarno was overthrown, the issue of state's implementation of Islamic law arose once again. NU's leadership differed with the government on matters of religious policy, specifically, the revival of the Jakarta Charter. Suharto's decision to exert greater control over the Marriage Bill in 1966 was an attempt to signal his strong hand in matters pertaining to religious policy. When discussions over the Marriage Bill were revived in 1968, a stalemate ensued between the drafts written with input from feminist and secular groups and the drafts from Islamic political parties. By 1970s, the Marriage Bill discussions were put on hold due to their potentially divisive impact.

It was in this climate that Aisyiyah began seriously discussing the roles of Muslim women in society. In 1972, the Muhammadiyah Council for Religious Rulings (*Majlis Tarjih*) produced a religious guidance book *Morals for Muslim Women* also known by its Arabic title as *Adabul Mar'ah Fil Islam*. Although Muhammadiyah's religious council had a large part to play in determining the content of the book, most of Aisyiyah suggestions were also incorporated into the book. While Islamic marriage laws were not discussed in the book, *Majlis Tarjih* responded to pertinent topics such as women's roles in politics, women's involvement in lobbying and political demonstration, including the permissibility of Muslim women judges amongst other issues. *Adabul Mar'ah Fil Islam* encouraged women to "enjoin the good and forbid the evil" (*amar ma'ruf nahi mungkar*) by not only fulfilling their duties as mothers and wives, but also to contribute in society and to build the nation. Women of Muhammadiyah were encouraged to be "political(ly) aware and not to be afraid of politics so as not to be victims of the political process"

(*Adabul Mar'ah Fil Islam* 1977, 72). Moreover, it argued that women who were competent and astute should be supported in order to become politicians. In order to achieve this, Aisyiyah should develop and train its cadres (73).

In response to the question of female Islamic judges, *Adabul Ma'rah Fil Islam* states, "Without denying reality, the role of men as breadwinners in this fast-paced world reflects their strength. However, we cannot deny that this characteristic does not exist in women to the extent that they are as capable as men. Islam does not prevent the development of women's or men's potential insofar as both men and women are steadfast in their service towards God" (76).<sup>48</sup> The 1972 manual underscores several criteria for women's participation in society and politics. It should be seen as a statement by Muhammadiyah and Aisyiyah towards officially enjoining Muslim women to contribute in the public sphere.

How can we explain why *Adabul Mar'ah Fil Islam* encourages women's public participation in the national legislature and in civic organizations, even though the context for women's participation in politics is narrow and strictly delineated according to electoral laws and political restructuring by Suharto? Two elements are important in explaining Muhammadiyah's articulation of women's roles. First, the purging of conservative and radical elements within Muhammadiyah facilitated progressive opinions amongst Muhammadiyah's elite. Second, the influence of state gender ideology on Muhammadiyah and Aisyiyah foregrounded women's domestic roles while emphasizing women's participation in gender-appropriate professions and non-political, community activities.

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<sup>48</sup> *Adabul Mar'ah Fil Islam* is in many ways a progressive document regarding women's roles in society compared to the 1937 book published by Muhammadiyah and Aisyiyah, *Tuntuan menjadi Isteri Islam Yang Berarti* (The Call Towards Becoming an Exemplary Islamic Wife).

By 1970s, members within Muhammadiyah who disagreed with the conciliatory approach the organization had taken towards the government left to join Mohamed Natsir's Dewan Dakwah Islamiyah (DDII). Former members of Masyumi who opposed Suharto's de-politicization of Islam and advocated for Islam to be implemented in state policies and society joined Natsir's DDII. By creating ties with international Islamic regimes, Natsir managed to attain donations from states such as Saudi Arabia, Kuwait, and Pakistan to run, amongst other things, the DDII journal, *Media Dakwah*. In the 1970s, Muhammadiyah represented an organization that was not only focused on socio-religious welfare activities, but veered away from associating itself with the politically-minded DDII (Ricklefs 2001). Religious scholars within Muhammadiyah were largely employed by the Ministry of Religion and the Ministry of Education, and members within Aisyiyah and Nasyyatul Aisyiyah (Aisyiyah's youth section) were also involved in state-sponsored organizations such as Indonesian Youth National Committee (KNPI) and PKK.

### **The Emergence of Islamic Feminism in Indonesia**

Far from suppressing all forms of Islamic expression, Suharto's regime accommodated and supported Islamic piety and education as well as co-opted Muslim organizations into an expanded Islamic bureaucracy. Associational activity and mobilization connected to political Islam were, on the other hand, strictly controlled and on most occasions, violently suppressed. During these years, Indonesia experienced a concomitant growth in local non-governmental organizations (NGOs). Activists (from both modernist and traditionalist backgrounds) saw funds from international donors as an

excellent resource to channel into bottom-up economic development, small-scale enterprises, and community-based projects. Insofar as funds were channeled into social and economic development, the New Order regime welcomed international donors.

Given the depoliticized emphasis on social activism, the NGOs that took women as their specific target group adopted a welfare approach. This approach targeted women as wives and mothers and highlighted their role in improving the welfare of the family through improving women's nutrition, reproductive health, education, and income-earning potential.

While feminist ideas and organizations had once flourished in Indonesian civil society in the 1950s, by the late 1960s, these organizations were replaced by mostly state-sponsored wives organizations. By 1980s, the combined impact of several factors initiated changes in the landscape of discourse on women's rights in Indonesia. First, international foreign funding agencies such as Oxfam and UNDP made grants conditional on the inclusion of gender components in programs and activities of local NGOs (Hadiwinata 2003). Second, local NGOs that were directly focused on fostering gender equality and advocating for working women and class-based issues began to emerge. Third, Indonesia's participation in a series of international conferences such as the Beijing Conference of 1995 situated local NGOs and Muslim women activists within a network of transnational women's organizations. Fourth, the 1993 watershed United Nations declaration to bring women's rights into the human rights agenda increased revenue streams for newer women's organizations in Indonesia (Blackburn 2004, 194).

Secular feminist NGOs such as Kalynamitra and Yasanti were pioneers in reintroducing conversations that centered on unequal power relations at the intersection

of gender and class. Initially, their focus on class and gender issues limited their reach and influence outside of intellectual and feminist circles. In particular, Muslim women's organizations including Fatayat NU stayed away from such discussions, as they perceived women's rights as a foreign agenda cloaked in Western imperialism.<sup>49</sup> As eminent gender activist Lies Marcoes, and Muslim women feminist, Siti Ruhaini Dzuhayatin pointed out during our conversations, "gender" is not in the vocabulary of Indonesians, and neither is it an Arabic or Javanese term.

One of the first few international collaborative projects that the nascent women's movement in Indonesia organized was a joint workshop held by Kalyananan Mitra and International Institute of Social Studies in Hague. The project introduced terminologies such as gender inequality, patriarchy, and women's rights. Discussions generated from these workshops began contextualizing gender inequality in Indonesia with respect to social problems such as gendered division of labor, proliferation of female-headed households, and the exploitation of women factory workers. Members of Kalyananmitra were involved in these discussions and sought to become the conduit of feminist ideas. However, both Kalyananmitra and Yasanti could not provide adequate explanations regarding the definition of gender and an understanding of women's rights from an Islamic point of view. For example, Lies Marcoes explained to me that secular women's groups were unable to offer satisfactory explanations to these questions: If gender is "socially constructed," how do we as Muslims, reconcile these ideas about the cultural and social construction of roles appropriate for women and men, when these very roles are in fact defined by Islam? If gender is culturally and socially determined, how do we

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<sup>49</sup> Interview with Lies Marcoes at Asia Foundation Office on 10 October 2011.

come to terms with the fact that Islam states that the husband is the leader of the household and requires that the Muslim wife obey the husband? These were questions that secular feminists were not equipped to answer.<sup>50</sup>

The glaring inadequacies and incompatibility of secular and liberal feminist conceptions of women's rights and Islam highlighted the need for an understanding of women's rights centered within Islamic text and tradition. Muslim women such as Wardah Hafidz<sup>51</sup>, Lies Marcoes, Lily Zakiyah Munir, Siti Musdah Mulia, Siti Ruhaini, to name a few, are some of the notable pioneers of Islamic feminism in Indonesia. They belong to either traditionalist or modernist backgrounds and were trained either in State Islamic Institute Colleges (IAIN) or received a *pesanteran* (Islamic boarding school) education. These individuals contributed to widening the discourse on Islam and feminism by translating books such as Rifat Hassan's *Equal before Allah* into Indonesian, inviting scholars like Rifat Hassan and Asghar Ali Engineer to Indonesia, and conducting several workshops on gender and Islam. By mid-1990s, Islamic organizations like Muslimat NU, Fatayat NU, Aisyiyah and Nasyyatul Aisyiyah (the younger sister organization of Aisyiyah) began instituting "gender socialization and training" workshops to raise awareness of women's roles and status in Islam.

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<sup>50</sup> I am indebted to Lies Marcoes for sitting down with me for almost two hours and explaining how Muslim women's organizations began collaborating with feminist organizations.

<sup>51</sup> According to Lies Marcoes, Wardah Hafidz was one of the first few individuals who attempted to search for an Islamic reference to bridge these conceptual worlds. He came from a *pesanteran* background and was trained in English Literature at the University of Malang (IKIP Malang). She looked to international contemporary Muslim feminist writers such as Rifat Hassan, Asghar Ali Engineer, and Fatima Mernissi in attempts to resolve the apparent incompatibilities between women's rights and Islam. Wardah Hafidz translated Rifat Hassan's *Equal before Allah* into Indonesian, and this was published in the journal *Ulumul Quran*.

## The Modernist Religious Renewal Movement

A parallel development within the Muhammadiyah and NU communities paved the way for the growth in discourse on women's rights within an Islamic framework. The emergence of senior leadership within Muhammadiyah and NU who promoted ideas on pluralism, disconnected Islam from formal politics, and emphasized Islamic teachings on caring for the weak and poor, spearheaded discussions on a range of local issues from human rights and women's rights to social justice. Abdurrahman Wahid, Chairman of NU from 1984 to 1998, and Nurcholish Madjid, a public intellectual and chairman of the modernist Muslim student union HMI in 1966, were two pivotal figures in the Religious Renewal Movement in Indonesia. It was under their leadership that discussion circles, workshops, institutes, and NGOs were formed. Three such notable organizations were: The Institute of Study of Religion and Philosophy (LSAF), the Institute for Research on Education and Economic and Social Information (LP3ES), and the Association for the Development of *Pesanteran* and Community (P3M).

LP3ES conducted research and published articles concerning education, societal health, agricultural economy, technology, and industrialization. LSAF published an influential journal *Ulumul Quran* that covered a range of Islamic topics such as Islamic feminism, Sufi mysticism, Shi'ism, and Islam and Indonesian tradition. LSAF also conducted seminars and lectures that were followed with critical discussions and debates. Activities held in these institutions spread through intellectual networks within the modernist community. In the 1970s, the traditionalist community was mostly unaffected by these discussions. It was only in 1984, after NU renounced its participation in formal

politics and elected Abdurrahman Wahid as the Director of the Executive Council of NU, that engagement with the *pesanteran* community through bottom-up social activism began.

#### Development of NGO Circles within the Traditionalist Community

Abdurrahman Wahid was a strong proponent of ideas similar to NGO narratives that promoted empowerment and development from below, human rights, gender equality, civil society, and democratization. He saw that the *pesanteran* were the only autonomous institutions at the village level and realized their potential in developing society. The legitimacy of these ideas rests upon the ability of Islamic scholars and activists to translate concepts such as “rights” into the language of Islamic jurisprudence and simultaneously identify the possible ways Islamic legal traditions can accommodate liberal philosophy.

In response to this situation, P3M, the Association for the Development of *Pesanteran* society, was founded in 1983. Apart from P3M, there were a few other NU-affiliated organizations such as Lakpesdam and LKiS that contributed to the dynamic discourse on Islam and civil society. Lakpesdam was created in 1985 to support NU leaders professionally and academically. Apart from publishing books, conducting community workshops, seminars and research, Lakpesdam also produces its own journal *Tashwirul Afkar*, where topics such as secularism, liberalism, and pluralism are debated and discussed (Munawar-Rachman 2011).

Finally, Forum Kajian Kitab Kuning (FK3) is another important organization that has contributed towards advancing an understanding of women’s rights in Islam. In 1997,

Forum Kajian Kitab Kuning (FK3) was set up by Kiai Hussein Muhammad, Sinta Nuriyah (the wife of the late Abdurrahman Wahid) and Masdar Mas'udi. FK3 focused specifically on the reinterpretation of *Kitab Kuning* (yellow books) or *Uqud al-Lujjayn*, as it is known in Arabic. *Kitab Kuning* consists of nine classical books compiled by Sheik Nawawi al-Bantani. It serves as a main reference for many Muslims in *pesanteran* communities, particularly in terms of husband-wife relations. The book prescribes normative roles for wives and husbands. According to the book, wives who refuse sexual intercourse with the husband will be condemned by the archangel (Muhammad 2001). FK3 was composed of a team of twelve men, and each of them was a specialist in Islamic history, Quranic exegesis, *Fiqh*, and *Hadith*. By 2001, FK3 published a critical edition of *Uqud al-Lujjayn* entitled *Ta'liq wa Takhrij 'ala Sharkh Kitab 'Uqud al-Lujjayn* (Critical Analysis of the Book *Uqud al-Lujjayn*). In response to the *Hadith* cited earlier, FK3 states that the *Hadith* should be read contextually and critically. *Al-la'nah* (God's condemnation of a sinner) should be interpreted as the loss of compassion and peace in domestic life as opposed to individual condemnation towards the wife (Muhammad 2001). Hence, according to Kiai Hussein, the revered male-feminist religious scholar, if a husband insists on sexual intercourse with his wife who is sick or tired, he is, in fact, being uncompassionate and selfish.<sup>52</sup>

The renewal movement and the discourse it promoted on Islamic modernization, opposition towards political Islam and religious pluralism shared similar overtones with the human rights discourse advanced by the traditionalist movement. As discussed above, contextualization and reinterpretation of Islamic *fiqh*, Quran, and *Hadith* with particular

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<sup>52</sup> Interview with Hussein Muhammad on 16th February 2012, at the Commission for Violence Against Women. (Komnas Perempuan).

attention to human rights and women's rights became the core objectives of NU-affiliated NGOs such as P3M, Lakpesdam, and LKiS.

Because NU was seen as a political contender for almost 20 years of Suharto's rule, NU-based NGOs including Muslimat NU and Fatayat NU were quick to propagate ideas, discourse, and activities that promoted an alternative and human rights understanding of Islam.

Although it was the renewal movement within modernist circles that began promoting the discourse on pluralism, human rights, and democracy, it was only in the mid 1990s, that Aisyiyah leaders began introducing ideas on gender equality.<sup>53</sup> Absorbed into the Islamic bureaucracy and embedded within a centralized and disciplined institution, women of Muhammadiyah focused their energies on balancing women's prescribed roles in the family with the practical demands of women's lives. Eventually the women of Muhammadiyah began engaging with women's rights discourse around the mid-1980, first as a response to secular feminism; by the 1990s, with the spread of NGO groups and the proliferation of Muslim women from modernist backgrounds with advanced degrees in Islamic studies, Aisyiyah embarked on an authentic struggle to navigate the issues of women's rights and Islam.

#### Moving into Uncharted Feminist Territory: NGO Circles and Muslim Women Activists

Even though Kalyanamitra made important initial steps to introduce discussions on gender and Islam in Indonesia, the ideology and vocabulary adopted by them were

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<sup>53</sup> To be fair, Aisyiyah's youth section Nasyiatul Aisyiyah began discussing these ideas in the mid 1980s. The 1985 Nasyiah congress was a turning point for the organization as Cholifah was elected the head of Aisyiyah. One of the first few things she did was to spearhead the formation of intellectual discussion groups to address issues such as veiling, the institutions of marriage, and the morality of pre- and extra-marital sexual engagement.

restrictive and limited. It became difficult for women like Lies Marcoes to develop a discourse on women's rights centered on Quranic teachings and Islamic values. It was at P3M that a leading Muslim feminist activist, Lies Marcoes, was able to continue her activism on gender and Islam.

For example, P3M was the first organization to focus on women's reproductive rights in Islam. In order to do so, Masdar Mas'udi, the chairman of P3M had to develop a rights-based discourse of Islamic jurisprudence. Masdar Mas'udi together with a highly respected kyai (honorific title for a religious teacher and scholar) and intellectual luminary from Cirebon, Kyai Hussein Muhammad, and Lies Marcoes, formulated a gender-sensitive interpretation of Islamic jurisprudence, known as *fiqh-al-nisa* (Islamic jurisprudence concerning women).

In order to ensure that the conservative and traditional oriented religious teachers did not immediately object to P3M's discussion circles (*halaqah*) on Islamic jurisprudence on women (*fiqh al-nisa*), P3M had to formulate ideas on women and human rights in the language of *fiqh*. P3M employed Abdurrahman's ideas of invoking the classical Islamic concept of "five basic needs" (*al-daruriyyat al-khamsa*) derived from the medieval Maliki jurist Abu Ishaq al Shatibi (Bruinessen 2011).

Abdurrahman Wahid adapted the concept of the "five basic needs" to provide a cloak of legitimacy and familiarity to the ideas on human rights, democracy and women's rights. *Pesanteran* students and teachers are very familiar with this concept because al-Ghazali, a highly respected classical authority in NU circles, discusses al Shatibi's "five basic needs" at length in his work on Islamic jurisprudence (Effendi 2000). According to al-Ghazali and later authors, in particular Shatibi, the main objectives of Shariah is

*maslaha*, that which brings the most benefit to the Muslim community. Shatibi discussions on *maqasid al-shariah*, the objectives of the Shariah, were most susceptible to a human rights discourse.

The works of these scholars underline that there are different categories of benefit that can range from “necessary” to “commendable”. They list five essential needs that fall under the category of “necessary” *maslahah*. Following Abdurrahman, P3M adapted the language of *maslahah* to a localized and modernized conception of human rights: the right to live (free from physical and psychological harm) or the self (*al-nafs*); the right to be religious (*al-din*); the right to think (*al-‘aql*); the right to property, wealth and comfortable living (*al-mal*); and the right to bear offspring and have a family (*al-nasl*). P3M study circles normally (*halaqah*) begin with a reading comparing Ghazali and Shatibi’s treatment of the “five basic needs” followed with an open floor discussion. These discussions are steered by a P3M activist who tries to urge the participants to see the connections between concepts of human rights and Islamic classical conception of the “five basic needs”.

Through discussions on Islamic jurisprudence for women (*fiqh al-nisa*) and the objectives of shariah (*maqasid shariah*), P3M was one of the first few organizations to connect women’s rights with women’s reproductive rights in Islam. While discussions on women’s reproductive rights had been initiated by Kalyananmitra especially after the 1994 ICPD Conference, most kyais were of the opinion that Islam confers husbands and wives with equitable rights. Referring to the Quranic verse, “Men are the protectors and maintainers of women” (Quran 4: 34), many conservative Muslim leaders believe that the husband should make all decisions in the family including those concerning the wives.

P3M however emphasizes that women have the right to make their own decisions, especially when it comes to decisions concerning their health and safety, as this constitutes the right to be free from physical and psychological harm.

The younger generation of NU women have benefited from P3M and FK3 workshops as well as Lakpesdam publications. In 1991, the Fatayat NU branch in Yogyakarta set up Yayasan Kesejahteraan Fatayat (Marcoes Natsir et. al. 2012). Following the international focus on women's reproductive rights in national population programs and encouraged by P3M programs on *fiqh al-nisa* and women's reproductive rights, Fatayat NU became the first Muslim women's organization to develop strategies and provide programs to strengthen women's reproductive rights.

Women's reproductive rights became the entry point for Fatayat NU to include issues affecting women's rights and status in Islam into their workshops and publications. Fatayat NU realized like P3M, that in order for their ideas to be accepted by Kyai and Nyais (wives of kyais) they had to adopt the language of Kyai Sahal's *fiqh social*. Kyai Sahal Mahfudh who was then a deputy within the NU Supreme Council (the highest governing body), and currently its President General was a regular participant of P3M discussions. Kyai Sahal Mahfudh coined the phrase "*Fiqh Social*" arguing for greater attention to context in applying legal rulings from the four main schools (*mazhab*) of Islamic jurisprudence (Mahfudh 1994).

Fatayat NU's grounded experience and practical understanding of the limitations Muslim women have in determining their reproductive health, family planning and economic livelihoods continue to shape their strategies and approach. Fatayat NU realizes that the improvement of women's reproductive and sexual rights must be accompanied

by strengthening women's independent purchasing power, awareness of their rights as wives and mothers and their political rights as citizens.

Since its started in 1991 in Yogyakarta, Yayasan Kesehatan Fatayat NU (henceforth YKF) now has presence in several parts of Jakarta and Central Java. Apart from *pesanteran* students and religious teachers, YKF plans to reach a wider audience by running workshops for high schools students in secular schools. YKF has also managed to attract the government's attention. Together with Family Planning Agencies (BKKBN) in various districts, YKF provides services to birth clinics and reproductive health counseling's for families and teenagers.

### **Post-Suharto Era: The Unsettling Development of Democracy Alongside Islamic Extremism and Transnationalism (1998 onwards)**

Although Indonesia is generally associated with peaceful and tolerant Islam, the rising incidence of violent acts towards churches and minority Muslim sects (Shias and Ahmadiyahs) indicate a shift towards more extreme religious discourses and rigid Islamic practice. The post-Suharto period of gradual democratization has witnessed an emergence of violent jihadi groups whose ideological goals stem from a pan-Islamic awakening and a deep-seated desire to establish an Islamic caliphate.

The 1997 financial crisis overwhelmed Indonesia's economy, and, by May 1998, violent anti-government riots led to Suharto stepping down. B.J. Habibie, the interim president, swiftly introduced elections, and, in June 1999, Indonesia had its first democratic election since Suharto took over. Analysts and scholars of Indonesian politics often account for the suppression of political Islam during Suharto's era and the very gradual democratization process in Indonesia as the primary factors behind the rise of

Islamic extremism (Bruinessen 2013; Fealy 2007; Hefner 2000). Moreover, Suharto's strategy of pandering towards conservative, regime-supportive Muslims in his final years of rule (Hefner 2000, 128) provided the basis for militant Islamic groups to mobilize. These groups established networks of Islamic study cells, religious proselytization (*da'wa*) groups and Islamic schools (*madrassah*) (Hassan 2009, 124). Established in the early 1990s, these networks have been pivotal in conveying the elements of Islamist ideology and the different modes of enacting *jihād* in Indonesia. At the same time, political freedom and an unrestricted access to several media platforms have facilitated the influx of transnational Islamist networks and ideas into Indonesia.

The fragmented nature of transnational Islamist movements in Indonesia is reflected in the variegated collective action strategies pursued by Islamist actors. These consist of participating in the existing political system (such as The Prosperous Justice Party, PKS), violent raids and bombings of symbolically non-Islamic spaces<sup>54</sup>, and peaceful demonstrations as well as establishing an assertive media presence.<sup>55</sup> While the modes and strategies of these groups may differ, there is a coherent theme that unifies the transnational Islamist movement in Indonesia. Apart from invoking shared identities and ties with persecuted Muslims around the globe, Islamic transnational groups emphasize the different ways Indonesian and global politics are interconnected. Thus in their view, social trends such as hyper-consumerism and hyper-sexualized behavior amongst youths are an outcome of Indonesia's participation in the global neo-liberal economy and a democratic political system that upholds the will of the masses instead of the sovereignty

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<sup>54</sup> Violent jihadism is associated with groups such as the Forum Pembela Islam (FPI), Laskar Jihad and Jemaah Islamiyah (JI). JI is widely known for their involvement in the 2002 Bali Bombings.

<sup>55</sup> Here, I am referring to Hizbut Tahrir Indonesia that is explicitly non-violent.

of God. They claim that these global structures are detracting Indonesians away from the establishment of an Islamic caliphate, which is the all-encompassing solution to modern day social, economic and political problems. In doing so, they question the format of the modern nation state while promoting the *sharia*, and an Islamic state or caliphate (*khalifa*) as the alternative to the current global order (Hassan 2009, 125).

While research on transnational Islamist networks in Indonesia is sparse, there are a group of scholars who are focusing on how transnational forms of political organization, mobilization and practice are affecting Indonesian Islam. Noorhaidi Hassan (2009) argues that the consolidation of democratic spaces and expression in Indonesia are outmaneuvering the violent and militant tactics of jihadist groups in Indonesia. Instead, leaders of militant groups comprising of young Islamists whose social trajectories have brought them into contact with the global community (*ummah*) are learning that outreach, social services and intensive proselytizing (*da'wa*) activities are more effective in terms of promoting their version of Islam. Proselytizing (*da'wa*) activities include producing social and printed media content, financing the building of Islamic schools (*madrassah*), mosques and healthcare clinics (135).

One such transnational organization is Hizbut Tahrir (HT), and its women's auxiliary wing, Muslimah Hizbut Tahrir (MHT). Hizbut Tahrir Indonesia or HTI was established in Bogor in 1981 by Abdurrahman al-Baghdadi and M. Musthofa. Al-Baghdadi was originally from Lebanon. After an invitation from Abdullah bin Nuh to come to Indonesia, Al-Baghdadi became the caretaker (*pengasuh*) of Pesantaran al-Ghazali in Bogor, West Java. While in Bogor, Al-Baghdadi recruited students from Bogor's Institute of Agriculture (IPB) to disseminate the teachings of Hizbut Tahrir's

ideological leader Taqiyuddin an-Nabhani. HT was established in 1952 in Jordan by Taqiyuddin an-Nabhani. It became an underground party after an-Nabhani failed to secure a parliamentary seat. HT has formed in other Middle East countries also as an underground party. HT maintains strict organizational discipline, and each country organization is expected to abide closely with the organizations' constitution, which outlines the foundational principles, ideology, and movement strategy of the organization.

On May 2000, HTI launched its first international conference at an indoor stadium in Jakarta. It proclaimed HTI's mission of seeking to reestablish the caliphate and to implement *Shariah* law in Indonesia. While HTI sees itself as a political movement, for now, it has chosen to disassociate itself from moderate Muslim movements, such as NU and Muhammadiyah, and Islamic political parties, such as PKS. By virtue of the latter group's participation in democratic elections and engagement in civic and political activism, HTI claims that democracy forces Muslims to be subjected to the will of the people instead of the will of God.<sup>56</sup> HTI believes that while electing rulers through a democratic process is acceptable, democratic and liberal constitutionalism is thoroughly un-Islamic.

Because HTI eschews violence, most Indonesians have tolerated the organization. Nevertheless, the organization is active in demonstrations and can gather large groups within a moment's notice to demonstrate on a spectrum of issues ranging from fuel and commodities price hikes, or an increase in tuition to endorsing MUI's (Majlis Ulama Indonesia or Indonesian Council of Ulama) *fatwa* (Islamic non-binding legal opinions)

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<sup>56</sup> I interviewed Ismail Yusanto, the spokesperson of HTI on March 21, 2012, at HT's Office in Jakarta.

outlawing groups like Ahmmadiyah.

Muslimat Hizbut Tahrir Indonesia (MHTI) is separated from HT's men in terms of carrying out the organization's activities. Women members of HT usually come from HT families and have husbands who are part of HT or through HT reading circles. In Indonesia, MHTI became active in 2007 with the hiring of the new spokeswoman (*juribicara*). Unlike women's organizations of Muhammadiyah and NU, MHTI was set up to fulfill the practical needs of HT. MHTI does not have autonomy in electing its leaders, nor does it have complete autonomy in the design and implementation of its activities. MHTI was started to fulfill a practical function that is to organize the women's wing of HT. Because HT abides by the principle that men and women's activities should be separated, one of MHTI's roles is to organize reading and religious circles specifically for women. Secondly, MHTI's secondary role is to respond to national and local level issues that are women-specific such as the Anti-Domestic Violence Law that was passed in 2004 and the 2008 Pornography Law. Their responses towards these issues mirror HTI's perspectives and reflect the organizational discipline, and ideological uniformity across HTI and MHTI.

## **Conclusion**

This chapter has discussed the emergence of Islamic feminism and conservatism against the political backdrop of Suharto's regime and the beginning of democratization in Indonesia. I have shown that between 1966-1984, NU's large grass roots base represented a political threat to Suharto. As such, Muslimat NU and Fatayat NU were unable to conduct their programs and activities except with oversight and direction from the government. On the other hand, it was during this period that Muhammadiyah

members were recruited in large numbers into the education and religious ministries, so that Muhammadiyah's leadership began accommodating Aisyiyah's demands for Muslim women's participation in political and legislative roles. In sum, Muslim women's organizations' ability to galvanize and participate in politics was subject to opportunities available within the political opportunity structure.

In the early 1990s, internal ideological reforms within the modernist and traditionalist communities and several key interactions between Muslim women leaders, Indonesian feminists, and foreign-funded NGOs, led to the emergence of a small but dedicated community of Muslim women activists. These activists were elites and leaders within Aisyiyah, Muslimat NU, and Fatayat NU. They are instituting their own ways of integrating a gendered approach to interpreting Islamic sources. Foreign funding, and the development of NGOs focused on addressing modern problems through an egalitarian interpretation of Islamic law also provided the opportunities for Muslim women activists from Fatayat NU to begin applying women's rights perspectives into their charitable and social programs.

The collapse of Suharto's regime ushered a series of developments in Indonesian politics that were reminiscent of the 1950s. At the same time, the emergence of Islamic transnational movements articulating their own brand of social conservatism has set off a trend amongst moderate-minded Muslims desiring the regulation of dress codes, behavior, and male-female interaction.

Both Chapters Three and Four have provided a thorough background against which we can begin assessing the processes of cultural translation undertaken by Muslim women activists. Chapter Three, has shown how Muslim women activists operated

largely as “insider” actors pursuing Muslim women’s demands while remaining within the bounds of Islamic institutions’ religious perspectives and political agenda. Chapter Four examined the emergence of Islamic feminism and its spread within Muslim women’s organization. The remaining chapters will assess how Muslim women’s organizations mediate and maneuver between Islamic law, religious practices, cultural traditions and women’s rights.

## Chapter Five

### **Integrating Rights Subjectivity: Islamic Marriage Law and Polygamy**

Family law, which encompasses rules and regulations concerning marriage, divorce, inheritance, child custody and charitable trusts, is a central site that determines the fundamental differences in women's rights across Muslim majority countries. In the Middle East and North African (MENA) region, Tunisia and Morocco are touted for their progressive family law codes that have, amongst other factors, prohibited and severely restricted polygamy, respectively (Charrad 2012; Charrad and Zarrugh 2013; Tamanna 2008).

By contrast, little is known about the context surrounding the development of family law as it relates to women's rights and polygamy in Indonesia. Works prominent within legal studies (Cammack and Feener 2007; Katz and Katz 1975; Nurlaelawati 2010; Huis and Wirastri 2012) provide us with a comprehensive coverage of the historical evolution of Islamic legal structure in Indonesia. At the same time, anthropologists and sociologists offer us detailed narrative accounts of the struggle between feminists, Islamic political parties and the state over Islamic marriage codes, in particular the contentious issue of polygamy (Brenner 2006; Martyn 2005; Nurmila 2009; Rinaldo 2013; Wichelen 2009).

Yet, we are scarcely aware of how Muslim women's organizations perspectives on polygamy have evolved over time and the implications that transnational diffusion of women's rights, and Islamist conservative and moralist ideas have on discourses concerning Islamic marriage law. This insight is vital considering that Muslim women's organizations' advocacy and support for women-related issues in Indonesia, have been

key in initiating fundamental changes within Islamic institutions and civil society, and in some instances, as will be discussed in Chapters Six and Seven, have shaped policy. By translating the language and ideas of human rights and women's rights and grounding them in Islamic concepts and frames, Muslim women activists play an influential role in shaping discourse and policy related to Islam and women's rights.

Their role in interpreting Islam and making religious practices and principles relevant in a modern context is crucial in a country where the relationship between state and religion is communalized (Hajjar 2000). In a communalized state, different religious communities are subjected to separate system of personal status laws. In the case of Indonesia this means that Islamic marriage law has existed as a parallel legal system with a separate judiciary consisting of marriage registrar offices and courts handling divorce, inheritance and charitable trusts. In a communalized state such as Indonesia, Islamic marriage laws are decided based on consensus between the state and elites in religious institutions. By the end of this chapter, it will be clear that Islamic institutions, in particular, Nahdltual Ulama (NU), Muhammdiyah, Majelis Ulama Indonesia (Ulama Council of Indonesia or MUI) and the Ministry of Religious Affairs monopolize institutional power when it comes to Islamic marriage law. Thus, attaining their support is pivotal when it comes to initiating reforms and changes in Islamic marriage law.

As Muslim women's organizations are affiliated to Islamic institutions, they have ability to incorporate new ideas and alternative understandings to problems while leveraging on the authority of Islamic institutions. At the same time, they are limited by the hegemonic discourses of their parent organization, and their efforts to adapt human rights into Islamic concepts and language may be hijacked or misinterpreted. Thus, the

focus of this chapter is to examine Aisyiyah and Muslimat NU's changing ideas and values related to marital relations and polygamy, and the implications it holds for Muhammadiyah and NU's perspectives on similar issues. I argue that Aisyiyah and Muslimat NU have managed to assimilate norms and values of women's rights and brought them into conformity with Islamic ethical principles on marriage and cultural gender roles. By applying a contextual interpretation of Quranic versus and *hadith* (authoritative recorded sayings and actions of the Prophet) Muslimat NU has managed to reframe the rhetoric of individual rights within religiously authoritative terms and to contextualize women's individual rights within the framework of rights accorded to women as wives. In addition, Aisyiyah has embarked on a full-scale revision of its Harmonious Family Program that was first launched in 1985 as a platform for socializing gender roles and stipulating moral conduct for both husbands and wives. These revisions attempt to challenge gender biasness and discrimination through a historically specific interpretation of Islamic texts. In short, both Aisyiyah and Muslimat NU have experienced shifts in their subjectivities, towards accommodating a more rights-based approach in their perspectives towards marital relations.

Despite the bold attempts by Muslim women's organizations in reframing women's rights and challenging existing gender roles and power hierarchy, the last section of this chapter will discuss Muslimat NU and Aisyiyah's protracted process of negotiation with Islamic institutions over the criteria of a valid marriage. Currently, in Indonesia, an Islamic matrimonial ceremony need only be performed according to Islamic law to constitute a valid marriage. Muslim women's organizations firmly believe by stipulating that marriage registration is compulsory for a valid marriage, the incidence

of polygamy would recede significantly. As I will demonstrate at the end of this chapter, Muslim women's organizations' advocacy against polygamy and unregistered marriage have generated patchy outcomes, at least in terms of shaping Islamic institutions' perspectives on such issues. I will explain how the concentration of discursive and institutional power within Islamic institutions have limited Muslim women's activists' ability to shape policy outcomes related to Islamic marriage law.

This chapter will be divided into three parts. The first part consists of the history of Islamic marriage law in Indonesia. In particular, the first part will be organized as follows: a) I will provide a brief background of the Islamic legal structure in Indonesia as it relates to marriage law; b) subsequently, I will detail a short history of Indonesian women's activism around marriage law from 1920s to the 1950; c) following that, I will examine the gradual amassing of institutional power by Islamic institutions over Islamic marriage law. The second part of the chapter will compare Aisyiyah and Muslimat NU's ideas and perspectives related to polygamy during two democratic time periods: the 1950s and the present day. The third part of the chapter will discuss Aisyiyah, Muslimat NU and Fatayat NU's confrontation with NU and Muhammadiyah regarding their perspectives on marriage registration and the implications it holds for Muslim women's activism around Islamic marriage law.

### **Brief Background on Islamic Marriage Law in Indonesia**

If we define secularism as “separating the *individual* right to (religious) belief from the authority of the state” (Asad 2003, 134) then, Indonesia is neither a secular nor a theocratic state. This is especially true in the realm of marriage law where rules on marriage, divorce and child custody are decided according to group rights and are

instituted based on a consociational political system where agreements are forged between multiple parties in government.

As religious differences have been and continues to be one of the largest cleavages in Indonesian society (Lijphart 1977, 2004) Indonesia's management of state-religion relations assumes a communalized legal structure (Hajjar 2000). Within the context of marriage law in Indonesia, this means that the 1974 Marriage Law is a national code that regulates marriage, divorce, child custody, and reconciliation (formal revocation of divorce or a resumption of conjugal life within a specified period) according to different religious categories. In other words, a Muslim and a non-Muslim are not under the same legal regimes. Pursuant to the 1974 Marriage Law, Muslims, Protestants, Catholics, Buddhists, Hindus, and Confucians<sup>57</sup> are to marry according to their religious beliefs (Article 2, Paragraph 1) and for a marriage to be officially recognized, it has to be registered (Article 2, Paragraph 2).<sup>58</sup>

In 1991, further legal changes were undertaken to systematize and regularize the substance of Islamic marriage codes. While the 1974 marriage Law specified rules relating to marriage, divorce, reconciliation and child custody rights, rules regarding inheritance and charitable trusts were not included. The 1991 Compilation of Islamic Law sought to remedy this. The Compilation, otherwise known in Indonesian as

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<sup>57</sup> These are the six officially recognized religions in Indonesia.

<sup>58</sup> Yet, there are some unifying statutes that govern all Indonesians, regardless of religious beliefs. For example, the 1974 Marriage Law stipulated different minimum age of marriage for men and women (16 for women, and 19 for men), court-regulated divorce with the grounds for divorce equalized for both husband and wife, and several restrictions on polygamous marriage for Muslims. In addition, the 1974 Marriage Law also reflects an explicit patriarchal kinship arrangement specifying that the man is the head of the family and the woman is solely the housewife (Article 31, Paragraph 3).

*Kompilasi Hukum Islam* or KHI, was issued as a presidential instruction with lower legal standing but with binding power enforceable by Islamic courts.

By unifying Islamic references used by judges, the primary goal of the compilation was to create further consistency across the application of Islamic marriage codes and reduce judges' divergent judgments on similar cases. The hope was that the compilation would aid Islamic court judges to apply Islamic family law in a more or less consistent manner.<sup>59</sup> Apart from echoing the codes stipulated in the 1974 Marriage law, the 1991 KHI added several stipulations that reinforced a husband's superiority in marriage.

When compared to progressive Islamic marriage codes in Tunisia and Morocco, the 1974 Marriage Law and the 1991 KHI, represent a mixed bag in terms of women's rights. Indonesia, like Morocco, has, in principle, tight controls over polygamy, judicial oversight for divorce, and grounds for divorce equalized for both husband and wife. However, unlike women in Morocco who can choose to enter into a marriage contract on their own, women in Indonesia must be represented by a guardian (*wali*) during the marriage solemnization (*akad nikah*) process. Likewise, based on the 2004 Moroccan Code of the Family, women in Morocco are considered joint heads of the household and have no legal requirement to be obedient to their husbands (Charrad 2012). On the other hand, the 1991 KHI stipulates that a woman, regardless of age, has to be represented by

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<sup>59</sup> See Nurlaelwati's discussion on how judges referred to an arbitrary selection of Islamic jurisprudential (*fiqh*) texts to provide the substantive foundations to legal stipulations. Thus she argues that Islamic court judges often issued opinions and judgments on the same type of cases based on different grounds (2010, 60)

her guardian (*wali*) during the marriage solemnization, and only women are considered capable of disobedience (*nusyuz*).<sup>60</sup>

Compared to both Morocco and Indonesia, Tunisia has the most progressive personal status codes. In 1956, as part of a larger state building project aimed at developing a modern centralized state and minimizing the power of patriarchal kin-based communities in local areas, the Tunisian Code of Personal Status made polygamy illegal (Charrad 2012, 4). Furthermore, the 1956 Code required judicial intervention in divorce and increased women's custody and guardianship rights. In 1993, reforms on the Code enabled women to pass their nationality to a child born abroad, regardless of the nationality of the child's father.

The reforms of personal status codes as promulgated in Tunisia and Morocco have been primarily due to top-down efforts, either to modernize the country, as in the case of Tunisia (Charrad 2001), or as a national response and symbol opposing Islamic terrorism, as in the case of Morocco (Salime 2011).<sup>61</sup>

In Indonesia, the 1974 Marriage Law was achieved as a result of a series of compromises between the state and the then influential Islamic political party, Nahdlatul Ulama (NU) (Azra 2003).<sup>62</sup> The 1991 Compilation of Islamic Law (KHI) was an

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<sup>60</sup> The 2004 Moroccan Code of the Family or the revised Moudawana specifies the "mutual rights and duties between spouses," including both the wife and the husband assuming the responsibility of managing and protecting household affairs and the children's education and consultation on decisions. No mention of wifely disobedience, or *nusyuz*, is written in the revised Moudawana.

<sup>61</sup> In Morocco where the Maliki jurisprudence prevails, King Mohammad VI was able to use his authority as supreme representative of the nation to announce reforms for the Moroccan Code of the Family. Yet this is perhaps a simplistic assessment. Salime (2012) describes how feminist groups infiltrated state institutions to work out the details on reforms for the Code in the context of an international and US War on Terror and the King's intent to position Morocco as allies of neo-liberal regimes, and ahead of other Arab-Islamic countries (110 – 133).

<sup>62</sup> In an attempt to reduce the number of political parties in parliament, in 1973, NU was merged into an umbrella Islamic political party, The United Development Party, PPP. In 1984 NU

outcome of a multilateral consensus between the state, religious elite leaders from Majelis Ulama Indonesia (Ulama Council of Indonesia or MUI) and Islamic institutions including NU and Muhammadiyah (Bowen 2003). The nature of these processes yield piecemeal and gradual changes, unlike the sweeping reforms typifying the Moroccan and Tunisian personal status codes. Compromises between the state and Islamic institutions indicate how institutional power was firmly in the grasp of Islamic institutions. It is within the context of state's accommodation and consensus with Islamic institutions, and the concentration of institutional power within Islamic institutions that Muslim women's organizations and the Indonesian women's movement have experienced opportunities and obstacles in advocating for reforms in marriage law.

### **Brief History of Women's Movement Activism around Marriage Law**

The Indonesian women's movement has been mobilizing around marriage law since the early 1920, when Indonesia was still a Dutch colony. In order to understand the different positions held by women's groups with respect to marriage law, it is essential to know about the marriage law system during colonial times.

The Dutch established a system where Europeans were subject to the Dutch private law and Natives were subject to their own customary (*adat*) law (Katz and Katz 1975). Unwritten customary law had evolved into an amalgamation of ancestral custom (*adat*) and Islamic tenets based on Islamic jurisprudence (*fiqh*). *Adat* and *fiqh* coexisted in a complex and mutually co-evolving fashion. *Adat* communities had adopted different aspects of Islamic law to an extent where, "not one of these (*adat*) social systems... is to be found in Indonesia in its pure form" (Vreed-de Stuers 1960, 31).

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withdrew from the PPP and officially announced its departure from formal politics.

Polygamy was practiced in both *adat* and Muslim communities but remained restricted to individuals with means or revered religious men. In the Islamic stronghold of Minangkabau, almost nine percent of married men were involved in polygamous marriages while only two percent of men had polygamous marriages in Java and Madura. The majority of men who had multiple wives usually had only two wives. These men occupied elite positions in society and were predominantly civil servants, religious leaders and merchants (Vreede-de Stuers 1960, 104). Polygamy also occurred in Hindu Bali and predominantly Islamic areas, but it was less common amongst Muslims of lower economic class.

Nevertheless, other marriage practices such as child marriage, forced marriage, arbitrary and non-court regulated divorce were indications of the lower status of women. In submission to the Native Welfare Inquiry, a report commissioned by the Dutch and with submissions from nine Javanese women, polygamy and child marriages were described as a “gangrene on society,” where women suffered more than men (Martyn 2005, 35). It was also claimed that women “lived in fear of divorce, desertion or a second wife and lost their independence when married” (Soendari 1916, cited in Blackburn 2004).

In challenging marriage rules, women faced considerable opposition from Islamic groups and lack of support from secular parties such as the Partai Nasional Indonesia (Indonesian Nationalist Party or PNI) and the Partai Komunis Indonesia (Indonesian Communist Party or PKI). Even though PNI did include the elimination of polygamy in its 1928 platform (Martyn 2005, 36 cited in Brown 1981, 70), it lacked commitment and follow through in fear of alienating Islamic groups.

In 1928, Indonesian women from different groups came together and held the first Women's Congress. Over 1000 delegates from 30 women's organizations attended the congress (Martyn 2005). The objectives of the congress were to bring together disparate women's organizations and form a unified position on women and gender related issues. Despite the diverse affiliation of individual women's organizations within the congress, marginal reforms were made on the marriage front. The Women's Congress achieved several resolutions amongst them concerning the restriction on men's unilateral right to divorce as outlined in Islamic law. The congress proposed to the Dutch government that the groom read the *talik-talak* during a Muslim marriage ceremony. *Talik-talik* normally exists in the form of a document that is read and signed during the time a marriage is registered. The document list the acts by the husband, which provides the wife with grounds for divorce should the husband fail to comply with those acts listed in the document.<sup>63</sup>

In 1930, decisions were made to avoid discussing the controversial issue of polygamy. However, by 1932 the divisions between the women's movement pertaining to polygamy could not be contained any further. *Isteri Sedar* (The Conscious Woman), a socialist-inclined woman's group, which eventually joined the women's wing of the *Partai Komunis Indonesia* (Indonesian Communist Party or PKI), strongly opposed polygamy. The Indonesian Women's Congress led by Maria Ulfah Santoso, articulated the congress' opposition to polygamy in more moderate terms. Two separate congresses were held that year regarding marriage laws. *Aisyiyah*, the oldest Muslim women's

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<sup>63</sup> Known also as "delegated divorce" *talik-talak* is an acceptable practice in the Hanafi mazhab and widely recognized in Ottoman lands. In 1928, in their 3<sup>rd</sup> Congress, *Nahdlatul Ulama* had discussed the issue of the validity of *talik-talik* that was pronounced after the marriage. NU proclaimed that *talik-talak* is a permissible practice.

organization in Indonesia had participated in the earlier meetings organized by the Women's Congress. However, in 1932 it organized its own congress focusing on the position of women within Islam and the permissibility of polygamy in Islam. Aisyiyah defended polygamy by claiming that support for monogamy meant that society tacitly approved of illicit relationships and prostitution. Meanwhile Isteri Sedar (The Conscious Woman) held another conference where they decided to unequivocally reject polygamy. Soewarni Pringgodigdo, the president of Isteri Sedar (The Conscious Woman) argued that polygamous relationships did not improve women's economic situation nor was it a feasible solution to overcome gaps in gender demography (Vreede-de Stuers 1960, 106).

Thus, from 1928 to 1942, while discussion on women's health, economic and labor issues as well as education progressed, the discussion on marriage laws grew increasingly fractious. In particular, the issue of polygamy was divisive as Christians and non-religious women's organizations saw polygamy "as an unpardonable humiliation for women, against which they actively fought" while Islamic organizations "only wanted to improve the conditions under which polygamy was allowed to occur, not to abolish the institution itself" (Wieringa 1985, 8).

### **The Concentration of Institutional Power within Islamic Institutions**

Islamic institutions, NU and Muhammadiyah, have consistently tussled for political power over the Ministry of Religious Affairs since it was first established in 1946. As discussed in Chapters Three and Four, throughout different time periods control over the Ministry alternated between NU and Muhammadiyah depending on which institution was perceived as innocuous to Sukarno's and Suharto's authoritarian

government.<sup>64</sup> Control over the Ministry provided Islamic institutions and their affiliated Islamic political parties with not only resources, but also with substantial sway within the government over decision-making power in bureaucratic and ministerial appointments as well as in managing the spending of government funds.

After the transference of presidential power from Sukarno to Suharto in 1966, Suharto moved the responsibility for marriage law from the Ministry of Religion to the Ministry of Justice. Suharto instructed the Ministry of Justice to draft a marriage law based on the philosophical foundation of Pancasila. Suharto's message to Muslim political parties (in particular NU that had a sizable constituency and following) was clear. Suharto's decision to exert greater control over the marriage bill in 1966 was an attempt by the government to signal its strong hand over matters regarding religious policy. When discussions over the marriage bill were revived in 1968, a stalemate ensued between the drafts written with input from feminist and secular groups, and the drafts from Muslim political parties (Suwondo 1981). By 1970s, discussions over the marriage bill were once again suspended for its potentially divisive impact.

In 1973, Suharto introduced another marriage bill. This new bill was controversial and was vociferously debated in parliament. There were several articles that agitated Islamic parties and Muslim organizations. First, the bill stipulated that civil registration was necessary to validate a Muslim marriage; second, Muslim men seeking divorce or polygamy had to seek permission from a civil court instead of an Islamic court; third, provisions for inter-religious marriage were accommodated; and fourth, the bill provided

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<sup>64</sup> It is important to remember that, as explained in Chapter Three, after a stalemate in the Constituent Assembly tasked with writing the Indonesian constitution, and several regional and Muslim rebellion Sukarno suspended parliament and announced the return of an executive-dominant constitution (See Ricklefs 2001)

legal status to engagement (Azra 2003, 76).<sup>65</sup> According to Katz and Katz (1975), while it is unclear who wrote the bill that the President endorsed, Muslim groups were suspicious that Catholic members of Golkar had been the primary initiators of the bill, with the President's wife Tien Suharto being the bill's chief supporter. Muslim groups were left out in the drafting process (23).

Taken together these points were not only contrary to Islamic law, but Islamic parties and Muslim organizations perceived the marriage bill as an attempt to diminish the role of Islamic institutions and widen the jurisdiction and authority of the civil courts, and secular administration. Waves of protest on the streets culminated into temporary breakdown in parliament on the day the bill was discussed. The floor of the parliament was seized by Muslim youth protestors coupled with other demonstrators outside the parliament building.<sup>66</sup> According to Tempo, a political magazine, the House witnessed the largest attendance during the general debate of the bill (Katz and Katz 1975, 23).

One of several divisive articles that was contentiously debated stipulated that registration was necessary for a valid marriage. This meant that the criteria for a valid marriage consisted not only of a marriage contract between the bride, groom, bride's guardian and two witnesses or otherwise, known as an *ijab kabul*, but also the state's certificate of marriage (*akta nikah*). In most countries with a parallel court system (civil and Islamic courts), religious elites bound to state authority have acquiesced to the

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<sup>65</sup> See Azyumardi Azra. 2003. *The Indonesian Marriage Law of 1974 An Institutionalization of the Shari'ah for Social Changes. Shari'ah and politics in modern Indonesia*. Ed. Arskal Salim. Singapore: ISEAS. pp. 76-96.

<sup>66</sup> According to Katz and Katz (1975), while it is unclear who wrote the bill that the President endorsed, Muslim groups were suspicious that Catholic members of Golkar had been the primary initiators of the bill, with the President's wife Tien Suharto being the bill's chief supporter. Muslim groups were left out in the drafting process (23).

stipulation that a valid marriage is one that is registered.<sup>67</sup> In 1973, NU argued that Islamic marriage law did not require state registration. Hence, it was unnecessary for the state to change the status quo. On the other hand, while Muhammadiyah was agreeable to the stipulation, it rejected the proposed marriage bill on accounts that nationalist and Catholic factions within Golkar were seeking to undermine Islamic law (Azra 2003, 79).

After several days of deadlock and violent protests in the streets, President Suharto conceded to the Muslim United Development (FPPP) party in parliament, of which NU and modernist Muslims were a part of, and agreed to amend all articles that were contrary to Islamic law. Instead of civil registration, a marriage was considered legitimate insofar as it fulfilled the basic requirements of Islamic law. However, a marriage is only recognized legally if it is registered with the Islamic courts.<sup>68</sup> Second, the provisions for inter-religious marriage and legal status to engagement were deleted. Third, request for polygamy and divorce were returned to the jurisdiction of Islamic courts. In general, aside from the stipulation requiring Islamic court regulation of divorce and polygamy, the bill satisfied the demands of Islamic institutions and their affiliated political party. After including these revisions, the draft was then passed as the National Marriage Law and ratified as Law on Marriage No.1/1974.

#### *Administrative Supervision of the Islamic Courts*

At independence, the Islamic Directorate within the Ministry of Religious Affairs had jurisdiction over Islamic courts. The Ministry's authority over Islamic courts was

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<sup>67</sup> Parallel court systems in Singapore, Malaysia, Pakistan and Morocco require Islamic marriages to be registered with the Islamic courts for the marriage to be valid.

<sup>68</sup> Article 2, Paragraph 1 and Article 2 Paragraph 2 encapsulates the tension behind the dual validity of marriage. While Islamic bureaucrats and judges from Islamic court are presently pushing for marriages to be registered, they profess that Article 2, Paragraph 1 of the 1974 Marriage Law enables couples to be married by a religious leader (*ulama*) without registration.

seen as a concession to the Muslim lobby who had been betrayed at the last minute by Sukarno's exclusion of language within the constitution that would guarantee the state's implementation of Islamic law. As suggested by Daniel Lev, Muslim interests were better represented with a Muslim lobby within the state bureaucracy compared to the ambiguous constitutional guarantees Muslims had been denied (Lev 1972, 43-45).

The 1974 Marriage Law was the first of several policy reforms that contributed toward substantive judicial changes in Islamic marriage law and, consequently, the centralization of institutional power within the Ministry of Religious Affairs. Before the 1974 Marriage Law was passed, Islamic court officials were limited to an advisory role in matters related to underage marriage, polygamy, repudiation and reconciliation (Suwondo 1981, 79). The passage of the 1974 Marriage Law provided Islamic court judges with the legal authority to disapprove or approve a petition for divorce and grant or deny request from a husband to enter a polygamous marriage. Instead, of an advisory role, the Islamic religious court judges now had the legal authority to regulate the undertakings of a polygamous marriage and arbitrate divorce proceedings to ensure compliance with the permissible grounds for divorce.

By late 1980s, Suharto's policy towards Islam had shifted towards appealing to regime-conservative Muslims who were supportive of his government. To seek the support from the burgeoning middle class Muslim population and to strengthen relations with regime-supportive Muslims, the government introduced a bill on Religious courts that would create a religious judiciary that was parallel to the civil judiciary. In 1989, the passage of the Religious Judicature Act ensured that the existence of Islamic courts was guaranteed by statute (Cammack and Feener 2012, 13). The 1989 Religious Judiciary Act

finally gave Islamic courts the right to execute their own decisions. Religious courts were independent in making judgments and enforcing them.<sup>69</sup> Article 63 of the 1974 Marriage Law was rescinded and religious courts no longer had to submit its decisions to the general court in order to have it confirmed. Moreover, the act created uniformity throughout religious courts in Indonesia, providing courts with jurisdiction over marriage, divorce and inheritance.<sup>70</sup> At the same time to regulate and regularize judicial processes, the act stipulated the organizational structure of the courts. Amongst a few of these regulations, there was a provision that judges have a college degree either in Islamic law or a law degree with an Islamic specialization. The 1989 Religious Judiciary Act paved the way for a dual judicial system – that is a general judiciary and religious judiciary with the latter establishing independent competence over Islamic Family Law.

After the fall of Suharto's government, reforms were undertaken to address problems of corruption within the system of judicial administration. A 1999 amendment to the Basic Act on Judicial Power eliminated executive authority over civil courts and consolidated both administrative and judicial authority over the judiciary in the Supreme Court (Cammack and Feener 2012, 25-26). Muslim interests were threatened during this period as one of several judicial reforms specified in the Act consisted of divesting control of Islamic courts from the Ministry of Religious Affairs. However, as Cammack

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<sup>69</sup> Despite having legal authority, the religious court was still dependent on civil courts to execute a decision. Four years before the marriage law was passed, the government issued Law 14/1970. This law assured Islamic courts with a definite legal position. At the same time, the law had given the Supreme Court authority to hear cases from the religious court systems (Bowen 2003, 176). The 1974 Marriage Law maintained the dependent relation between the Islamic courts and Supreme Courts. Article 63 of the 1974 Marriage Law requires religious courts to submit their decision to the civil courts for confirmation.

<sup>70</sup> A 1937 law had rescinded religious courts' authority over inheritance but in 1957, to appease secessionist movements in the outer islands, new laws gave jurisdiction to religious courts (with the exception of Java, Madura and South Kalimantan) over inheritance and marriage laws. In Java and Madura, religious courts held competence over marriage law but could only issue advisory opinions regarding inheritance disputes.

and Feener (2012) suggest, the main impetus behind the reforms had little to do with Islamic Institutions control over Islamic courts. Even though efforts to exclude Islamic courts from the restructuring plans had failed, the immediate effect of the transfer of administrative authority from the Ministry of Religious Affairs to the Supreme Courts did not alter the religious character of the courts (Cammack and Feener 2012, 26). Neither the policies governing Islamic courts nor the officials working within the courts had changed as a result of the restructuring. Perhaps the most significant effect of the transfer as Cammack and Feener (2012, 26) suggest was the increased allocation of funds to the courts. In 2006, the Indonesian legislature approved amendments to the 1989 Religious Judicature Act that added new competencies to the Islamic court in matters related to “Shariah economics.”<sup>71</sup> The 2006 reforms also abolished the option for Indonesian Muslims to have their inheritance cases decided according to cultural (*adat*) law in civil courts.

During Suharto’s government, the authority and jurisdiction of Islamic courts have been expanded, and at the same time, its existence is guaranteed by a statute. As argued by Cammack and Feener (2012), despite the changes in administrative authority over Islamic courts, not much has changed in terms of the religious character of the courts. In fact, the Muslim lobby in the government has been successful in extending the courts’ jurisdiction in matters that were once out of its purview. The fact that court officials and polices of Islamic courts continue to remain the same signals the strong hand and authority Islamic institutions and the Muslim lobby have over Islamic courts.

Thus far, I have provided a detailed elaboration of the history of Islamic marriage law in Indonesia and the centralization of authority within the Ministry of Religious

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<sup>71</sup> Religious Judicature Act, Act No. 3 of 2006.

Affairs over the jurisdiction of Islamic marriage and inheritance law. In the next section, I compare Muslim women's activists' perspectives on polygamy during two time periods, 1959 and present day, to illustrate how shifts in mindsets have occurred despite the centralization of institutional power within Islamic institutions. I begin the next part with a brief elaboration of the context surrounding the marriage law deliberations in 1959.

### **Events Leading Up to the 1959 Marriage Law Debates**

Historians have described the Japanese occupation of Indonesia (1942-1945) as emboldening the nationalist revolution (Ricklefs 2001). Women's groups co-opted into Japanese-authorized organizations were mobilized to perform wartime roles such as performing first aid, sewing uniforms and running communal kitchens. By 1945, upon surrender by the Japanese, Sukarno proclaimed independence to create the Republic of Indonesia. The Dutch refusal to relinquish authority led to a four-year fight for independence, which saw women's groups once again, mobilized to support the nationalist struggle.

The women's movement believed that they would gain legitimacy by supporting the nationalist movement. As expected by the women's movement, the 1945 constitution granted women full citizenship rights and the 1948 electoral laws gave women equal voting rights. Nevertheless, wartime conditions and a politically unstable government<sup>72</sup> meant that, although the Women's Congress continued to discuss issues related to matrimonial law, female employment and social-welfare problems, the government was unable to enact much legislation.

By 1949, the Dutch government handed over military and political control to the Republican Indonesian units. Following independence, the Indonesian women's congress

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<sup>72</sup> During 1945 to 1949, Indonesia witnessed the changing of six different governments.

held high hopes that their participation and support for the nationalist cause would pay off in terms of having their grievances addressed. While the women's congress contributed to the Indonesian development program and managed to make gains on several fronts such as improving women's access to medical services, contraceptives, education and employment, the campaign for a marriage law proved to be an arduous and interminable battle.

In 1950, as a result of continued requests for marriage law by women parliamentarians and the women's congress, the Minister of Religious Affairs, Wahid Hasyim, appointed a commission to inquire into the program of matrimonial legislation for Indonesia. The committee was called, *Panitia Penyelidik Peraturan Hukum Perkawinan, Talak dan Rujuk* (*Panitia Nikah Talak Rujuk* or the Committee for Marriage, Divorce and Reconciliation, henceforth NTR committee). The NTR committee consisted of prominent Muslim, Catholic and nationalist leaders (both men and women) and was tasked with preparing a draft marriage bill.

During the preparatory stages the NTR committee consulted with several women's groups including Aisyiyah and Muslimat NU, Wanita Demokrat (women's wing of Indonesian Nationalist Party or PNI), Perwari (largest and only independent women's organization), Wanita Katolik (Catholic women's association affiliated with the Catholic Party), and several Christian women's groups to draft a marriage bill. A central concern that emerged during these sessions was whether a marriage law should consist of one general act for the whole of Indonesia or separate acts unique to the ethno-religious laws and customs of respective social groups.

On October 1952, The NTR committee had issued the first version of the marriage bill meant for all Indonesians with special regulations applied to different religious groups. These were some of the main points included in the draft: the consent of both parties, an age limit of 18 for men and 15 for women, health checks for both men and women before marriage, restricted conditions for polygamy which includes permission from the first wife and evidence that husband is able to provide for more than one family, court-regulated divorces (hence removing the legal validity of out-of-court repudiation pronouncements)<sup>73</sup> and shared division of joint property after a divorce. The main aim of this bill as intended by the NTR committee was towards the unification of Marriage Laws.

Eleven Muslim women's organizations including Muslimat NU and Aisyiyah met on February 1953 to discuss the first version of the NTR committee's bill. They disapproved the general marriage bill meant for all Indonesians and the foundation of marriage as outlined in the bill. They claimed that marriage law as outlined in the bill was too "indefinite" (Suwondo 1981, 87) and urged the committee to issue a unified bill that was compatible with Islamic marriage law.

The committee also met with thirteen Christian and secular women's organizations including Wanita Demokrat (women's wing of PNI), Perwari (largest and only independent women's organization) and Wanita Katolik (Catholic women's association affiliated with the Catholic Party). They agreed with the general principles as outlined in the bill and issued several amendments on technical issues. Catholic

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<sup>73</sup> Classical Islamic jurisprudence dictates that a man can divorce his wife by declaring the termination of marriage through the utterance of a repudiation formula know as the *talaq*. The husband is allowed to seek a reconciliation with his wife if he utters this formula once or twice but once he utters the renunciation thrice (*talaq tiga*), the marriage is dissolved and there can be no reconciliation (*rujuk*).

associations were however adamant for polygamy to be prohibited and urged the committee to issue separate marriage codes for different religious groups.

Following the meetings and upon revisions of the first draft of the marriage bill, the committee presented the Marriage Bill for Muslims (RUU Perkawinan Umat Islam) to the Ministry of Religious Affairs with the agreement that separate bills for other religious groups would be drafted shortly after. The final version of the bill proposed a fairly progressive matrimonial program for its time, and it was compatible with Islamic marriage law as outlined in the Shafi'i school of law (*mazhab*).<sup>74</sup> Some of the main points in the final version of the bill consisted of age limits for men and women, consent of both parties, valid reasons for divorce and conditions for women to seek court-regulated divorce. The bill also approved polygamy but with restricted conditions.

After several amendments of the final version of the bill, the NTR committee presented the draft bill to the Ministry of Religious Affairs. Both the NTR committee and the women's front (women parliamentarians) were hopeful that a marriage bill would soon be passed. However they were shocked when in August 1954, the government instead, endorsed a statute that laid out the unification for administration of marriage (*nikah*), divorce (*talak*) and reconciliation (*ruju*)<sup>75</sup> to be dealt with by registrars appointed by the Ministry of Religious Affairs. The statute also known as, Act No. 22 of 1946, was to be extended (it was formerly applicable only in Java and Madura) and applied to the whole of Indonesia. The statute was the first of several decisions that would be issued by

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<sup>74</sup> As explained in Chapter Three, the Shafi'i school of law spread amongst Muslims in Southeast Asia.

<sup>75</sup> Reconciliation as explained in Chapter Three means a formal revocation of the repudiation (*talak*). Repudiation or divorce is revocable (by words or conduct) only during a specified period of time (*iddah*). This restriction provides the husband to reconsider his decision and allows time for family arbitration to bring the couple together again.

the Ministry of Religious Affairs over the next few decades in its attempt to centralize control over Islamic marriage law. The women's front opposed the proposal and demanded that the government consider the draft marriage law submitted by the NTR committee earlier in the year. However, the Ministry of Religious Affairs ignored these requests and their demands fell on deaf ears.

### **1959 Parliamentary Marriage Law Debates**

The draft marriage law was kept with the Ministry of Religious Affairs for several years until a radical and strategic move by a PNI women parliamentarian, Soemari, succeeded in pushing the marriage law issue onto the formal political agenda. Soemari proposed a private member's bill (known henceforth as Soemari Bill) that left the government with little choice but to present the NTR committee's bill, otherwise known as the Marriage Bill for Muslims, to the parliament.

The Soemari Bill recommended several provisions: marriage was to be based on monogamy, conditions for divorce were to be stipulated and court-regulated, men and women would have equal rights to initiate divorce, all citizens would have the right to marry according to their religion, consent from both parties is mandatory and minimum ages of 15 for women and 18 for men were established.

On the other hand, the main provisions of the Marriage Bill for Muslims were: marriage is based on fulfilling religious commands, age limits of 18 for men and 15 for women, consent from both parties, valid reasons for repudiation, and conditions for women to seek court-regulated divorce. The bill also approved polygamy but with restricted conditions such as agreement from the wife/wives (Kongres Wanita Indonesia, 1959).

Several women's organization supported the Soemari Bill including Perwari (largest and independent women's organization), Gerwani (women's organization affiliated with the communist party, PKI) and Wanita Demokrat Indonesia (women's organization associated with PNI). In general both the socialist (Partai Socialist Indonesia) and communist parties (PKI) supported the Soemari Bill and defended the provision that marriage be based on monogamy.<sup>76</sup>

In response to the Soemari Bill, both Masyumi (modernist Islamic political party) and NU opposed that marriage law be unified under a general regulation for all Indonesians. Although the Soemari Bill made allowances for all citizens to marry according to their religion, a general bill meant that Indonesian Muslims might choose to opt out, and not marry according to Islamic law. A bill allowing the individual freedom of religious practice would contravene Islamic law and in extension, religious leaders' authority. As a result, Islamic parties including Muslim women's organizations adamantly rejected the Soemari Bill.

In early February 1959, the two marriage bills were debated in parliament. Vociferous and impassioned speeches were delivered throughout three days and over five sessions in parliament (Kongres Wanita Indonesia, 1959). On February 26, the Soemari Bill was rejected. At the same time, the parliament did not come to a decision on the Marriage Bill for Muslims before parliament was adjourned for recess. Discussions on a marriage law for Indonesia continued behind the scenes, but marriage law was not on the formal political agenda until 1973.

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<sup>76</sup> While women parliamentarians from PKI and Gerwani disassociated themselves from demonstrations against Sukarno's polygamous marriage and PP No. 19 (that issued provision of additional pension for polygamous civil servants) (Weiringa 2002), this time, they argued in parliament against polygamy.

### **Then and Now: Comparing Aisyiyah's and Muslimat NU's Attitudes on Polygamy**

In her introduction to the Soemari Bill, Soemari had described the contents of a marriage bill as one that should provide equal protection to men and women:

Each Indonesian citizen, be it man or woman are entitled to demand for equal protection (of one's rights) under the law. This should not exclude the Marriage Law. As women we need to make a firm stand to ensure that we are treated as full human beings, as human beings who are free, independent and sovereign, and whom are subjected to the rights and responsibilities as defined in the Law. No one should be enslaved and be made the object of another human beings' rights or responsibility...One way to ensure that this is implemented is to stipulate for monogamy to become the basis of marriage.<sup>77</sup>

The claim for equal protection of women's rights under the law is based simultaneously on the principle of equality and the recognition for sexual (natural) difference:

Mothers as the provider of complete and unconditional love and fathers as the leaders of household and as protectors of the family represents a model of a monogamous marriage that will ensure harmonious relations within the family and where children will be educated and most importantly where feelings of animosity and jealousy will not be present (unlike in a polygamous marriage).<sup>78</sup>

According to Soemari, women deserved equal citizenship rights as men and hence equal protection of those rights under the law. At the same time, women, given their innate attributes as mothers, differed in terms of their political duties towards the state. The recognition of sexual difference that reifies women's distinctiveness and accords citizenship rights based on women's identities as mothers and wives became a strategic feminist strategy in 1950s Indonesia. Maternal thinking became the shared metaphor and frame of reference between Muslim women's organizations and secular feminist women's

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<sup>77</sup> Kongres Wanita Indonesia .1959. *Women's Status in Indonesia Kedudukan Wanita Indonesia*. Djakarta: Komisi Hukum Kongres Wanita Indonesia (Microfoam)

<sup>78</sup> Ibid

groups.<sup>79</sup> Due to a patchwork of cultural, educational, religious and state-manufactured reasons, women's citizenship was inextricably linked to maternal consciousness where women's relations to a child was extended to encompass her standing within the political order.

Muslim women's organizations like Aisyiyah and Muslimat NU also believed that women's roles as mothers within the family were vital for social order, harmony and stability for the nation. At the same time, both Muslim women's organizations and secular women's groups articulated the image of an ideal family to be one where a mother plays the nurturing role while a father exists as a protector and provider for the family. To extend this reification of womanhood as synonymous with motherhood, Muslim women's organizations, however, unlike secular-feminist groups did not view marriage as an exercise of personal right but as a religious obligation. Djunah Pardjaman representing Masyumi Muslimaat (the women's wing of the modernist Islamic political party Masyumi) and also Chairman of Aisyiyah (Western Java)<sup>80</sup> described marriage as:

creating progeny, and to ensure permissible (halal) relations between men and women in the eyes of the individual, society and God. God has created humans on this earth for a purpose...Human beings have been entrusted with a task, where one of the first tasks is to create small communities that exists within a larger society; that is arranged through marriage which is defined by religion and is accountable to God, the individual and (his) progeny.<sup>81</sup>

She added that:

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<sup>79</sup> Because of that non-married women are often not invoked as a recognized and legitimate identity for women's mobilization. See Nina Nurmila (2009) study on non-married women's sexuality and issues related to abortion.

<sup>80</sup> She was one of several leaders in Aisyiyah (Western Java branch) and became Chairman in 1962. See: <http://jabar.muhammadiyah.or.id/content-128-sdet-sejarah-perkembangan.html>

<sup>81</sup> Kongres Wanita Indonesia .1959. *Women's Status in Indonesia Kedudukan Wanita Indonesia*. Djakarta: Komisi Hukum Kongres Wanita Indonesia (Microfoam).

It is from the household that graduates, leaders and Islamic scholars, religious teachers, true wives and leading women are formed. It is from the household where mothers who are wise are able to (quotes from Napoleon Bonaparte), sway (and put to sleep) a child with her left hand, and sway (to manage) a country with her right hand.<sup>82</sup>

Motherhood, however, was not the only salient identity around which Muslim women's organizations mobilized. The main difference between Muslim women's organizations and secular feminist groups hinged on the contribution that female citizens provided as mothers. Secular-feminist organizations considered motherhood duties as equal with men's political duties, for example, of conscription and going to war. Muslim women's organizations, on the other hand, perceived motherhood role not only as citizenship duty, but also as a naturalized state that was connected to a women's life in this world and the hereafter. In that sense, marriage became the conduit to ensure that women's naturalized state was materialized so that they may be rewarded in the afterlife. Mahmudah Mawardi from Muslimat NU proclaimed:

Marriage cannot be separated from its spiritual basis because it (marriage) not only functions as a mechanism of partnership between a man and woman but also, as a way of maintaining and extending human progeny that impact this world and also, the afterlife.<sup>83</sup>

It is important to point out that Soemari's perception of matrimonial relations and women's status in marriage was not antithetical to Islam. In her speech introducing the Soemari Bill she stated:

In Islam when a man is allowed to marry four wives, this should not be seen as

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<sup>82</sup> Ibid.

<sup>83</sup> Ibid.

the basis of marriage. In fact, it is an exception to the norm that is monogamy.<sup>84</sup>

In fact, she advanced an interpretation of Islam that presently Muslim women's organizations such as Aisyiyah and Muslimat NU agree with. She quoted the Quran, Surah An-Nisa (4:3):

And if you fear that you will not deal justly with the orphan girls, then marry those that please you of [other] women, two or three or four. But if you fear that you will not be just, then [marry only] one or those your right hand possesses. That is more suitable that you may not incline [to injustice]. [Quran (4:3)]

She also reaffirmed that equal treatment between men and women should be based on recognition of sexual difference:

It is clear that the main principle of marriage should be justice. It is a sin for a man to neglect his obligations towards his wife, that is to provide for her both financially and care for her emotions. Is it possible for a man to divide his love equally among 2, 3, and 4 women?<sup>85</sup>

Despite the differences in women and men's duties at home, Soemari emphasized that maternal duties much like paternal responsibilities require equal reciprocation:

Apart from the ability to provide equal financial support to each of his wives, a man who is married to more than one wife goes against, 'equality under the law', because his wife only receives  $\frac{1}{2}$ ,  $\frac{1}{3}$ ,  $\frac{1}{4}$  of his love while she provides him with her complete attention and love. This is discrimination. This goes against the 1945 Constitution.<sup>86</sup>

There are two points that distinguish Soemari's conception of women's equal treatment in marriage from a liberal feminist perspective of women's rights. First, she outlined that the private roles of men and women are distinct based on a naturalized and biological understanding of social attributes. The women's movement in Indonesia is an epiphenomenon of a nationalist independent movement. Hence, the mobilization around

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<sup>84</sup> Ibid.

<sup>85</sup> Ibid.

<sup>86</sup> Ibid.

maternal consensus was a legitimate and culturally resonant strategy. Second, she viewed marriage not only as a personal choice but one that contributes to building a cohesive family and in extension, a stable nation.

In some ways, Muslim women's organizations perspectives on polygamy were not entirely incompatible with secular-feminist organizations. According to Mahmudah Mawardi from Muslimat NU:

Polygamy is not prohibited in Islam. But the law needs to severely punish men who wantonly abuse their rights. Because this unregulated right will destroy families and this is cursed upon by God. As stated in the Hadith: Those who have more than one wife but are unable to provide and care for them equally, will face God in the hereafter with a body that is split in the middle.<sup>87</sup>

Djunah Pardjaman from Aisyiyah asserted:

Polygamy is not compulsory nor is it commendable. Polygamy is an option that can be taken when there is a personal emergency, so as to refrain from illicit relationships.<sup>88</sup>

Muslim women's organizations suggested that the conditions underlying polygamous relationships should be restricted. Thus, it is not commendable for men to take on multiple wives. By claiming that the punishments accorded to men who are unfair in the treatment towards their wives will be dealt with in the afterlife, they rejected the Soemari Bill and its call for a legal change; one that denies the legality of polygamy altogether.

During the 1950s, while secular and nationalist organizations advocated for a unified marriage law, women of Muslimat NU and Aisyiyah made demands for the protection of women's welfare as provided under Islamic law. Both Muslimat NU and Aisyiyah emphasized the principles of justice and fairness in the treatment of wives and

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<sup>87</sup> Ibid.

<sup>88</sup> Ibid.

orphans as stated in the Quranic verse 4:3 and 4: 129.<sup>89</sup>

Muslimat NU and Aisyiyah's application of Islamic principles of justice and fairness extended to issues concerning under-age marriage and consent from the bride. In the 1930's Islamic elite of NU proclaimed that "(it is) not forbidden but reprehensible (*makruh*)" for a female guardian who is a male relative, to force his kin into marriage with a man that is compatible with her even though she is against the marriage, "in so far as harm is not incurred."<sup>90</sup> On the other hand, Muslimat NU defied NU's *fatwa* (non-binding Islamic rulings) and, in its 1954 Congress, issued a resolution to demand that the government prohibit under-age marriage and stipulate an age limit for marriage (PP Muslimat NU, 1979).

Aside from the consensus Aisyiyah and Muslimat NU shared with Islamic political parties regarding the religious basis of marriage law and their support against the prohibition of polygamy, Aisyiyah's and Muslimat NU's perspectives on marriage law were in fact fairly similar with the marriage law articles in the Soemari Bill. Like secular organizations, Aisyiyah and Muslimat NU were also against men's unfettered right to divorce. They fought for provisions to ensure that divorce would only take effect if a Muslim man wishing to terminate marriage produces evidence in court of legal grounds

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<sup>89</sup> Qur'an (4:3) states, "And if you fear that you will not deal justly with the orphan girls, then marry those that please you of [other] women, two or three or four. But if you fear that you will not be just, then [marry only] one or those your right hand possesses. That is more suitable that you may not incline [to injustice]." Qur'an (4:129) states, "And you will never be able to be equal [in feeling] between wives, even if you should strive [to do so]. So do not incline completely [toward one] and leave another hanging. And if you amend [your affairs] and fear Allah - then indeed, Allah is ever Forgiving and Merciful." Translation by Abdullah Yusuf.

<sup>90</sup>All these decisions are compiled in a book published by NU: PP Nahdlatul Ulama.2007. *Solutions to Problems in Applied Islamic Law Solusi problematika aktual hukum Islam*. Jakarta: Lajnah Ta'lif wan Nasyr Jawa Timur. For this particular decision refer to p.100.

for divorce.<sup>91</sup>

Nevertheless, when it came to the issue of polygamy, Muslimat NU and Aisyiyah adopted the criteria for fairness and justice as transmitted during the period of divine revelation and applied it to modern day Indonesia. These Islamic ethical principles shaped their normative understanding of right and wrong, good and bad. The cultural specificity of revelation, delivered to urban Arabs living within a tribal and patriarchal culture was not as much directly accepted as it was not critically examined. By claiming that a polygamous marriage was just if husbands were able to treat their wives equally or as a way to refrain from illicit relationships, Aisyiyah and Muslimat NU espoused normative values that reaffirmed a patriarchal understanding of masculinity as unbridled sexual prowess.

The tools and resources needed to develop a contextual analysis of Islamic doctrine were unavailable to women of Muslimat NU and Aisyiyah in the 1950s. Instead, the application of the principles of justice underlying polygamous marriages in Indonesia were based on criteria that was specific to the cultural, political and linguistic surroundings of Arabian society. Interpreting Islamic doctrine according to ethical categories that were not brought into alignment with cultural and contextual specificities meant that while Muslim women's organizations frowned against polygamy, they could not justify an argument that they would make some forty years later – that the basis of an Islamic marriage is monogamous.

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<sup>91</sup> A common interpretation of Islamic law gives Muslim men unilateral rights to dissolve marriage without prior approval from their spouses, a third party or an institution.

### **Muslimat NU: Reframing the Prohibition of Polygamy in Islamic Terms**

During Muslimat NU's 14<sup>th</sup> National Congress held in 2000, the Committee for Religious Problem Solving convened to discuss several issues amongst which was polygamy. The Committee for Religious Problem Solving within Muslimat NU is separate from NU's Committee for Religious Problem Solving. As I will show, Muslimat NU espoused values and ideas that invoked gender equality without directly referencing the language of women's rights.

The format for decisions in the Committee was presented in a question and answer style. The question asked was, "What is the form of legal protection accorded to a woman who enters a polygamous marriage that is not registered with the Office of Religious Affairs?"<sup>92</sup>

Their response was a lengthy decision that outlined first and foremost that polygamy is permissible but not unconditional (*mutlak*). Polygamy exists as an option only in a state of emergency (*darurat*).<sup>93</sup> The declaration was followed by an elaboration of Surat An Nisa (Quran 4:129), "And you will never be able to be equal (**in feeling**) between wives even if you should strive to do so."<sup>94</sup> Subsequently, the decision cited a *hadith*, "For he who has more than one wife and treats either one unfairly, he will appear during the day of reckoning with half of his body tilted to one side."<sup>95</sup> In Muslimat NU's

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<sup>92</sup> PP Muslimat NU. 2000. *Decisions for the 14<sup>th</sup> Muslimat NU Congress, 2000. Hasil-hasil Keputusan Kongres XIV Muslimat NU Tahun 2000*. Jakarta: PP Muslimat NU. p.71.

<sup>93</sup> Ibid. Muslimat NU's definition of "state of emergency" denotes an individual level of necessity, where polygamy can be practiced if individuals are stuck in dire circumstances.

<sup>94</sup> The words "in feeling" are emboldened in the document, to emphasize that equality in reciprocating emotions in a polygamous marriage is not feasible.

<sup>95</sup> Ibid.

written response to the previously stated question, it emphasized that, “[b]ased on the Quranic verses and *hadith* above, it is to be understood that monogamy is the basis of marriage in Islam.”<sup>96</sup>

Subsequently, the decision laid out the four permissible reasons for polygamy: first, if a wife is ill and is unable to carry out her wifely responsibilities; second, if a husband is “hypersexual” and is not sexually satisfied by just one wife; third, if a wife is medically certified as barren; and fourth, if a husband is fair to his wives and is able to provide equally to their peace of mind and welfare. At the same time, the decision, paradoxically stated, “If a husband is in the situation as set out in the first, second and third points, a wife is allowed to seek for court regulated divorce.”<sup>97</sup>

Muslimat NU's decision then pressed upon the importance of registering marriages with the Islamic courts to ensure that “women are given the protection accorded to them by law.”<sup>98</sup> The decision then outlined that the Islamic justification for registering marriages is based on Surat Al Baqarah, “You who have believed, when you contract a debt for a specified term, write it down” (Quran 2:282).

The next question in the same section asked, “Is polygamy considered a solution to mitigate and reduce the rate of prostitution?”<sup>99</sup> This question speaks to a prevailing perception amongst Islamic religious scholars of NU and Muhammadiyah. In the 1959 marriage law debates, one of the several reasons justifying polygamy revolved around

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<sup>96</sup>Ibid.

<sup>97</sup> The 1974 Marriage Law including the 1991 Compilation of Islamic Law provides access for Muslim women to initiate divorce through the Islamic courts. See below.

<sup>98</sup> PP Muslimat NU. 2000. *Decisions for the 14<sup>th</sup> Muslimat NU Congress, 2000 Hasil-hasil Keputusan Kongres XIV Muslimat NU Tahun 2000*. Jakarta: PP Muslimat NU. p.72.

<sup>99</sup> Ibid.

male lust. Islamic male scholars argued that, because men are of a different nature and have different levels of lust (compared to women), it is difficult for men to control their natural urges. To avoid seeking companionship from prostitutes, Islam does not prohibit men from having two or more wives to meet his needs.<sup>100</sup>

During the 14<sup>th</sup> National Congress held in 2000, Muslimat NU responded to this prevalent mindset. Muslimat NU declared, “Muslimat NU rejects such an argument because the solution to mitigate lustful desires and to refrain from fornication is to abide by the law of God and to follow the Hadith of the Prophet Muhammad. The Hadith states, young men, those among you who can support a wife should marry, for it restrains eyes from casting evil glances and preserves one from immorality; but those who cannot should devote themselves to fasting for it is a means for controlling sexual desire.”<sup>101</sup>

In the decision above, Muslimat NU alerted women to her right to seek divorce, under certain conditions, should her husband exercise his right to engage in polygamy. The conditions cited by Muslimat NU, as quoted in the passage above are similar to the permissible grounds of divorce as listed in the government regulations accompanying the 1974 Marriage Law and in the 1991 Compilation of Islamic Law.<sup>102</sup>

According to Muslimat NU’s decision, should a wife not relent to a husband's

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<sup>100</sup> Lies Said. 1959. *The Pros and Cons of Polygamy in Parliament Pro dan Contra Polygami di Parlemen. Wanita* 11(5). pp. 154–155.

<sup>101</sup> PP Muslimat NU. 2000. *Decisions for the 14<sup>th</sup> Muslimat NU Congress, 2000. Hasil-hasil Keputusan Kongres XIV Muslimat NU Tahun 2000*. Jakarta: PP Muslimat NU. p.72.

<sup>102</sup> The 1974 Marriage Law stipulates the conditions under which men and women may initiate divorce. As provided by Islamic law, men initiate divorce through repudiation (*talaaq*) utterances while women seek divorce through a judge declaration that divorce has occurred. However, both men and women must have judicial approval for a divorce to be recognized by the state. The permissible grounds for divorce are the same for both men and women. These include: committing bodily harm to the spouse, absence of more than two years without permission or a valid reason, infidelity, drunkenness, gambling, conversion out of Islam, incurring a jail term of more than five years, incurring an injury or illness that renders the partner unable to carry out his/her obligations and duties, husband breaks his *talik talak* and long-standing quarrels and disputes.

desire of polygamous marriage, she can choose to divorce him. This option to leave the marriage and abrogate one's wifely duties, places a woman's happiness, welfare and freedom as one of the primary goals of marriage above her motherhood duties and obligations to her husband.

By underlining that Islamic marriage is a contract between two individuals as stipulated in the Quranic verse, “You who have believed, when you contract a debt for a specified term, write it down” (Quran 1:282), Muslimat NU is reframing the language of women’s individual rights in marriage using religiously authoritative terms. Similarly, by emphasizing women’s individual happiness and women’s equal rights in deciding the terms of marriage, Muslimat NU is referencing the norms underlying human rights without explicitly adopting the language of human rights.

Women of Muslimat NU conclude that polygamy is only acceptable under the conditions of “personal emergency”. By aligning Islamic ethical categories into current Indonesian context, Muslimat NU notes that it is highly impossible for Muslim men who practice polygamy to be fair to more than one wife. Even though Muslimat NU does not reject polygamy, by referencing Quranic passages and *hadith* that teaches men to restrict their sexual urges and practice discipline, Muslimat NU argues that the practice is not unconditional (*mutlak*). It is contingent on a several clear criteria as outlined above of which, the overarching priority is a woman’s physical and psychological welfare, and happiness.

Muslimat NU has been careful to argue that their disapproval of polygamy is by no means a claim that polygamy is forbidden (*haram*). While individual members of Muslimat NU may be vocal about their disapproval of polygamy, as an organization, their

stance is more ambiguous. In an interview with Ninik Rahayu who is a member of Fatayat NU, and one of the founding members of a small Muslim women's NGO called Alimat, I asked her about Muslimat NU's involvement in Alimat.<sup>103</sup> Formed in 2009, Alimat's focus is on addressing problems related to gender inequality within marriage, including prohibiting polygamy. According to Ninik Rahayu, even though Alimat is an inter-organizational group that seeks to facilitate information sharing by identifying obstacles and strategies to address gender inequality within the family, members are represented either through organizations or as individuals. Hence, women from Muslim women's organizations may choose to participate in Alimat's activities without having their organizations officially represented. Ninik Rahayu clarified that there are members of Muslimat NU who participate in Alimat's activities.<sup>104</sup> Similarly I asked Sri Mulyati, the third deputy chair of Muslimat NU if she or anyone in Muslimat NU is involved in Alimat. She responded:

I am aware of the organization, but I am not part of Alimat. As a Muslim women's organization that is part of NU, we can't involve the organization without the permission of NU. But as individuals, we are free to do what we want.<sup>105</sup>

A quick check of Alimat's website revealed that as an organization, Muslimat NU is in fact, not represented in Alimat. It is clear that Muslimat NU is not directly challenging the authority of NU by declaring that polygamy should be made forbidden. Yet, by reframing the discourse on women's rights in terms of the contractual obligations towards each other as specified in Islamic marriage; by underlining the essence of equality within

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<sup>103</sup> I interviewed Ibu Ninik Rahayu who is also a member of Komnas Perempuan, The National Commission of Violence against Woman, at the lobby of a hotel in Jakarta on 19<sup>th</sup> June 2012.

<sup>104</sup> Alimat consist of members and individuals within Aisyiyah, Nasyiatul Aisyiyah, Muslimat NU, Fatayat NU and Muslim women NGOs such as Rahima and Fahmina.

<sup>105</sup> Interview with Sri Mulyati in Muslimat NU Office, 3<sup>rd</sup> March 2012.

Islamic doctrine, and by drawing from prophetic traditions or *hadith* that promote sexual temperance, Muslimat NU has managed to do two things: challenge norms associated with masculine behavior and conduct that reifies male superiority; and develop a normative understanding of polygamy that harmonizes women's rights with Islamic texts without explicitly challenging Islamic law.

### **Aisyiyah: Challenging Gendered Power Relations**

Compared to Muslimat NU, Aisyiyah has renounced polygamy in less equivocal terms. While Muslimat NU argues that polygamy “is not unconditional (*mutlak*)” and should only occur in a situation of a personal emergency (*darurat*), Aisyiyah proclaims that polygamy is “not commendable,” “not encouraged” and can only exist in the situation of “social emergency.” “Social emergency” denotes that polygamy should only be allowed if there is a societal need for polygamous arrangements.

It is a well-known fact amongst modernist and traditionalist circles that polygamy is more widely practiced within the traditionalist community, particularly by Islamic religious scholars (*kiai*) who are respected and eminent. This phenomenon is very different compared with modernist Muhammadiyah and Aisyiyah families. Based on my interviews with several Aisyiyah members, they acknowledged that the practice of polygamy is less entrenched in modernist circles. As such, according to Siti Aisyah, a member of Aisyiyah who also sits in the Committee of Religious Problem Solving (*Majlis Tarjih*) in Muhammadiyah, women from Aisyiyah are “more vocal” against polygamy compared to women of Muslimat NU.<sup>106</sup>

In March 2014, Aisyiyah launched the revised edition of the Harmonious Family

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<sup>106</sup> Interview with Siti Aisyah on 18<sup>th</sup> April 2012 at STIKES, Muhammadiyah University.

program. The details of the program were collated in a book entitled, *Tuntunan Menuju Keluarga Sakinah* or *Guidance towards a Harmonious Family*. The revisions were first compiled in 2012, and after several discussions with religious elites and amendments from Muhammadiyah the official revised copy was issued in 2014. The first version of the Harmonious Family program was launched in 1985. It served as a platform for socializing women of Aisyiyah on how to be ideal mothers and wives. At the same time, it attracted a lot of critique from younger women in Aisyiyah who pointed out the impracticality of idealized housewifely conduct for women juggling multiple jobs.

Presently, Aisyiyah characterizes marriage based on six principles as expressed in the revised version of the Harmonious Family program: a) marriage as a fulfillment of religious principles and a manifestation of worship; b) marriage as a sacred contract between husband and wife. The Quran describes the agreement as *mitsâqan ghalizhan*, that is a very strong agreement; c) marriage should be registered with the Office of Religious Affairs (KUA); d) the legal consequences of marriage. This aspect details the mutual gains and obligations between husband and wife; e) the principle of responsibility (*al-Qiwâmah*) in the family, and f) the principle of monogamy in Islam.<sup>107</sup>

Aisyiyah approaches the discussion of polygamy from a contextual point of view. Aisyiyah recognizes the cultural and political specificity underpinning the revelation of the Quranic verse that endorses polygamy:<sup>108</sup>

The conditions underlying the regulation of polygamy that is the criteria of fairness and the maximum of four wives are stated in Surah An-Nisa (4), verses 2

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<sup>107</sup> The Revised Edition of the book, *Tuntunan Menuju Keluarga Sakinah* or *Guidance towards a Harmonious Family* was released in March 2014. The revisions were first compiled in 2012 and after several discussions and amendments it was released as the official revised copy in 2014. The copy was provided to me via one of my interviewees.

<sup>108</sup> Quranic verse (4): 2, 3, 20 and 129.

and 3. Verse 20, prohibits the taking of possessions that had been given to a wife regardless of the amount for the cost of polygamy. Verse 129 underscores the impossibility for a man to do justice to his wives when he practices polygamy. Surah An-Nisa (4), verse 3 links a polygamous arrangement with injustice towards orphans. To understand this issue, we need to reconstruct the history when the verse was revealed in the 4<sup>th</sup> Hijrah. At that time Islam had just suffered a major defeat in the Battle of Uhud which killed 70 men. This is a considerable size considering that there were only 700 men. Back then, men were the foundation of the family. With the death of 10% of Muslim men many women became widows and children became orphans. Numerous families lost individuals who were the economic backbone of their families. In other words in Medina, the new center of the Islamic government, there was a rising number of widows and orphans who were potentially homeless. At a time when tribalism was the social structure of Arab society, this was not a problem because the tribal chief had the obligation to provide social security and compensation. But with the development of a trade route from Yemen to the Syrians, the urban Arab society became a trading community, bearing the social consequences of commerce, such as individualism, exploitation of the weak and competition. Islam does not turn the clock back to the period of early history, but fixes the existing situation by emphasizing the principles of justice and fraternity.<sup>109</sup>

In this detailed elaboration, Aisyiyah provides the historical circumstances surrounding the revelation of the verses on polygamy. Aisyiyah's narrative emphasizes the pragmatic and commonsense reasoning for polygamy during a situation of existential duress. By underlining the pragmatic logic accompanying the practice of polygamy during a period of crisis, Aisyiyah invokes similar criteria of rational reasoning in evaluating whether polygamy, as it is practiced today, qualifies the criteria of justice:

Therefore, given this social crisis, the Prophet did not act as a tribal chief but as the head of state who ensured the welfare of its citizens. Due to limited state coffers, citizens with the physical and financial abilities were encouraged to overcome the crisis by practicing polygamy as a social safety valve. Polygamy in Islam applies when a social emergency occurs and not in a normal situation or in situation of individual "emergency". And it should be noted that in spite of the fact that polygamy should only be applied in a social emergency, it was tightly regulated as stated in the verses above. This is why a polygamous arrangement and its implementation must be based on the Quranic ideal. Polygamy is neither

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<sup>109</sup> PP Aisyiyah .2014. *The Revised Guide towards a Harmonious Family Tuntunan Menuju Keluarga Sakinah*, pp. 40-41.

commendable nor encouraged. Polygamy as practiced in Islam was actually a provision to limit the practices of the past (where the practice of polygamy was unrestricted). Polygamy was practiced in compliance with the principles of justice. In practice, religious courts decide the realization of justice. God also states that humans are not able to be fair. As such, all parties, both the husband and wife and their families, can prevent the practice of polygamy. A second marriage is inevitably difficult for the first wife and her family. In order to build a Harmonious Family (Keluarga Sakinah), polygamy should not be the first choice as a way out of a dispute between a husband and wife. Every family member ought to distance himself from the possibility of polygamy and realize the principle of monogamy in marriage.<sup>110</sup>

Aisyiyah's normative reasoning on polygamy is shaped by more than just a context-specific application of Islamic ethics. Instead, it is also guided by an understanding of gender equality as outlined in the revised version of the Harmonious Family program.<sup>111</sup> As suggested by current Chairman of Aisyiyah, Noordjannah Djohantini, the new program not only provides a contextual basis to prohibiting polygamy but also promotes a holistic revision on the organization's perspectives on gender relations and women's rights in a modern cultural setting and a global economy.<sup>112</sup>

According to Noordjannah Djohantini, a revised program is imperative if Aisyiyah is to remain relevant in responding to the negative ramifications of globalization such as the promotion of social values like hedonism, excessive consumerism and fornication.<sup>113</sup> At the same time, Aisyiyah recognizes how the development in the discourse of gender equality and human rights has impacted family life. As such, the revised edition of the Harmonious Family program responds to current issues affecting

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<sup>110</sup> Ibid.

<sup>111</sup> See Chapter Three for a discussion on the original Harmonious Family Program.

<sup>112</sup> Interview with Noordjannah Djohantini on 23<sup>rd</sup> April 2012 at Aisyiyah Office in Kauman Village.

<sup>113</sup> Ibid.

family life such as the relations of equality between men and women, and validity of marriage and polygamy (PP Aisyiyah 2014, vii). The main objectives of the revised concept are laid out in the first part of the book. It highlights the two main central themes that drive the changes in Aisyiyah's Harmonious Family program: gender equality and global challenges to family values.

The revised booklet quotes several passages within the Quran that emphasizes that men and women are equal.<sup>114</sup> At the same time, the booklet explains that biological and naturalized differences enable “men and women to carry out unique roles that complement each other in order to perform their functions and roles in both the domestic (home) and public (community) realms” (PP Aisyiyah 2014, 4). Far from assigning gender-stereotypical duties, Aisyiyah's revised Harmonious Family program proposes a concept of gender equality that is neither a reification of male/female sex-roles nor one that proposes that gender is a social construct. Gender roles are apparently deigned by god, and guided by Islamic doctrine, but these roles may change over time, and ought to be directed towards uncovering good and justice.

Aisyiyah acknowledges, “a husband is obligated to provide for his wife as a form of reciprocity towards her reproductive role. This rational is explained in several Quranic passages: Surat an-Nisa (4): 34, Surat al-Baqarah (2): 233, and Surat al-Ahqaf (46): 15 (PP Aisyiyah 2014, 45). This revised program focuses on the Quranic verses that emphasize the equality between women and men's status. At the same time, the revised Harmonious Family program recognizes the flawed and outmoded concept of a single-income household where the breadwinner is typically male:

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<sup>114</sup> Qu'ran 51:56, 49:13, 16:97, 4:124, 2:30, 9:71. See PP Aisyiyah 2014, pp.4-5.

Part of the challenge facing families in this global era is changing the patriarchal family system into a democratic family system. Patriarchal family patterns are hierarchical (top-down) and the father / husband is seen as a central figure who holds a stereotypical gender role that is not flexible and whose sole responsibility is earning an income. While a democratic family pattern tends to be built around relations that are equal and compatible where income comes from dual-sources. Changes in the family system have brought about various forms of family: 1) A family where the father/husband is the sole-bread winner; 2) A family where the mother/wife is the sole-bread winner; 3) A family where both the mother and father are breadwinners; 4) A family where both the mother and father are unemployed. Based on these different arrangements, we cannot claim that the first and second arrangements (where the father or mother is the sole-breadwinner) are ideal. Instead, the ideal family is based on well-balanced relations that are suitable with Islam, ensures the growth and potential of all members of the family, as well as avoids any form of violence.<sup>115</sup>

The revised Harmonious Family program provides further specificity as to what it means by “well-balanced relations that are suitable within Islam”. Beyond the fact that the revised model still assigns social roles that emerge from sexual difference, the recognition that these seemingly naturalized roles are not ideal and are not fixed reflect that social, contextual and temporal circumstances shape women’s roles and status in society. Aisyiyah’s Harmonious Family program proposes a pragmatic solution that promotes flexibility and adaptability in social and familial roles. Unlike the 1985 Harmonious Family program that promotes sex-specific tasks where the ideal woman is one who is excellent in managing household tasks and nurturing children, this manual emphasizes balance and reciprocity in household management, income-provision and child-rearing. For example, under the rubric, “Husband’s responsibility towards the wife,” the booklet states that the husband’s role is “to provide financially for the wife and to support the wife in her contribution towards the family income” (PP Aisyiyah 2014, 45).

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<sup>115</sup> PP Aisyiyah .2014. *The Revised Guide Towards a Harmonious Family Tuntunan Menuju Keluarga Sakinah*. pp. 5-6.

Another considerable change in the Harmonious Family program lies in the section that outlines “The Responsibility of the Wife towards the Husband.” In the 1985 version, the ideal wife is one whose responsibilities include being:

Docile and obedient and respects the husband and is sincere to the husband in everyday interactions whether in the presence of the husband or behind his back. A wife should always be polite, pleasant and warm as well as have full confidence in her husband. She also has to be presentable and appear attractive and comfort the husband when he is down and anxious and motivate him when he is in despair and lacks confidence.<sup>116</sup>

The 1985 version outlines a laundry list of attributes that a wife should have to care for family members in the household and to manage household duties. Quoting Surat An-Nisa 4:34, “Pious women are not only obedient towards God but also maintains her honor behind her husband’s back” (Quran 4:34). In a remarkable shift, the revised version of the Harmonious Family program states:

Islam designates the wife’s responsibilities towards the husband, but in doing so, the Quran does not specify in detail but instead stipulates broadly in Surat Al-Baqarah (Quran 2:228) what these responsibilities are: And due to the wives is similar to what is expected of them, according to what is reasonable.<sup>117</sup>

To further specify what these expectations are the revised program states that the wife’s responsibilities towards the husband includes being “faithful to the husband in matters related to truth and goodness” (PP Aisyiyah 2014, 48). Instead, of a relationship that places the husband in a superior position, the revised version describes that a relational hierarchy between husband and wife exists insofar as its purpose is towards a right and good cause. At the same time, it is ambiguous as to the details of housewifely obligations consistent with the overall theme of the revised program espousing that spousal duties are

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<sup>116</sup> PP Aisyiyah .1985. *The Guide Towards a Harmonious Family Tuntunan Menuju Keluarga Sakinah*. p.19.

<sup>117</sup> PP Aisyiyah .2014. *The Revised Guide Towards a Harmonious Family Tuntunan Menuju Keluarga Sakinah*. p.48.

contingent on work obligations, family commitments and the specific context surrounding family life.

Over the years, Muslimat NU and Aisyiyah's attitudes towards polygamy have evolved. Muslimat NU's argument for monogamy hinges on a contextual application of Quranic verses and *hadith* (authoritative recorded sayings and actions of the Prophet). In doing so, Muslimat NU reframes gender equality in religiously authoritative language. On the other hand, Aisyiyah has unequivocally rejected polygamy. As a platform for socializing gender roles, Aisyiyah has reformed their Harmonious Family program and re-envisioned a holistic transformation of gender roles and hierarchy, especially as it relates to spousal rights and duties. In both organizations, we see the coherent synchronization of norms and values between Islam and women's rights as it relates to polygamy, gender roles and hierarchy in marriage.

Aisyiyah's and Muslimat NU's perspectives on marital relations, gender roles and hierarchy in marriage encapsulates both rights-based subjectivities and at the same time, Muslim women's identities as mothers and wives. Asserting women's rights in marriage does not replace women's identities as mothers and wives. Women of Muslimat NU and Aisyiyah acknowledge the impossible task of a husband fulfilling his commitment equally amongst more than one wife, and recognize that women's multiple commitments both inside and outside the household, require help and assistance from their spouses. By doing so, Muslimat NU and Aisyiyah are in fact emphasizing the practical and concrete realities confronted by Muslim women and the inequity underlying polygamous marriage. Embedded in a discursive field that defines women's roles as mothers and housewives, both Aisyiyah and Muslimat NU rely on rhetorical strategies that relate with

the lived realities of Indonesian Muslim women who have long disagreed with polygamy but, were unable to find religiously authoritative forms of reasoning. In the remaining sections, I discuss Aisyiyah and Muslimat NU's negotiation with Muhammadiyah and NU over polygamy and unregistered marriage. These sections will uncover the extent to which shifts in subjectivities for Aisyiyah and Muslimat NU have led to changes in discourse and policy related to polygamy and more broadly, Islamic marriage law.

### **The Prevalence of Unregistered Marriage**

Unregistered marriage is known in Indonesian as *nikah siri*. In Arabic, *siri* means secret. In Indonesia, *nikah siri* denotes unregistered marriage as opposed to a secret marriage. An unregistered marriage presumably fulfills the religious requirement of marriage where the Islamic judge (*qadi*), two witnesses, guardian of the bride as well as the bride and groom, are present, but the matrimonial union is not recorded in court. Women in unregistered marriages do not have their marital rights guaranteed and in the event of a divorce, they are unable to claim alimony for themselves and their children. Although there are no official figures available, the prevalence of unregistered marriage appears to be widespread especially for second marriages that follow informal divorces, which are not sanctioned, by the court (Huis and Wirastri 2012).

Whether state registration of marriage is a necessary requirement for a valid marriage is an enduring debate that dates back to the passage of the 1974 Marriage Law. Most legal debates on unregistered marriage in Indonesia focus on the ambiguity and tension surrounding two paragraphs in the 1974 Marriage Law: Article 2 Paragraph 1 (which establishes that a marriage must be conducted according to the religion of the parties) and Article 2 Paragraph 2 (which stipulates the legal obligation of registration of

marriage). Most religious courts accommodate unregistered marriage conducted according to Islamic law requirements through a process called *istbath nikah* or marriage confirmation, as stipulated in Article 7 in the Marriage Law of 1974 (Bowen 2003, Nurlaelawati 2010).<sup>118</sup> Similarly Bowen (2003) argues that case law of the Supreme Court indicates that Muslim marriage that conforms to religious norms and fulfills Article 2 Paragraph 1 of the 1974 Marriage Law is considered valid.

Women's groups such as the National Commission on Violence against Women (Komnas Perempuan), the Legal Aid Institution for Women (LBH APIK) and Muslim women's organizations such as Muslimat NU, Aisyiyah, Fatayat NU, Rahima and Fahmina have pointed to the detrimental impact of unregistered marriage. They argue that with marriage validity independent from registration, couples who do not fulfill the conditions to practice polygamy will nevertheless, do so.

According to LBH-APIK when women and children are deceived and trapped in an unregistered marriage, there are legal implications that cause both children and wife social, psychological and emotional trauma. Ratna Batara Munti from the Foundation of Legal Aid for Women (LBH APIK), explained in detail the reasons *nikah siri* are particularly harmful for women and children:

I've had several cases where husbands abandon their wives. The worst cases are when there are children involved and their marriages are not registered. When their husbands divorce them, they go to the Islamic courts or the Marriage Registrar Office but without the *akta nikah* (marriage document), these institutions can't help them get a divorce. There are also instances where men commit infidelity, in that they do not get the permission from their current wife to enter a polygamous marriage. What do the men do? They marry through *nikah*

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<sup>118</sup> While this Article was meant to ensure marriages that were not registered before 1974 would be official recorded, most Religious Courts will register marriages that are concluded according to Islamic requirements (*istbath nikah*) even when the marriage has been concluded after the coming into force of the Marriage Law in 1974 (Nurlaelawati, 2010).

*siri*. *Kyai* (Islamic religious teachers/scholars) and *penghulu* (marriage registrars) see marriage as black and white issue, they are afraid that the couple might sin (by engaging in premarital sex) so they are willing to marry them off without checking if the man has fulfilled the conditions to enter a polygamous marriage. *Nikah siri* is also a source of psychological and emotional violence to women. There are so many cases of women whose husbands not only fail to provide the household with money but disappear for several days and have had friends inform them that their husbands are married to someone else.<sup>119</sup>

Given that the government regulation for the 1974 Marriage Law provides a fine that is miniscule (RP 7500)<sup>120</sup>, the administrative fine is no longer seen as financial barrier for those transgressing the registration requirements (Butt 1999).

### **The Bill on Muslim Marriage**

In February 1998, the Ministry of Religious Affairs held a meeting to discuss amending the 1991 Compilation of Islamic Law (KHI), and upgrading its status from a presidential instruction into law (Mimbar Hukum 2002, 44). Islamic scholars within the Bureau for the Study and Development of Islamic Law in the Ministry of Religious Affairs began drafting a marriage law for Islamic courts based on the Compilation and called it The Bill on Muslim Marriage (*Hukum Terapan Peradilan Agama, RUU HMPA*).

The draft Bill attracted a considerable degree of media attention, especially because the Bill proposed penal instead of administrative sanctions on unregistered marriage, including polygamous ones.<sup>121</sup> The draft Bill proposed a fine of up to 529 USD and imprisonment of up to six months compared to the current administrative fine of 66

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<sup>119</sup> Interview with Ratna Batara Munti on 8<sup>th</sup> June, 2012 at LBH-APIK office in Jakarta.

<sup>120</sup> Which is approximately 66 cents. In 1975, accounting for inflation, 7500 rupiah was approximately \$18 USD. Thus, in 1975, the administrative fine was considerably higher than present day.

<sup>121</sup> Hence, the violation of marriage procedures would be declared a felony instead of just a regulatory offence.

cents for failure to register a polygamous marriage with the Office of Religious Affairs (KUA).<sup>122</sup> Article 143 of the draft Bill also stipulated criminal sanctions against anyone who fails to register a marriage at the Marriage Registrar Office. Instead of an administrative fine of 66 cents, the draft bill issued a maximum fine of up to 529 USD or imprisonment of up to six months.<sup>123</sup> At the same time, Article 146 of the bill stipulated a similar fine for anyone who does not follow court-regulated divorce procedures.

Although the bill has been included in the National Legislative Program since 2004,<sup>124</sup> until today, it has not been officially discussed in the Indonesian legislature.<sup>125</sup> While the Bill does not prohibit polygamy, it is intended to restrict the practice or at the very least, tighten the conditions under which polygamy is practiced.<sup>126</sup>

### **NU and Muhammadiyah: Rigid Discourse over Unregistered Marriage and Polygamy**

In 2013, the Committee for Religious Problem Solving (*Lajnah Bahstul Masail*), in the East Java District Board of NU (PCNU) met to discuss the provisions in the Bill on Muslim Marriage (RUU HMPA). They declared that the Bill on Muslim Marriage (*RUU HMPA*) and its criminal sanctions were discriminative. They claimed, that as Muslims, they were not obliged to follow it:

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<sup>122</sup> Article 145 in the Bill on Muslim Marriage (RUU HMPA).

<sup>123</sup> Article 45, Government Regulations No. 9, 1975.

<sup>124</sup> The National Legislative Program consists of all bills that the Legislative Body decides will be discussed in parliament during the five-year parliamentary session. The bill (RUU HMPA), has been included in the 2005-2009 and 2010-2014 parliamentary sessions. Nevertheless, not all bills included in the program are deliberated upon in parliament.

<sup>125</sup> Given the objections surrounding the criminal sanctions stipulated in the Bill on Muslim Marriage (RUU HMPA), the Minister of Religion held a press conference in mid February 2010, that the bill was not definite and that it had yet to be discussed in parliament. See Detik news article: “Criminal sanctions may change, nothing is decided *Hukum pidana bisa berubah tak da harga mati*”

<sup>126</sup> Interview with Arwani Faishal on March 6, 2012 at Nahdlatul Ulama main office.

The participants of *Bahtsul Masail* (Committee for Religious Problem Solving) agree that marriage be hastened for a man and a woman whose age is sufficient, in order to avoid sin. Given today that many people cannot afford to pay for the expenses related to getting married, especially those living in rural areas, *nikah siri* is a way out. Furthermore, Islam allows polygamy. Islam does not regulate the obligation to be fair in terms of affection, because affection cannot be measured. Of course, it is necessary for a husband to (financially) support his wives.<sup>127</sup>

Kyai Ahmad Marzuki from an Islamic boarding school (*pesanteran*) in Surabaya (East Java)<sup>128</sup> echoed the religious opinion published by the NU Committee in East Java. He emphasized that criminalization of *nikah siri* conflicts with Islamic teachings and law. He stressed that the state should not have jurisdiction over determining the validity of marriage but should only be tasked with record keeping.<sup>129</sup> Hasyim Muzadi, ex-chairman of the central board of NU argued that instead of criminalizing *nikah siri*, the government should penalize sex outside of wedlock (*seks bebas*). If felony charges are pressed on parties accused of *nikah siri* it would be akin to saying that the law legalizes “free sex” (*seks bebas*).<sup>130</sup>

In an interview with the Vice-Chairman of the Committee for Religious Problem Solving (*Lajnah Bahstul Masail*) in the Executive Board of NU, Arwani Faishail, I asked him about his opinions regarding polygamous marriage and his thoughts on the criminal

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<sup>127</sup> Ustaz Mahsus, Committee for Religious Problem Solving at Pesantaran Al Falah (*Formulator, Bastul Masail Pesanteran Al Falah*). See NU Online, Committee for Religious Problem Solving Permits Unregistered marriage and Polygamy (*Bahstul Masail Santri Halalkan Nikah Siri dan Poligami*), 21 May 2010. Accessed: 10 May 2014. Website: <http://www.nu.or.id/a,public-m,dinamic-s,detail-ids,1-id,23046-lang,id ,wartat,Santri+Halalalkan+Nikah+Siri+dan+Poligami-.php>

<sup>128</sup> Pesanteran Lirboyo is in Surabaya, East Java

<sup>129</sup> Tempo, Religious boarding school rejects the Criminalization of Unregistered Marriage *Pondok Pesanteran Tolak Pidanaan Nikah Siri*, 17 February 2010. Accessed: 11<sup>th</sup> May 2014. Website: <http://nasional.tempo.co/read/news/2010/02/17/058226368/pondok-pesantren-tolak-pemidanaan-nikah-siri>

<sup>130</sup> Telaah Utama, Rhoma Irama discusses the Bill on Unregistered Marriage *Rhoma Irama Angkat Bicara RUU Nikah Siri*, Edition 19, February 2010. Accessed: 11<sup>th</sup> May 2014. Website: <http://sumsell.kemenag.go.id/file/media/telaah1019ok.pdf>

sanctions for unregistered marriage:

An unregistered marriage that fulfills the conditions of an Islamic marriage is considered valid (*sah*). However, the marriage has to be registered in order for the wife and children to be protected and receive their rights as accorded in Islam. However, this current bill (referring to the Muslim Bill for Marriage), I don't agree with it. The criminal sanction is too high but yes, I agree that marriages should be registered.<sup>131</sup>

However, when I suggested that criminal sanctions against unregistered marriage would reduce the incidence of underage marriages and polygamy, Faishail interrupted:<sup>132</sup>

Yes, this is true, which is why in Indonesia, under the Compilation of Islamic Law, as long as the marriage fulfills the Islamic *fiqh* requirement there is the *itsbat nikah*. *Itsbat nikah* is a confirmation that a marriage is solemnized according to the tenets of Islam.<sup>133</sup> Pursuant to Compilation of Islamic Law, the *itsbat nikah* is very beneficial for Muslims so that they may get the proper documents to show that their marriage is registered and so the wife and children receive proper legal protection.<sup>134</sup>

I then, asked him whether this intermediate step is necessary if reforms in marriage law stipulate that all marriages are only valid (*sah*) if they fulfill the requirements of registration. To this he responded with an audible sigh:

Perhaps Shahirah, but there may be several reasons why a couple does not register their marriage. For example, if a couple is too poor they may not want to register their marriage with the courts and only pay a couple of rupiah to the religious leader (*ulama*) and marry according to Islamic law. They will eventually pay a small fine but at least their marriage is religiously valid. If you increase the fines (for unregistered marriage) these couples may choose to cohabit and that is a sin. Every Muslim knows this.<sup>135</sup>

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<sup>131</sup> Interview with Arwani Faishal on March 6, 2012 at Nahdlatul Ulama main office.

<sup>132</sup> In Indonesia, when a marriage is not registered, a father is absolved of his responsibilities in terms of providing for his children, and the wife and children are not entitled to inheritance from the husband/father.

<sup>133</sup> In the Shafi'i school of Islamic jurisprudence, the conditions are: guardian of a bride, groom, 2 witnesses, dower and statement of marriage offer and answer (*ijab kabul*). The Compilation of Islamic Law states in Article 7 Paragraph 3 that the *itsbat nikah* can be filed with the Office of Religious Affairs.

<sup>134</sup> Interview with Arwani Faishal on March 6, 2012 at Nahdlatul Ulama main office.

<sup>135</sup> There is a perception amongst Islamic scholars who do not agree with the criminal sanctions against unregistered marriage that the process of registering a marriage is cumbersome and costly. I asked

Based on the perspectives of NU's religious elites, it appears that NU is against any substantive change that recognizes the role of the state in validating a marriage. For NU, any marriage that fulfills Islamic law is already valid. Some NU leaders, such as Deputy Chair of the Executive Board of NU, Ahmad Bagdja, have gone so far as to say that state laws do not protect women. Instead, according to Bagdja, the protection and respect for women can be measured by husband's accountability towards his wife.<sup>136</sup> Hence, according to him, states should purely play an administrative role when it comes to personal status laws.<sup>137</sup>

In 2010, Muhammadiyah rejected criminal sanctions against unregistered marriage.<sup>138</sup> Despite releasing an earlier legal opinion (*fatwa*) that considered unregistered marriage as non-valid and illegal, Muhammadiyah's Deputy Chair, Yunahar Ilyas was quoted as saying that the criminal sanctions against unregistered marriage, as provided in the draft bill, were too severe. He added that the more pertinent problem that the government should deal with is adultery and cohabitation (*kumpul kebo*). He urged the government to instead, conduct an educational campaign instructing people about the importance of registering marriage. Should a couple choose to ignore the law and not

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whether this was the case with a women's legal aid society (LBH APIK) and my informant said that the cost is prohibitive for some (ranging from USD 2.50 to USD 25. 16 depending on the day). Marriage registration in Jakarta formally costs USD 2.50 but, in reality, registration officials of the KUA sometimes ask for more than three times as much for the registration fee and even more for their services before and during the ceremony (Sulistiyowati Irianto et al., 2011; see also Lindsey and Sumner, 2010)

<sup>136</sup> See, Detik.2010. *Muhammadiyah Reject Criminalization of Nikah Siri NU-Muhammadiyah Tolak Pidana Nikah Siri*.

<sup>137</sup> In this regard, Muhammadiyah differs from NU.

<sup>138</sup> Thus far, the Majelis Ulama Indonesia (Ulama Council of Indonesia or MUI) asks that further studies be done before criminalizing those who do not register their marriages. Meanwhile individual scholars such as, Ma'aruf Amin from the MUI, agreed that unregistered marriage are invalid and should be penalized See: Detik.2010. *NU- Muhammadiyah Reject Criminalization of Nikah Siri NU-Muhammadiyah Tolak Pidana Nikah Siri*.

record their marriage then an administrative fine will be implemented. Like the NU Islamic scholar I interviewed, Ilyas quipped, “The worry is that if you criminalize (unregistered marriage) couples will choose cohabitation instead of marrying according to Islamic law.”<sup>139</sup>

A common theme linking both NU’s and Muhammadiyah’s arguments against criminalization of unregistered marriage lies in the threat that should stringent legal barriers impede marriage, couples who are unable to fulfill the legal requirements of marriage,<sup>140</sup> would eventually cohabit or engage in extramarital sex (*zina*). Thus, even though Muhammadiyah has declared that a marriage is only valid when it is registered, it is still against the criminalization of unregistered marriage.<sup>141</sup>

Hence, there is strong consensus across both Muhammadiyah and NU, that marriage without registration including polygamy (or marrying under Islamic law and subsequently paying an administrative fine) is preferable compared to the potential of sexual relations outside of marriage.

### **Negotiating with NU and Muhammadiyah Regarding Unregistered Marriage and Polygamy**

In May 2012, I met Khofifah Indah Parawansa,<sup>142</sup> the Chairwomen of Muslimat

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<sup>139</sup> Ibid

<sup>140</sup> For example, if the bride is under 16 or the groom is under 19, and absence of permission from the current wife/wives for a polygamous marriage.

<sup>141</sup> In 2007, the Committee for Religious Problem Solving (Majlis Tarjih) issued a non-binding Islamic legal opinion (*fatwa*). It states that: It is obligatory for marriage to be recorded. This is also reinforced by Muhammadiyah’s organizational behavior as stipulated in Muhammadiyah’s 35<sup>th</sup> National Congress, that the nature of the Muhammadiyah is to “heed all laws, rules, regulations, policies and the country’s legal philosophy that is valid.” Fatwa of the Committee of Religious Problem Solving (Majlis Tarjih), 25 May 2007.

<sup>142</sup> Interview with Khofifah Indah Parawansa on 1<sup>st</sup> May 2015 at Muslimat NU’s Office in

NU and asked her about Muslimat NU's position on the Bill on Muslim Marriage. She explained her objections to the bill, especially the criminal penalties associated with unregistered marriage. She outlined several scenarios where parties have avoided registration of marriage: disapproval of marriage partner by the bride and groom's parents, teenagers seeking out permissible forms of sexual gratification, under-age marriage and marriage for the purpose of human (women) trafficking. As a result, she emphasized that even though Muslimat NU does not agree with the criminalization of unregistered marriage, it should be illegal. She asserted that women in unregistered marriages are either unaware of their marital rights or have been duped to enter into a marriage contract.<sup>143</sup>

According to Parawansa, Muslimat NU is concerned that punishing those who do not register their marriage by implementing criminal sanctions may impact the poor and uneducated more negatively than it will protect women. At the same time, she emphasized, that barring any form of penalization, the rights of women and children of unregistered marriages would not be protected under the law. Hence, she argued that at the very least, couples that do not register their marriage should be penalized with an administrative fine. However, Sri Mulyati, the third deputy chair of Muslimat NU, was more critical of unregistered marriage:

Women and children are the ones who become victims of a marriage that is not registered. Registration of marriage has many benefits. If the marriage is not recorded, a woman whose husband has left will be unable to get child support

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Jakarta.

<sup>143</sup> Research conducted by the Faculty of Law of Universitas Indonesia (FHUI) in 2010 discussed a case study of a second wife from East Jakarta who had been handed a fake marriage certificate (*buku nikah aspal*) by the marriage registrar (*penghulu*) of the village. In my interview with women of Muslimat NU, they confirmed that such incidents do occur, but do not have any figures to support their case.

without marriage records. I know of several cases where a man enters into a polygamous marriage without the permission of his first wife and at some point abandons his second wife (whom he secretly married). This is why Muslimat NU is working with NU to condemn unregistered marriage, especially if it is a gateway (*pintu masuk*) for polygamy.<sup>144</sup>

When I asked Sri Mulyati, what are the reasons behind NU's refusal to consider unregistered marriage as illegal, she hesitantly replied:

I know that Muhammadiyah issued a *fatwa* stating that a valid marriage is one that is recorded. Actually there are few younger *kyais* in NU who are of the same opinion. There are several reasons but as I mentioned before, the men in Muhammadiyah community do not normally enter polygamous marriages unlike in NU. It is of course easier for them to issue such a *fatwa*.<sup>145</sup>

In my interview with the Chairman of Aisyiyah, Noordjanah Djohantini, she asserted that marriage registration is mandatory:

Due to changes and modern day demands, in some Muslim countries, including Indonesia, there are rules that govern marriage and registration. This is done to ensure the certainty of the law, and to protect the parties who perform the wedding itself and the rights of different parties in marriage, such as the maintenance of wives, and to ensure that children will inherit from their parents.<sup>146</sup>

Aisyiyah supports Muhammadiyah's legal opinion (*fatwa*) that marriage registration is compulsory for a valid marriage. However, like Muslimat NU, Aisyiyah appears hesitant to agree with the provision of criminal sanctions on unregistered marriage. Djohantini argues that imprisonment and higher fines may actually hurt women and children more than it protects them. Citing similar reasons with Parawansa, Djohantini states that instead of higher fines or imprisonment, couples need to be informed of the importance of marriage registration. She also suggested that at the minimum, couples that are

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<sup>144</sup> Interview with Sri Mulyati in Muslimat NU Office, 3<sup>rd</sup> March 2012.

<sup>145</sup> *Ibid.*

<sup>146</sup> Interview with Noordjanah Djohantini on 23<sup>th</sup> April 2012 at Aisyiyah's Office in Kauman Village, Yogyakarta.

willfully negligent of their responsibility to register their marriage should be charged with an administrative fine.

It is definitely interesting to note that in my conversations with Aisyiyah and Muslimat NU leaders, none of them argued against the criminalization of unregistered marriage because it might lead to an increase of extra-marital sex, cohabitation or men seeking out prostitutes. Instead, most of the women activists from Aisyiyah and Muslimat NU I interviewed lamented that the administrative costs associated with registering marriages can be prohibitive for poorer couples. Tri Hastuti Nur, from Aisyiyah also noted that negligence and corruption at the Office of Religious Affairs (KUA) usually leads to non-compliance of marriage law procedures.<sup>147</sup> Similarly, research conducted by Faculty of Law of University Indonesia (FHUI) revealed cases where marriage registrars from the Office of Religious Affairs (KUA) who officiated polygamous marriage ceremonies and presented couples with marriage certificates had in fact failed to check if couples received permission from the Religious Courts (*Pengadilan Agama*).<sup>148</sup> Hence, for Muslim women's organizations, legal language criminalizing couples who fail to register their marriage may be less valuable than efforts to educate and inform women of

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<sup>147</sup> Interview with Tri Hastuti Noor, 12<sup>th</sup> April 2012 in Aisyiyah's Office. In my conversation with Ibu Tri she was frustrated with the registrars at KUA. Speaking from experience, she felt that officials at KUA made it hard and "impossible" for her to divorce her husband even though he skipped court appearances. She said emphatically, "and I am educated women who was able to pay for a lawyer, can you imagine how difficult it would be for other women. And meantime, I am supporting my family while my ex doesn't even bother to turn up in court" (private conversation).

<sup>148</sup> The 1974 Marriage Law also stipulates that polygamous marriages may only be performed under certain conditions (Article 4 and 5). Polygamy is allowed if the first wife is not able to perform her obligations as a wife, if she suffers from physical disabilities or incurable disease, or if she cannot conceive. Before entering a polygamous marriage, the husband must obtain permission from the Religious Court (*Pengadilan Agama*). Permission can be granted if the husband can demonstrate that he is financially capable of supporting more than one wife, that he will be fair to his wives, and that he has the consent of his previous wife or wives.

their rights to have their marriages registered.

In contrast elites of Muhammadiyah and NU regard *nikah siri* as an alternate choice (read: non-sinful) to extramarital sex or cohabitation. In a statement to the media, the Chairman of Fatayat NU, Ida Fauziyah, commented on this prevailing mindset:

Prohibiting unregistered marriage does not mean that we support premarital sex and cohabitation. Both practices are detrimental. As such, unregistered marriage should not be an excuse for preventing premarital sex and cohabitation.<sup>149</sup>

The ex-chairman of Fatayat NU, Maria Ulfa Anshor stated that while Fatayat NU supports criminal sanctions of unregistered marriage it should be applied carefully to ensure the poor and ignorant are not wrongfully penalized.<sup>150</sup> Furthermore, Maria Ulfa Anshor rejected comments made by particular religious elites from NU claiming that the state's role in marriage is purely administrative. She asserted:

Yes, marriage is a religious obligation but Indonesia follows the rule of law (*Indonesia memiliki hukum positif*) and as such the state has every right to ensure that marriages are conducted in the corridor of what is both just and religious.<sup>151</sup>

Echoing the comments made by current chairman of Fatayat NU, Ninik Rahayu, a member of Fatayat NU, argued that the penalization of unregistered marriage would in fact, reduce the prevalence of cohabitation outside of marriage:

Now, why are we afraid that this law might lead to couples sinning? If you are cohabitating, that in itself is Islamically wrong (*sudah sah-sah salah dari segi hukum Islam*). If a couple wants to enter a polygamous marriage and the marriage is not equitable (*tidak mewujudkan kesetaraan*), then this law (referring to the penalization of unregistered marriage) will prevent that.<sup>152</sup>

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<sup>149</sup> See: <http://m.voa-islam.com/news/suaramedia/2010/02/18/3421/nikah-siri-jangan-dikriminalisasikan/>

<sup>150</sup> Fatayat NU in Malang funded the registration of 83 marriages that were unrecorded. See: <http://malang-post.com/metro-raya/67226-83-pasangan-nikah-siri-jalani-isbat-nikah>

<sup>151</sup> Interview with Maria Ulfah Anshor on the 21<sup>st</sup> February 2012 in a mosque in Jakarta.

<sup>152</sup> Interview with Ninik Rahayu on 19<sup>th</sup> June 2012 at a lobby of a hotel in Jakarta.

Subsequently, I asked Ninik Rahayu, how are Muslim women's organizations like Fatayat NU and Muslimat NU responding to arguments that unregistered marriage (*nikah siri*) is an Islamic and legitimate alternative to extramarital sex (*zinah*)?

Yes, this is at the core of the problem... Because marriage registrars and religious leaders are concerned that men who want to remarry but, have not registered their divorce with the courts or who want to marry a second wife but, do not have the permission from the first wife, will engage in *zina*. There is a mentality, that goes like this, "It is better for me to secretly marry than to commit *zina*." This is why both Fatayat NU and Muslimat NU are against polygamy. This is the root of the problem. Polygamy and *nikah siri* are all ingredients of a marriage that is against the basic principles of Islamic marriage, that is a family built on the principles of harmony and love (*sakinah, mawadah, warahma*).<sup>153</sup>

Based on the discussions above it is evident that Muslimat NU, Aisyiyah and Fatayat NU are challenging Muhammadiyah's and NU's perspectives on unregistered marriage. Every single Muslim woman activist I spoke with disagreed with the justification that administrative sanctions or higher fines for unregistered marriage would encourage cohabitation (*kumpul kebo*), and would endorse sexual immorality. In fact, almost all Muslim women activists I spoke with believed that a clear link exists between polygamy and unregistered marriage.

When negotiating for women's rights in Islamic marriage law, Muslim women activists are primarily concerned with how Islamic law is applied to achieve just and equitable outcomes. As Maria Ulfah Ansor, ex-chairman of Fatayat NU affirmed:

It is not that we are forcing people to marry, we are definitely for human rights (HAM) and people are free to decide if they want to marry... In Indonesia state

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<sup>153</sup> Ibid

law should be compatible with religious law that is in essence, ethical and humanistic.<sup>154</sup>

In December 2011, I attended a training session for Fatayat NU leaders led by the eminent Hussein Muhammad.<sup>155</sup> The session was on gender equality within the family. In this session, Muhammad highlighted the relationship between law and morality. The discussion began with a Fatayat NU member asking Muhammad a question pertaining to polygamy:

If a woman is barren, according to Islamic law, the wife should allow the husband to marry a 2<sup>nd</sup> wife. But even if the woman was sincere (in allowing her husband to remarry), as a human being, she would still be upset and jealous. Are **we** (emphasis speaker) supposed to pretend to be happy even though it hurts?<sup>156</sup>

Muhammad calmly and thoughtfully replied:

Let's revisit the law, if a wife is barren, a husband may choose to practice polygamy. If a husband is barren, the law allows for a divorce. Actually a law should promote justice and fairness, why should the wife be penalized and be blamed? But, the fact remains, are we talking about law or morality? If we are talking about law, you can choose; your husband may engage in extramarital affairs, he can remarry with your permission or you both agree to divorce. However if he chooses to remarry and he is unfair, his actions will be legally and morally wrong.<sup>157</sup>

The discussion continued on the different options women have if they were faced with a similar predicament. Like Maria Ulfah Ansor, Hussein Muhammad emphasized that law and morality can be complimentary insofar as it yields just outcomes. When Islamic

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<sup>154</sup> Interview with Ibu Maria Ulfah Anshor, 21<sup>th</sup> February 2012 in a mosque in Jakarta.

<sup>155</sup> Kyai Hussein Muhammad is a well-known and revered religious figure amongst Muslim women and civil rights activists. He has long fought for a gender egalitarian interpretation of the Quran and Hadith. Together with several NU alumni, they started Fahmina, an NGO dedicated to promoting gender equality within Islam.

<sup>156</sup> Participant from training session held at Fatayat NU's office in Jakarta.

<sup>157</sup> Kyai Hussein Muhammad at Fatayat NU training session held at Fatayat NU's office in Jakarta.

institutions apply religious law with the assumption that it is the better choice compared to sinning, Muslim women activists reframe the rhetoric of rights to highlight the ethical perspectives underlying Islamic law. In the context of unregistered marriage and polygamy, Muslim women activists point out the fallacy of Islamic institutions' moral logic: being negligent and irresponsible of one's duties as a husband and father is equally morally reprehensible.

## **Conclusion**

This chapter has examined Aisyiyah's and Muslimat NU's evolving norms and values related to polygamy. I have argued that Aisyiyah and Muslimat NU managed to assimilate norms and values of women's rights and brought them into conformity with Islamic ethical principles on marriage and cultural gender roles. By doing so both these organizations have reified women's roles as mothers and wives. Nevertheless, the motherhood trope enables women of Aisyiyah and Muslimat NU to challenge gender hierarchies especially as it relates to empowering women to determine the terms of their marriage, prioritizing between marital duties and work commitments, and ultimately making decisions that determine their *individual* happiness and welfare. However, as a result of concentration of institutional power pertaining to Islamic marriage law within Islamic institutions, and the rigid perspectives of NU and Muhammadiyah towards polygamy and unregistered marriage, the potential for Muslim women activists to reform policies on Islamic marriage law appears elusive. The next chapter examines how Aisyiyah, Muslimat NU and Fatayat NU were successful in adapting transnational

women's rights ideas, translating the language of rights, and applying them to influence discourse and policy on gender-based violence in Indonesia.

## Chapter Six

### **Adapting Human Rights: Gender Based Violence in Indonesia**

In order for human rights to be legitimate, it must feed into existing normative structures and ways of thinking. While most scholars agree with this (An-Na'im 1992), we lack an understanding of processes that promote consensus between women's rights and Islam. Chapter Five has explained how Aisyiyah, Muslimat NU and Fatayat NU have developed a rights-based consciousness as shown in their evolving perspectives towards polygamy. This chapter examines how women's rights were transplanted and appropriated in Indonesia via advocacy against gender-based violence. There were three ways in which human rights are adapted to fit local contexts. Firstly, Muslim women activists and secular feminists sought consensus-seeking solutions to adapt the United Nation's framework on gender-based violence to fit the local legal context. This meant excluding measures to eliminate discrimination in matters relating to marriage, in particular, polygamy. Secondly, Muslim women activists provided secular feminist groups with symbolic resources - frames and language that resonated with Islamic law – to ensure that women's movements' arguments resonated with Islamic institutions. Thirdly, the government redefined the target population, and excluded individuals in homosexual and non-married partnerships from receiving protection from the state in the event of domestic abuse.

This chapter will be organized as follows. First, I will provide a brief background on the Anti-Domestic Violence Bill which was renamed as the Law 23/2004 on the Elimination of Violence in the Household. The second section will describe how transnational activism on gender-based violence enabled the circulation of ideas

promoting women's rights against domestic battery in Indonesia. It will also discuss how secular and Islamic women's organizations forged consensus in order to issue the Anti-Domestic Violence Bill for discussion in parliament. The third section will examine the arguments and frames adopted by the state, in particular the Ministry of Women's Empowerment, the Ministry of Religious Affairs, the Majelis Ulama Indonesia (Indonesian Ulama Council or MUI, henceforth MUI), including several Islamic parties and secular parties. The narrative espoused by the government and political parties will provide a backdrop to understanding how discourses pertaining to gender roles and hierarchies as they relate to gender-based violence have evolved. By tracing the changes in discourse surrounding Law 23/2004 on the Elimination of Violence in the Household, I will show how Muslim women activists and secular women's groups were pivotal in framing the discourse on gender-based violence in ways that resonated with the religious and cultural context. The fourth section will investigate Muslim women's organizations perspectives on these issues. By drawing parallels between parliamentary discourse and the narratives espoused by Muslim women activists, I show how discourse in parliament was grounded in ideas promoted by Muslim women's organizations. Based on interviews with religious elites from Islamic institutions and religious leaders, the fifth section illustrates the fragmented nature of discourse pertaining to gender-based violence. The section explains how the multiplicity of discourses related to marital conflict has afforded discursive space for the women's movement to shape narratives and in turn, policy on gender-based violence.

### **Background on Law 23/2004 on the Elimination of Violence in the Household**

The prevalence of domestic violence is a powerful indicator of gender inequality and vulnerability of women. In Indonesia, a cross-sectional survey conducted by the Gadjah Mada University in 2000 and based on representative sample of 765 married women in Central Java, found that at least 33% of women in Central Java suffered physical or sexual violence at some point in their lives. Married women were more susceptible to sexual violence (22%) than physical violence (11%) (Hayati et al. 2011). The survey utilized the research design and standardized questionnaire validated for various cultural settings constructed by the World Health Organization (WHO) Multi-Country Study on Women's Health and Domestic Violence against Women. Comparing the Indonesian figures for physical and sexual violence with other countries<sup>158</sup> reveals that the prevalence of physical violence in Indonesia is lower than in the sites studied by the WHO, although the rates of sexual violence in Indonesia fall around the median of the sexual violence rates for countries that were covered in the WHO study.

The findings from the WHO Multi-Country Study were used to advocate for policy changes on domestic violence in Indonesia. Legal advocacy efforts were spearheaded by several women's activists who had experience in running women's crisis centers or were legal experts on gender and women's issues. The ground-up effort to create awareness about the prevalence of domestic violence began with the establishment of Women Crisis Centers in Jakarta and Yogyakarta. While these centers became refuge for battered women and offered counselling services for violent spouses, cases that required legal arbitration were handed to the Lembaga Bantuan Hukum Asosiasi

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<sup>158</sup> The first stage of the WHO survey was conducted in 10 countries: Bangladesh, Brazil, Ethiopia, Japan, Namibia, Peru, Samoa, Serbia and Montenegro, Thailand, and Tanzania.

Perempuan Indonesia untuk Keadilan (The Indonesian Women's Association for Justice and Legal Aid Institute or LBH-APIK). By 1997, four years after the first Women's Crisis Center was founded, LBH APIK spearheaded the legal advocacy for an Anti-Domestic Violence Bill.<sup>159</sup>

In its early days, the women's movement struggled to receive support from Islamic leaders of Nahdlatul Ulama (NU) and Muhammadiyah.<sup>160</sup> As I will explain in the following sections, eventually, Muslim women activists from Aisyiyah, Muslimat NU and Fatayat NU began backing the bill and officially endorsed the Anti-Domestic Violence Bill.<sup>161</sup> After the bill was submitted to parliament<sup>162</sup> it took a total of 18 months before the Presidential Mandate (*Amanat President* or *Ampres*) was issued.<sup>163</sup> Part of the delays revolved around the definition of 'hitting' and 'marital rape' as stated in the bill. The bill defined violence as "hitting" and "marital rape." Yet, Islamic scholars espoused different understandings of what 'hitting' entailed. The Fatwa Council of The Majelis Ulama Indonesia (MUI), Muhammadiyah and Nahdlatul Ulama (NU) largely agreed that hitting the wife's face, leaving physical scars and hitting with sharp and hard

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<sup>159</sup> When the parliament agreed to discuss the bill on 18 December 2003, it was called the "Anti-Domestic Violence Bill".

<sup>160</sup> Interview Ratna Batara Munti, on the 8<sup>th</sup> June 2012 at the LBH APIK Office.

<sup>161</sup> These efforts, which were initially led by Rifka Annisa in Jogjakarta, were taken over by LBH APIK and Komnas Perempuan as both organizations had vast experience and expertise in lobbying the government.

<sup>162</sup> The bill was submitted to parliament via the members from the parliamentary committee in charge of religion, social affairs and the empowerment of women also known as, DPR Commission VII.

<sup>163</sup> Before a bill is to be discussed in parliament, it has to be accepted in parliament and forwarded to the President who will in turn issue the appropriate documentation and assign a Ministerial counterpart to represent the President in the discussion of the Bill.

objects are not permissible.<sup>164</sup> However, “light tapping and slapping” is permissible for the purposes of “educating” the wife.<sup>165</sup> Another point of major contention in the bill revolved around the issue of “marital rape.” Islamic parties and MUI were displeased with the inclusion of marital rape in the bill. According to them, the notion of marital rape does not apply in an Islamic marriage where a wife is responsible in fulfilling her husband’s sexual needs.

Given these controversies, it was uncertain whether the bill would pass before the 2004 General Elections. Nevertheless, in the final days of the 2004 Parliamentary session and nearing the end of Megawati Sukarnoputri’s presidency, the Anti Domestic Violence bill was passed into law. The clause on “marital rape” was included in the bill, amongst other controversial clauses, as will be described below. The passage of the Anti-Domestic Violence Bill, which was renamed Law 23/2004 on the Elimination of Violence in the Household, was an unexpected surprise to the women’s movement.<sup>166</sup> They saw Megawati’s signing of the bill as a political tactic to promote her re-election bid as president. Although the law did not include several demands of the women’s movement, as will be discussed later, it provided a comprehensive legal framework for protecting women’s physical, sexual, emotional and psychological well-being. The law signified that domestic violence was no longer considered a private or family issue. Instead of arbitration by a village religious leader (*kyai*) or local religious courts, victims of domestic violence are now legally at least, protected by the state.

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<sup>164</sup> Fatwa (Ar.) is a judicial opinion voiced by an Islamic scholar.

<sup>165</sup> Interview with Arwani Faishal on the 6<sup>th</sup> March at the NU Office.

<sup>166</sup> Interview with Interview Ratna Batara Munti, on the 8<sup>th</sup> June 2012 at the LBH APIK Office, Interview with Ruhaini Dzuhayatin on 19<sup>th</sup> April 2012 at Pusat Studi Wanita IAIN Yogyakarta.

In the following section, I examine how global discourses on women's rights are adapted and contextualized by a variety of actors: Muslim women's organizations, Islamic institutions, political parties and civil society groups. I seek to understand the processes and discursive frames that led to the successful passage of the law.

### **Adapting CEDAW to the Particulars of Local Legal Context**

Indonesia ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1984. As a law without sanctions and enforcement mechanisms, CEDAW has been an ineffective tool for the women's movement to pressure the Indonesian government to comply by standards of women's rights as specified in the convention. CEDAW covers both substantive and formal equality. The convention emphasizes the principle of non-discrimination and legal equality. All thirty articles in the convention encompass a broad array of social, political, economic, education, employment, health and cultural inequalities as well as discrimination faced by women. Moreover, Article 16 specifically outlines measures to "eliminate the discrimination against women in all matters relating to marriage and family relations on the basis of equality of men and women."<sup>167</sup>

Even though CEDAW was ratified in 1984, it was not until 1993 when the United Nations Declaration on the Elimination of Violence against Women enabled the Indonesia women's movement to discuss violence against women, particularly notions related to marital rape, wife-beating, military rape and the gendered effects of war on women (Blackburn 2004, 194). The Beijing International Women's Conference of 1995

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<sup>167</sup> The Convention on the Elimination of all Forms of Discrimination Against Women, Article 16.

also led to an influx of foreign aid to organizations conducting studies and programs dedicated to addressing gender-based violence.

The idea that there is a minimal set of standards of human dignity that can be planted universally, and that these standards are created largely in liberal Western democracies, is a perspective espoused by opponents of human rights in Indonesia. Given that protecting women's rights would occasionally be at odds with cultural and religious expectations such as family stability and gender-prescribed roles, organizations caring for battered women in Indonesia faced immense obstacles when they first began their activities. One such organization is Rifka Annisa.

The battered women's movement in Indonesia began with the founding of Indonesia's first Women's Crisis Center in Jogjakarta in 1993, Rifka Annisa (henceforth Rifka). Rifka galvanizes around a vision that "struggles for the existence of a gender-just society that does not tolerate violence against women through the principals of social justice, awareness and care, independence, integrity and maintaining local wisdoms."<sup>168</sup> Rifka's primary services include psychological counseling for women survivors of gender-based violence, legal consultation and assistance for women and children survivors of violence, as well as counseling services for men with the aim to change behavior and attitudes of perpetrators.<sup>169</sup>

The founders of Rifka comprise of Muslim women activists who are graduates of local Islamic universities. Several Rifka members have overlapping membership with Aisyiyah. On 19<sup>th</sup> April 2012, I interviewed Elli Nur Hayati from Rifka Annisa. I began

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<sup>168</sup> See Rifka Annisa's website: <http://www.rifka-annisa.org/en/2013-10-04-07-06-58/vision-and-mission>. Accessed: 8 October 2015.

<sup>169</sup> Ibid.

my interview asking her general questions about her experience as a founding member of the Women's Crisis Center. Eli Nur Hayati informed me that local religious leaders were initially hostile to the crisis center. They believed that a husband and wife should deal with their domestic concerns in private. They sarcastically made comments that Javanese women were emulating American women and that Javanese women should not bother themselves with setting up a women's crisis center. Unperturbed by these setbacks Eli Nur Hayati explained to me her rationale for running the center despite harsh criticisms:

By 1995, several women's organizations including myself from Rifka and friends from Kalyanamitra (in Jakarta) urged the Ministry for Women's Role (which is currently the Ministry of Women's Empowerment) to pay attention to violence against women, especially in the household. We knew that "Violence against Women" was one of the main themes in the 1995 UN Conference on Women. However, we realized that this will be a hard struggle because back then, the Ministry for Women's Role basically followed government orders. To be fair, I think the Ministry (for Women's Role) made some effort to introduce some policies but others within the government cited that sexual harassment was already covered in the criminal code. But of course we knew that, the criminal code did not apply to workplace and at home. Nevertheless, we continued our work with help from organizations like [the] Ford Foundation. We realized that for our cause to be heard, we needed to establish a larger network, but we did it gradually, through our own capacity building and socializing and creating awareness about domestic violence against women.<sup>170</sup>

Eli Nur Hayati's response reflects how funding by international organizations like the Ford Foundation, and norm-promoting mechanisms of international conferences, like the 1995 Beijing Conference on Women, fueled the activities of local NGOs. By mid 1990s, apart from Rifka Annisa, women's rights organization like Kalyanamitra in Jakarta began monitoring and collecting data on cases of workplace sexual harassment and domestic violence (Blackburn 2004, 203).

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<sup>170</sup> Interview with Eli Nur Hayati on 19<sup>th</sup> April 2012 at Muhammadiyah University.

The women's movement inability to agree on what constitutes as domestic violence stymied the initial formulation for a law against domestic violence. Ruhaini Dzuhayatin, one of the founding members of Rifka who is also a Director of the Center for Women Studies at The State Islamic Institute (IAIN) in Yogyakarta, and a member of Aisyiyah, described how women's organizations with liberal ideological leanings were in disagreement with Rifka regarding their methods for resolving cases of domestic abuse:

We knew that preaching about gender equality wouldn't work, not only because it is a "Western concept" but because women as wives and mothers have been socialized to support their husbands and be obedient. When Rifka first started out, we encountered a lot of friction from other women NGOs. For example, Rifka is not of the opinion that women in polygamous marriage should seek a divorce, as polygamy, according to other women's organizations constitutes a form of violence. We were accused by them (other women NGOs) of being pro-polygamy! Our main concern was to ensure women's rights were defended but at the same time, we knew working with families and husbands was important. When we first started out, we were fighting a dual war – one externally against patriarchy and the other, internally, against other women's organizations whose advocacy for equal partnership is not realistic given our social reality.<sup>171</sup>

Dzuhayatin's insights were particularly revealing in depicting the different ways local translators of global discourses of gender equality adapted ideas on women's rights. Starting out as a battered women shelter and catering mostly to Muslim women victims, Rifka recognized the discursive constraints and eschewed approaches that prioritized "rights" at the expense of reconciliation and collective/family welfare. By identifying their goal as "defending women's rights" but yet, acknowledging that polygamy happens, Rifka is refashioning global rights agenda for local contexts and reframing local grievances in the language of human rights. In the process of "translating transnational ideas and practices down as ways of grappling with local problems" and "reframing local

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<sup>171</sup> Interview with Ruhaini Dzuhayatin on 19<sup>th</sup> April 2012 at Pusat Studi Wanita IAIN Yogyakarta.

grievances up by portraying them as human rights violations” (Merry 2006a, 42), Rifka is allowing local religious and cultural understandings of marital relations to shape their advocacy and program around domestic violence. Yet, by educating women that they have the right not to be hit, the right to bring their batterers to court, and the right to stand up for themselves against an abusive husband and non-married partner, Rifka is offering a human rights intervention to victims of domestic violence. These interventions are similar to the programs developed in the late 1970s and early 1980s in North America and Europe, the sites of production for global human and women’s rights (Merry 2006a, 40).

As mentioned by Ruhaini Dzuhayatin, not all women’s rights groups in Indonesia agree to the extent in which religious and cultural traditions should be accommodated, and how underlying gender hierarchies should be dismantled in order to make way for an individual rights-based perspective. In order to understand the different ways women’s rights groups in Indonesia frame their approach and advocacy around domestic violence, I spoke to some members of Kalyanamitra. Kalyanamitra is one of the first few women resource centers that emerged in the 1980 and focuses largely on promoting gender equality. Their vision centers on “the realization of an egalitarian society through collaboration with social actors in society to fulfill women’s rights”.<sup>172</sup>

Listyowati, chairperson of Kalyanamitra spoke about Kalyanamitra’s advocacy against domestic violence by citing several differences in the way her organization approached the issue compared to other women’s organizations:

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<sup>172</sup> See Kalyanamitra website: <http://www.kalyanamitra.or.id/en/vision-and-mission/>. Accessed: 9<sup>th</sup> October 2015.

Our main vision and mission is to eliminate all forms of violence towards women and according to us, polygamy constitutes a form of violence. That (polygamy) to us is a form of violence, (pauses) I know that other women's organization may not agree (*tidak sepakat*) with our opinion but polygamy to us, is a form of violence. To that extent, in all our activities we try to socialize how polygamy is a form of violence. Other women's organizations may not be so insistent, but for us we insist that polygamy is a form of violence – it is a form of violence that is not only physical but causes mental and emotional anguish. Since 1998, we have been assisting victims of domestic violence and we found that polygamous marriages are one of the main sources of domestic and sexual abuse, and is a main cause of emotional and psychological trauma.<sup>173</sup>

As a secular women's organization staffed by Muslim women and men, Kalyanamitra's mission and methods are underpinned by liberal ideology and norms. Following the conceptualization of violence as outlined in Article 1 of the Convention on the Elimination of All Forms of Violence Against Women (CEDAW), Kalyanamitra argues that polygamy constitutes a form of psychological violence, and hence should be abolished. Kalyanamitra is careful not to substantiate the inclusion of polygamy in the bill by referencing Article 16 in the CEDAW convention. Acknowledging that opponents of the bill would have argued against the imposition of "Western human rights" on local and religious law, they chose to frame their advocacy against polygamy as a form of "psychological" violence.

It is important to point out that both Rifka and Kalyanamitra were operating in distinct discursive constraints. As a Women's Crisis Center, Rifka adopts a pragmatic approach to resolve concrete and tangible problems afflicting battered women. This meant modifying concepts of "women's rights" in order to continue providing care and counselling services in an environment that was opposed to a Western-sounding human rights approach. On the other hand, as a resource center that performs data gathering work and runs workshops and dialogues on gender discrimination, Kalyanamitra's main

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<sup>173</sup> Interview with Lisowati from Kalyanamitra on 8th February 2012 at Kalyanamitra's Office.

focus is to challenge ideas and perspectives without necessarily having to deliver practical solutions to tangible problems. Whether polygamy should be accommodated and tolerated or should be seen as form of “violence” became a fractious issue during the initial phases of mobilizing around the Anti-Domestic Violence Bill.

Despite these differences, by 1997, four years after the first women’s shelter was formed, the women’s movement together with Muslim’s organizations began lobbying for the Anti-Domestic Violence Law. The Indonesian Women's Association for Justice and Legal Aid Institute (*Lembaga Bantuan Hukum Asosiasi Perempuan Indonesia untuk Keadilan*) or LBH-APIK spearheaded the drafting and advocacy for the Anti-Domestic Violence Bill. Formed by a group of seven female lawyers in 1995, LBH APIK is committed to providing legal defense for women who are impoverished, and religiously and culturally discriminated. As LBH APIK has had vast experience and expertise in lobbying the government, they led the women’s movements’ advocacy for the bill.

On 8<sup>th</sup> June 012, I spoke to LBH APIK’s director, Ratna Batara Munti regarding the challenges the organization faced in their lobbying efforts, in particular trying to forge consensus between different women’s groups around the definition of violence. Ratna Batara Munti’s response caught me by surprise. Her response indicated to me that she immediately recognized that I was asking for her opinions on whether polygamy should be seen as form of violence against women. She explained to me that in 1997, LBH APIK organized a workshop, “Religious and Legal Response to *Kekerasan Domestic Rumah Tangga* (KDRT, Domestic Violence in the Household)” where they invited Muslim women’s groups like Aisyiyah, Muslimat NU, Fatayat NU and Islamic institutions including Islamic scholars from Muhammadiyah, NU and MUI. The workshop was

perceived as a resounding success because in general, the participants of the workshop agreed that existing laws within the criminal code did not provide battered domestic victims with access to legal assistance and legal protection from the perpetrators of violence. Nevertheless, in order to move forward, Ratna Batara Munti informed me that they had to “drop” the clause on polygamy, as it was a religiously sensitive issue.

Nevertheless, in her words, the fight against polygamy continues:

We will place this (polygamy) issue aside for now and include it (polygamy) in other advocacy platforms. After the workshop we decided it was best to move forward without including polygamy in the bill, as it would be impossible to gain the support from Muslim groups. There were two positive signs from the workshop: first, Muslim leaders agreed that existing laws were insufficient to protect victims of domestic violence; second, there was a general consensus that a reinterpretation of Islamic laws that are discriminatory against women are needed to ensure that Islam is not used to justify violence.<sup>174</sup>

The workshop was the first step for the women’s movement in terms of gaining support from prominent Islamic elites to promote the bill. Nevertheless, this meant precluding CEDAW Article 16 that specifies measures against gender inequality in marriage and family relations. Chapter Five has argued that Muslim women’s organizations adopted a right-based approach towards their perspectives on polygamy. However, when the option to include polygamy in the bill appeared, both secular and Islamic women’s organizations agreed to exclude polygamy for fear that the Anti-Domestic Violence Bill would languish in parliament. This suggests that changes in subjectivities can only be sustained and spread when accompanied by institutional and legal change. The following section will illustrate how changes in subjectivities within Muslim women activists led to discursive and legal changes with respect to gender-based violence. Thus, even though efforts to prohibit polygamy and reform gender discrimination in Islamic marriage law appear

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<sup>174</sup> Interview with Ratna Batara Munti on the 8<sup>th</sup> June 2012, at the LBH APIK Office.

insurmountable, by embracing rights-based subjectivities, Muslim women activists have been successful at translating human rights concepts and adapting a universal rights-based legal framework to fit local particularities in other aspects of women's rights.

In the following sections, I examine more closely, the arguments and frames adopted by the state, in particular the Ministry of Women Empowerment and Child Protection, the Ministry of Religious Affairs and MUI. I also examine the frames and ideas espoused by three different types of political parties: first, Islamic parties; second, parties that enjoy support from Islamic communities but subscribe to the Pancasila (principles of the state) ideology; and, third, nationalist parties. Examples of Islamic political parties include Partai Keadilan Sejahtera (Prosperous Justice Party or PKS), Partai Persatuan Pembangunan (Development and Unity Party or PPP) and Partai Bulan Bintang or (Star Crescent Party or PBB). Examples of political parties that belong to the second category just mentioned include Partai Kebangkitan Bangsa (National Awakening Party or PKB) and Partai Amanat Nasional (National Mandate Party or PAN). Lastly, Partai Demokrasi Indonesia Perjuangan (Indonesian Democratic Party of Struggle or PDIP) and Partai Golongan Karya (Indonesia's Golkar Party or Golkar) are examples of nationalist parties within Indonesia. It is worth pointing out that PKB's leadership is led by NU-affiliated Muslims while PAN's leadership is closely associated with Muhammadiyah-affiliated Muslims. As it will be made clear by the end of the section, Muslim women activists who were also legislative members were particularly influential in framing controversial clauses in the bill in ways that aligned with local sensibilities.

### Negotiating the “Private vs. Public” Frame

The Anti-Domestic Violence Bill was first discussed in parliament on the 23 August 2004.<sup>175</sup> One of the most prominent frames adopted by both proponents and opponents of the bill was to articulate domestic violence in terms of a “public” or “private” concern. Proponents of the bill framed their arguments around the understanding that “the personal is the political” (Munti 2008, 71). This frame emphasized that violence occurring within the private domain should not be tolerated. Proponents argued that the state is responsible in protecting the bodily integrity of women whether in the public or private domain. They demanded both legal and substantive equality for women. Apart from women’s legal rights to be protected from violence, the state apparatus, in particular police and courts should ensure that women’s right to access justice is guaranteed. This includes state support in administering counseling for husbands and wives, legal assistance for battered women, and temporary shelter for victims of domestic abuse. For opponents of the bill, the issue centered on preventing the state from interfering within the private domain. Opponents of the bill argued that Islamic law has provided the steps to overcome conflict in the household. In their view, the Anti-Domestic Violence Bill encourages women to pursue individual happiness at the expense of family unity, thus promoting divorce as an alternative solution.

Islamic political parties such as PKS and PBB, and the military-police faction, TNI POLRI,<sup>176</sup> argued that the Anti-Domestic Violence bill prioritized the

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<sup>175</sup> Parliamentary discussions of the bill took place on the 23, 26, 30th August before it was finally deliberated and passed on the 14<sup>th</sup> September.

<sup>176</sup> TNI POLRI representation in parliament ended in 2004 through constitutional changes.

implementation of western and international law over existing religious and cultural (*adat*) law. Yet, there were subtle differences between their arguments. While, PBB and TNI POLRI resisted the intrusion of the state into the private domain, PKS and PAN emphasized that Islamic law holds the answer to resolve domestic disputes and conflict.

TNI POLRI, the party representing the military-police faction, wanted to revise certain articles within the bill to reflect more of Indonesia's unity ideology, Pancasila. In their view, the current version of the bill embodied Western culture and liberal ideology. Mustopo from TNI POLRI claimed that the incursion of Western culture into the private domain signals a diminishing influence of local values as embodied in the Pancasila:

We do not have to follow Western culture and follow closely the rules of International Law that are completely different from our society. For example, domestic violence may occur in the family and family relations are marked by marital agreement and discord, and for each individual there are religious laws that arranges family relations. Hence, there are existing laws that govern domestic relations. For example, if I hit my wife because my wife disobeys me, and someone else reports me to the police, I will kill that person, because this is an event that has taken place in my household. If we want to resolve it we need to resolve it through a religious way, because I am not the criminal. Our national laws have been poisoned, our culture will be lost, I admit I don't really fully understand Islamic law, but my sense is that there is this (foreign) culture that has entered the family domain.<sup>177</sup>

Partai Bulan Bintang (Star Crescent Party or PBB), an Islamic party that emerged in the post-Suharto era, echoed similar sentiments. According to Bondhan Abdul Madjid from PBB international law as promoted by the United Nations should only be implemented if it is complementary to the values of Pancasila. He stressed that since the first principle in Pancasila, is the "Belief in the One and Only God" the law should reflect more closely religious principles:

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<sup>177</sup> The People's Representative Council (DPR), Parliamentary Minutes, Law 23/2004 on the Elimination of Violence in the Household, Book 1 p. 185.

Indonesia has access to a variety of laws; Islamic law and cultural (adat) law and other religious laws. All these laws have ways of dealing with domestic violence so it is not fair to say that Indonesia does not have laws to deal with domestic violence.<sup>178</sup>

At the same time, Bondhan Abdul Madjid from PBB also described how the drafter's understanding of domestic violence is too narrow in its emphasis of violence against women and did not include violence and discrimination imposed on other individuals in the family. For PBB, the heart of the issue consists of privacy, whereby family affairs fall within the private domain. PBB's method of resolving the issue of domestic violence relies on an array of Islamic marital dispute resolutions consisting of: a) cessation of sexual relations between married couple; b) *syiqoq* (arabic) that is, in the event of irreconcilable differences a judge can decide if the marriage should continue; c) divorce following Islamic procedures. In their view, the last resort should involve bringing a neutral outsider to investigate the violence in the household.

Both PBB and TNI's comments on the bill reflect a rejection and disdain for international law promoting women's rights and human rights. For them a rejection of international law implies more of a refusal of state's encroachment in the private domain, as opposed to completely opposing the nature of human rights law.

PKS framed the "private vs public" debate in a different manner compared to PBB and TNI POLRI. PKS argued that Islam does not allow any kind of violence within the family. In their view, perpetrators of domestic violence who validate their actions using Islamic law have misinterpreted the Quranic verse 4:34, which is one of the most commonly cited verses for describing the arrangement of relations between husband and wife. The verse reads: "Men are the protectors and maintainers of women, because Allah

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<sup>178</sup> The People's Representative Council (DPR), Parliamentary Minutes, Law 23/2004 on the Elimination of Violence in the Household, Book 1 p.183.

has given the one more (strength) than the other, and because they support them from their means. Therefore the righteous women are devoutly obedient, and guard in (the husband's) absence what Allah would have them guard".<sup>179</sup> This verse is traditionally interpreted to mean that a husband is responsible in providing a livelihood for his family and protect them from harm. The Arabic word, *qawwam* in the verse, which is conventionally defined as "leader", is often used to justify a wife' subservience to her husband.

As explained in Chapter Five, Aisyiyah, Muslimat NU and Fatayat NU have adopted a more flexible and context-based understanding of Quranic verse 4:34. Muslim women activists in these organizations continue to ponder the implications on husband's and wife's responsibilities and roles in a modern context, when both husband and wife are working and contributing to the family income. There is a recognition among Muslim women activists of Aisyiyah and Muslimat NU that men's leadership is contingent on the provision of income and protection to the family. Moreover, as explained in Chapter Five, the revised version of Aisyiyah's Harmonious Family program states that a relational hierarchy between a husband and wife may exist insofar as the relationship is healthy and promotes goodness. Thus, this does not mean that a husband has the right to limit a wife's capacity to pursue education and employment.

On the other hand, PKS denies that the Quranic verse 4:34 subordinates women. Instead PKS points out that men and women are equal in status before God. In their view, men and women are differentiated according to their faith and deeds (Ar. *taqwa*).<sup>180</sup> Their perspectives are reminiscent of Muslim women's organizations' views in the 1950s. In an

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<sup>179</sup> Ibid.

<sup>180</sup> Ibid, p.65.

interview with a women politician from PKS, Nusanita Nasution, she asserted that domestic violence is a problem in almost all societies. Islam, she opined, does not condone violence. In her view, men become violent when they get too emotional or are under a lot of stress. Unlike TNI and PBB that eschews state intervention in the private domain, PKS argued that state intervention is not the *only* way of resolving domestic disputes. Islamic law is an existing resource that if interpreted correctly, can help in reducing domestic violence.

### **Establishing Victimhood as a Way Out of the Public vs. Private Debate**

On the 24th August 2004, a session was convened between the Ministry of Women's Empowerment and Child Protection, and Committee VII (the parliamentary committee that was responsible for Religious and Women's Affairs) to discuss the Anti-Domestic Violence Bill. The Ministry of Women's Empowerment was the designated ministry representing the government during the discussion of this bill. Sri Redjeki Sumaryoto, the Minister of Women's Empowerment and Child Protection, highlighted several objections regarding the Anti-Domestic Violence Bill. One of the main issues referred to the title of the bill. Disagreeing with the title of the bill, Sumaryoto argued that the bill should be renamed "Protection for the Victims of Domestic Violence." This would reflect the underlying intent of the bill that is to protect women. Although the Ministry agreed with the drafters of the bill that criminal sanctions should be imposed on perpetrators of domestic violence, they asserted that the focus of the bill should be to provide a wide safety net for protecting and supporting battered women:

We (Ministry of Women's Empowerment representing the government) are hesitant to adopt the title "Anti Domestic Violence" because we believe the title

has a connotation that the bill only focuses on sanctioning and criminalizing violence in the household, whereas based on psychological, sociological and juridical reasoning, the government believes that we are not only responsible in prohibiting and preventing domestic violence but we are also responsible for protecting victims of domestic violence. Hence here, we stress the protection given to victims of domestic violence and our second reason (for changing the title of the bill) is that if we both examine the substance of the bill, what is proposed by the DPR (members of parliament) is in fact establishing the guidelines for protecting the victims of domestic violence and I also believe this (changing the title of the bill) will be easily understood by the public and it will not be unsettling for the community, as the focus is on the word 'protection' as opposed to the word "Anti-Domestic Violence".<sup>181</sup>

Both TNI POLRI and PBB agreed with the Minister's suggestion claiming that using the word "Anti-Violence" "was too strong a statement (*terlalu wah gitu loh*)."<sup>182</sup> PBB also felt that the word "Anti-violence" was an indication that the government would have complete control of domestic affairs, thus overstepping its role within the private domain.<sup>183</sup> While the military affiliated party TNI POLRI and Islamic party PBB have framed domestic violence as a "private issue," Islamic parties like PKS and PAN have chosen not to engage in these debates. According to them, the core of the issue revolved around the cultural influence of the bill, in particular how the bill promoted a "Western" view of familial relations and gender roles.

On the other hand, several secular and Islamic parties agreed with the title of the bill and felt that it was important to include the words "Anti-Domestic Violence." Secular parties, PDIP and Golkar, and "Islamic" party, PKB, argued that the intent of the bill was to punish perpetrators of domestic violence and provide public services to cater to victims of domestic violence. PDIP argued for preserving the title of the bill because it would

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<sup>181</sup> Ibid, p.146.

<sup>182</sup> Ibid, p.153.

<sup>183</sup> Ibid.

reflect how Indonesian laws are aligned with international norms, in particular the CEDAW convention. Moreover, both Golkar and PDIP argued that protecting victims of domestic violence should not preclude penalizing the perpetrators of violence.

The discussion regarding the title of the bill transpired throughout the entire meeting between the Ministry of Women's Empowerment and Child Protection, and Committee VII (committee of religious and women's affairs). It may seem absurd that the entire session was focused on the title of a bill and not the substance of the bill itself. However, the lengthy debate on word choice is in fact a reflection of the apparent divide between two sides. On one end are actors who are either against the application of international law and human rights norms in the private domain, or actors who reject government's regulation within the family. On the other end are actors who view domestic violence as a form of systemic and gender-based discrimination against women that, in turn, requires public intervention in the form of legal protection and substantive social services.

For the Ministry of Women's Empowerment and the government, the underlying issue remains ascertaining a set of laws or customs that enable the state to intervene in the domestic domain. The domestic domain has always been the purview of religious and cultural (*adat*) laws even during the colonial period. State intervention in the domestic domain both in terms of the 1974 Marriage Law, and state-mandated contraceptive policies in the 1960s, required an intricate process of negotiation between Islamic elites and the government. These dynamics are also observable in this bill as explained by the Minister of Women's Empowerment and Child Protection:

From a legal standpoint, the title (of the bill) without the word "victim" (*korban*) would make it seem like (the bill) is regulating the private domain, while with the

other title, including the word "victims" (*korban*) would justify the government's intervention in the private domain. When there is a victim, there is a public crime, hence making state intervention necessary.<sup>184</sup>

Stipulating the exact legal language determining the basis of intervention allowed the government to navigate around the reasoning employed by actors opposing state intervention in the private domain. At the end of the first day of parliamentary discussions on the bill, there was still no resolution on the title, but it appeared that there was some sort of consensus on the substance of the bill:

We should remind everyone that there are elements of the bill – prevention, protection and mitigation - of violence for victims of domestic violence, that we can all agree on. As long as those elements of the bill are present we can discuss the title of the bill on a later date.<sup>185</sup>

Emphasizing women's vulnerability as "victims" of domestic violence, enabled the government to appease detractors of the bill whom would have otherwise refused to deliberate on a law that they felt was unnecessary given available methods of domestic conflict resolution within Islam.

### **Ascertaining the Legitimate "Victim"**

On 30<sup>th</sup> June 2004 the government finally issued their version of the bill. This concluded the 13-month wait by the women's movement and legislators who had submitted the Anti-Domestic Violence bill to parliament. In the Indonesian constitution, a bill discussed in parliament may either be issued by a group of legislators or the government (Frebian 2009, 11). In the case of the Anti-Domestic Violence Bill, since a group of legislators issued the bill, the constitution allows for the government to prepare

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<sup>184</sup>Ibid, p.152.

<sup>185</sup>Ibid, p.164.

a “government bill” that consists of an inventory list of issues (*Daftar Inventory Masalah*, DIM). This document enumerates a list of items that are flagged as problematic by the government. Parliamentary debates and sessions often consist of discussions referencing the bill submitted to parliament and the inventory list of issues (DIM).

The inventory list (DIM) submitted by the Ministry of Women’s Empowerment and Child Protection altered the bill significantly and excluded several foundational articles. There were three main issues that the government found particularly contentious and as result were excluded from the government’s version of the bill. These issues revolved around the inclusion of “economic violence” as a form of domestic violence, “marital rape” as a form of sexual violence and the definition of the “household.” Both the clauses “economic violence” and “marital rape” were removed in the government’s version of the bill suggesting government’s apprehension in transgressing conventional interpretations of Islamic law. While secular parties like PDIP and Golkar and Islamic party, PKB, supported the inclusion of “economic violence” and “marital rape” in the bill, the Islamic party PKS, and the military-police party, TNI-POLRI, were against the inclusion of those clauses.

In the draft bill proposed by the DPR members, the concept of economic violence meant: “neglecting the household; negligence applies to any individual who restricts someone else from working inside or outside the home so that the victim is dependent and under the control of the individual.”<sup>186</sup> The drafters of the bill had included the clause “economic violence” to promote woman’s individual right to earn an income. This

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<sup>186</sup> Anti-Domestic Violence Draft Bill Article 9 Paragraph 2.

perspective runs contrary to a cultural, albeit conservative, understanding of a husband's role as the primary breadwinner of the household. Similarly, establishing women's independence and right to economic autonomy stands in contrast to a common interpretation of Quran verse (4:34) "Men are the protectors and maintainers of women, because Allah has given the one more (strength) than the other, and because they support them from their means."<sup>187</sup> The Ministry of Women's Empowerment and Child Protection argued that the clause "economic violence" should not be included as a form of violence because:

the government should focus on trying to raise the economic standards of everyone in society, such that both husband and wife can be economically independent without destroying the harmony and togetherness which will be more constructive between the two of them.<sup>188</sup>

The Ministry promoted an understanding of economic independence that prioritized family harmony and welfare thereby undermining the intent of the clause that is to protect women's rights to establish an independent livelihood regardless of husband's permission. According to Aan Rohanah from PKS, the inclusion of economic violence, defined as a husband prohibiting his wife from working or developing to her fullest potential, should be excluded from the bill. Instead Aan Rohanah argued that a husband should be guilty of "economic violence" if he forces his wife or children to work for the family against their will (Nurjanah 2013, 72).

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<sup>187</sup> Yusuf Ali's Translation. See: <http://corpus.quran.com/translation.jsp?chapter=4&verse=34>. Accessed: 20 October 2015.

<sup>188</sup> The People's Representative Council (DPR), Parliamentary Minutes, Law 23/2004 on the Elimination of Violence in the Household, Book 1, p. 125.

The second point of contention in the bill was surrounding the issue of “marital rape.” According to PKS, PAN and the The Majelis Ulama Indonesia (MUI, Indonesian Ulama Council), marital rape is a non-issue because a dutiful wife would not turn her husband away (Nurjanah 2013, 73). This reasoning is legitimized based on a widely controversial hadith that states, “If a wife stays away overnight, leaving her husband’s bed, then angels will curse her till morning.”<sup>189</sup> PKS legislators argued that sexual relations between a husband and wife should remain a private matter. As marriage is a form of worship for God, the relationship between husband and wife holds a strong devotional dimension. Although Huzaemah Tanggo from MUI considered the hadith quoted above to be disputed, she rejected the inclusion of the verse “marital rape.” In her view, marital relations are between the husband and wife where Islam has laid out permissible actions and ethics regarding intimate relations (*bersetubuh*) between partners. Tanggo believes that it is unnecessary to include the verse “marital rape” because in Islamic law, if a husband is guilty of abusing his wife (whether physically or sexually), there are mechanisms in place to resolve the dispute.<sup>190</sup> According to PKS and MUI it is unnecessary for the government to intervene and regulate intimate relations between a husband and wife especially since Islamic law has stipulated guidelines to deal with marital disputes. Minutes from the parliamentary debates indicate that the government, represented by the Ministry of Women’s Empowerment and Child Protection, shared similar opinions:

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<sup>189</sup> Hadith quoted in Bisri, KH A.M. “Ini Uqu’d al-Lujjayn Baru Ini Baru ‘Uqu’d al-Lujjayn.” *Wajah Baru Relasi Suami- Istri: Telaah Kitab ‘Uqu’d al-Lujjayn*, Forum Kajian Kitab Kuning (FK3). Yogyakarta: LkiS, 2001.

<sup>190</sup> Interview with Huzaemah Yanggo on 16<sup>th</sup> March 2012 at the The Institute of Quranic Science.

With regards to marital rape in marriage, the government understands and acknowledges that this is a problem. However, when considering the implications (of including the clause) and in view of ideological and cultural factors that are ingrained in our society, which may inevitably impact the effectiveness of this stipulation, we believe that it will be better to find a concrete solution that ultimately contributes to the overall welfare and harmony of the nation and community.<sup>191</sup>

The quotation above reflects that the Ministry is yet again attempting to navigate around Islamic law and cultural practices that are deemed authoritative within the private domain. Thus, the state's solution was to redefine the target population by excluding the notion that married women would experience marital rape in order to legitimize state intervention within the private domain.

### **The Relational Criteria of Victimhood**

The third major issue of contention revolved around the definition of “household”, in particular, individuals who make up the “household.” The Anti-Domestic Violence bill issued by the legislators defined “household” to include domestic workers, ex-wives and girlfriends. The government's version of the bill narrowed the scope to only include “husbands, wives and children” and “individuals who share family ties (biological or adopted) or through marriage”. All parties with the exception of PDIP, initially agreed with the government's definition of the household. There was clear consensus between all parties, (with the exception of PDIP) that only individuals within the confines of a legal marriage and share biological ties can attain the status of a legitimate victim.

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<sup>191</sup> The People's Representative Council (DPR), Parliamentary Minutes, Law 23/2004 on the Elimination of Violence in the Household, Book 1 p.152.

The Ministry of Women's Empowerment and Child Protection notion of victimhood abided by a conventional interpretation of Islamic law. Since the ascendance of pious practice amongst middle-class Indonesians in the early 90s, there is a greater tendency to abide by a strict interpretation of Islamic law regulating male-female interaction. This includes not only interaction in public sphere but also within the household. Islamic law specifies guidelines differentiating individuals who are *mahram*, unmarriageable kin with whom sexual relations would be considered incestuous, and *non-mahram*. There are, in turn, clear guidelines covering dress codes and interaction with members of the opposite sex who are *mahram* and *non-mahram*. Hence, it is clear that the definition of "household" adopted by the Ministry of Women's Empowerment and Child Protection is in line with an Islamic legal terminology of kinship relations.

In the context of the bill, Islamic kinship relations dictated who deserved protection from abuse and violence. Extending the realm of household relations to include non-married partners, ex-wives and domestic workers would mean to offer assistance and protection to battered women as individuals. This would include individuals in relational arrangements –cohabitation (*kumpul kebo*) and homosexual partnerships - that are perceived as sinful in Islam. Hence, it is the perceived relational context in which "victimization and abuse" has occurred that determines whether an individual is worthy of protection.

Despite the overall consensus on the issue, Surya Chandra, a male member of parliament from PDIP expressed that middle-class households in Indonesia normally consist of individuals who are not related through blood ties or marriage, such as domestic helpers or tenants. He argued that preserving the broader definition of

“household” was unrelated to condoning free sex and homosexuality. In an interview with the press, Surya Chandra asserted that language protecting the rights of domestic workers have to be included in the law. While domestic workers can be considered non-*mahram*, the reality is that the relational arrangement is viewed as morally appropriate, in contrast to cohabitation and homosexuality.

While Aisyiyah and Muslimat NU abided by a definition of “household” that is aligned with an Islamic understanding of individuals who are of similar *mahram*, they advocated for the inclusion of domestic workers to be protected as members of the “household.” Aisyiyah asserted that domestic workers are easy targets for domestic violence. Often, domestic workers who have been abused are afraid of reporting instances of violence because they may lose their jobs.<sup>192</sup> Ratu Dian who is a member of Fatayat NU and also from PKB, explained that it was important for the bill to exclude language endorsing free-sex and homosexuality; however, she agreed with including “domestic workers” into the definition of the household. While she acknowledged the wide prevalence of violence between non-married partners (*pacaran*) she explained that an expansive definition of “household” would run the risk of having the bill stalled in parliament. Thus, for Ratu Dian, abiding by an Islamic legal understanding of kinship relations was not only a moral choice but also one that was pragmatic and strategic.<sup>193</sup>

While disagreements with PDIP’s opinions persisted, eventually all parties agreed to the inclusion of “domestic helpers” as individuals within a household. However, “non-married partners” and “ex-wives/ex-husbands” were however excluded from this scope.

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<sup>192</sup> *Suara Aisyiyah* No 9. September 23.

<sup>193</sup> Interview with Ratu Dian Hatifah on 7<sup>th</sup> October at Golkar Central Office.

The law that was passed excluded “non-married partners” and “ex-wives/ex-husbands” but included “domestic helpers.”<sup>194</sup>

In an interview with Latifah Iskandar from Aisyiyah, who is also a member of PAN, I asked her how her party came to a resolution on the issue:

It is reality in Indonesia that domestic helpers are often abused and mistreated. If we are to ensure this law protects all individuals, we need to include those in our society that are the easiest targets for abuse. As domestic helpers work in the private domain, it makes sense for this law to protect them.<sup>195</sup>

Both Ratu Dian who is a member of PKB and from Fatayat NU, and Latifah Iskandar who is a member of PAN and from Aisyiyah, were advocates for domestic workers’ rights and fought for them to receive protection from the state. Nevertheless, for both religious and strategic reasons they preferred to stick to a narrow definition of household, excluding non-married and homosexual partnerships that are perceived as sinful in Islam. Navigating between Islamic and women’s right discourse means that Muslim women activists must assess to what extent they can challenge existing modes of thinking and to what extent they can frame non-conventional ideas in familiar packages. At times, this means promoting ideas that militates against women’s sexual freedom and individual rights.

### **From Victimization to Invoking Husband’s “Responsibility”**

Preserving the clauses “economic violence” and “marital rape” in the definition of domestic violence proved to be more challenging than the women’s movement anticipated. Detailed records from LBH APIK’s advocacy around the bill indicated that

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<sup>194</sup> Law 23/2004 on the Elimination of Violence in the Household, Article 2(1c).

<sup>195</sup> Interview with Latifah Iskandar on 23<sup>rd</sup> April 2012 at Latifah Iskandar’s House.

the women's movement took on several approaches to pressure legislators not to exclude the two clauses from the bill. Their tactics ranged from monitoring the developments in both open and close door parliamentary sessions,<sup>196</sup> holding press conferences presenting data of sexual and "economic" crimes committed in marriage and working with the media to inform citizens about the importance of including these clauses. At the same time, Muslim women activists who attended these press conferences clarified how misinterpretation of Quranic verses and lack of knowledge of Islam had created the misperception that Islam legitimates wife beatings (Munti 2008, 86).

As explained before, while secular parties like PDIP and Golkar, and Islamic party, PKB, supported the inclusion of "economic violence" and "marital rape" into the bill, the Islamic party PKS and the military-police party, TNI-Polri rejected those clauses. On the 30<sup>th</sup> August, a press conference was held and organized by LBH APIK and Komnas Perempuan (The National Commission on Violence Against Women). The press conference brought together religious leaders, women's groups, members of parliament and survivors of domestic violence. The conference was held strategically in the afternoon, on the same day the special committee would convene for the final time to discuss the bill.<sup>197</sup> The organizers of the press conference, presented evidence documenting the prevalence of domestic violence and the inadequate measures within the criminal code to protect and prosecute cases of domestic abuse. The primary aim of the conference was to ensure that the most controversial clauses such as "economic violence"

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<sup>196</sup> Monitoring close-door sessions via text messaging with particular legislators from PDIP, Golkar and PKB that were supportive of the bill. The final phases of the parliamentary discussions on the bill were not open to the public.

<sup>197</sup> Eko Bambang. Penghapusan KDRT, adalah Upaya Membangun Keluarga Sakinah? Eliminating Domestic Violence is a Step Towards Building a Harmonious Family?. *Junral Perempuan* 15 September 2004.

and “marital rape” would still be included in the final draft of the bill, before it was sent out for a final vote in parliament.

14 days later, on September 14<sup>th</sup> 2004, the Elimination of Domestic Violence Bill was passed and renamed as Law 23/2004 on the Elimination of Violence in the Household. The two clauses “economic violence” and “marital rape” were successfully preserved in the bill. Although PKS initially rejected both clauses, they eventually compromised and accepted the inclusion of the clauses. They argued that with respect to “economic violence,” husbands and fathers are responsible in ensuring that women are protected citing the fact that many women and children have been dragged into prostitution by close relatives.<sup>198</sup> Yuyoh Yusroh from PKS explained that “economic violence” should not be interpreted as a husband preventing his wife from working, but instead, proposed a definition of “economic violence” as a husband who has not provided for his family for several months or one who forced his wife and children to work. Second, while PKS still rejected the term “marital rape” by citing that it is “Western-minded” concept, it agreed to preserve the substance of the article. According to Yuyoh Yusroh from PKS, a husband’s responsibility towards his wife extends to his treatment of his wife especially in the bedroom.<sup>199</sup>

The parliamentary discussion on the bill reflects several changes in PKS’s approach to husband-wife relations and gender roles. To understand how consensus on the two contentious issues were forged, I spoke to Ratna Batara Munti, the director from LBH APIK, the NGO that formulated and led the legal drafting of the bill. She provided

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<sup>198</sup> The People’s Representative Council (DPR), Parliamentary Minutes, Law 23/2004 on the Elimination of Violence in the Household, Book 2, p 256.

<sup>199</sup> Ibid.

me with a very detailed explanation of the process underlying the formulation of the bill.

I quote her here in detail to show how religious leaders and Muslim women activists were closely consulted in the legal drafting of the bill:

In 1993, Rifka Annisa had started a program dealing with the problem of domestic violence towards women. I went to Jogjakarta to visit the center and based on our experience in legal drafting and advocacy, we took on the leading sector role. Before we formulated the bill we conducted comparative country research looking at anti-rape laws in Vietnam, Philippines, Turkey and Malaysia. Based on that we agreed that the title of the bill should contain the word “household” (*rumah tangga*) because if the bill’s focus were only to protect women, it would be rejected. This process took several months. Domestic violence is an entry point to change the legal system, because it is the system that needs to be changed. We were invited by TAF (The Asia Foundation) to a conference and we learnt a lot from activists from Vietnam and Philippines as they had just successfully passed their anti-domestic violence law. When we wrote the initial draft we knew it would be revised multiple times to include the perspectives of the religious community. We worked closely with a core team (*team inti*) of individuals consisting of women activists within women’s crisis center such as Rifka Annisa, Kalyanamitra and Mitra Perempuan. We also coordinated our work with Ibu Musdah Mulia, who was then the head of the research division for MUI. Finally, we examined existing laws and noted that Article 351 and 316 of the penal code were inadequate to protect women from battery especially within the private domain. We also held a workshop on “Handling Domestic Violence” and invited the police, judges, lawyers, religious leaders and NGOs to underscore the reality of violence and abuse confronted by women and children. With this we established our network of teams (*tim jaringan*). While we had engaged with the religious community, it was important to get the active participation of Muslim women from Muhammadiyah and NU. We had to stress to them and explain how this bill does not lead to divorce and disintegration of the family, in fact this bill is important to establish a harmonious family (*Keluarga Sakinah*). We had to involve them in every step of the way. Based on all of their suggestions and input we wrote the first draft of the bill in 1997.<sup>200</sup>

Subsequently she informed me that the first draft of the bill written in 1997 was revised four times before it was finally submitted to parliament. She also pointed out how several legislators, such as Aisyah Baidlowi and Safira Rosa Masruchah, and Dr. Musdah Mulia, who was Senior Advisor to of the Ministry of Religious Affairs from 1999 to 2007, were

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<sup>200</sup> Interview with Ratna Batara Munti on the 8<sup>th</sup> June 2012 at LBH APIK’s Office.

pivotal in influencing PKS's decision to include the clauses on "marital rape" and "economic violence."

Baidlowi and Masruchah, members of both PKB and Muslimat NU pushed for an expansive definition of "violence" insisting that the provision on "economic violence" and "marital rape" should be preserved in the bill. Several weeks before the bill was passed, a group of legislators including Baidlowi and Masruchah held a seminar in the parliament building. The seminar, "Supporting the Passage of the Anti-Domestic Violence Bill to becoming a Law," was attended by parliamentarians from other parties including PKS, PAN and PBB. During the seminar, Aisyah attempted to assuage opponents who argued that the bill would lead to the disintegration of the family:

RUU KDRT (The Anti-Domestic Violence Bill) is an effort to create a Sakinah (harmonious) family. With this bill, women who often the victims of abuse can depend on the cooperation of their family members, friends and neighbors, the police and the government to prevent the occurrence of domestic violence. This bill has been long-awaited by victims of domestic violence, whose numbers have steadily increased. Many women become victims of violence, especially women in minority groups, indigenous women, women refugees and migrants, disabled women, elderly women and women in armed conflict. Women are also vulnerable to economic violence when their needs are neglected and when they are not allowed to work and provide for themselves and their families. Currently, there are insufficient laws to address these problems. This bill would ensure that women and citizens are free from abuse, torture, inhuman acts and neglect that would lower the dignity of our collective humanity.<sup>201</sup>

During the seminar, both Baidlowi and Masruchah advanced their agenda by presenting raw data from the Integrated Crisis Center in Jakarta of actual cases of women and their children who experienced mistreatment and financial poverty as a result of being financially dependent on their husbands. Using this data, they demonstrated how there

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<sup>201</sup> Eko Bambang. Penghapusan KDRT, adalah Upaya Membangun Keluarga Sakinah? Eliminating Domestic Violence is a Step Towards Building a Harmonious Family?. *Junral Perempuan* 15 September 2004.

was an increase from 68 to 112 cases of domestic violence from 2000 to 2003, thus indicating the urgency of passing the Anti-Domestic Violence Bill. They also explained how data from Rifka Annisa Women's Crisis Center revealed that abusers are normally the husbands, the ones closest to the victims. Data collected by Rifka Annisa indicated that wifely beatings and battery had increased from 10 to 117 cases between 1994 to 2004.<sup>202</sup> They also explained how maintaining the stipulation on economic violence was vital in order to protect women's and family's livelihood especially if a husband neglects his marital responsibilities. Emphasizing PKB's position, Baidlowi argued that marital rape is not condoned in Islam. She explained:

Islam teaches us to value both men and women for their good deeds (arabic: taqwa). Islam also teaches us that a husband should value his wife, and that a wife should value her husband. The Quran verse (2:187) states, "They are clothing for you and you are clothing for them." Islam enjoins husbands to treat their wives well, and as such, a husband should not compel his wife to have sex against her wishes.<sup>203</sup>

Dr. Musdah Mulia was invited to speak at the same seminar attended by legislators at the parliament building. As a representative of the Ministry of Religious Affairs, she pointed out the impact of domestic violence on children and on society as a whole:

The Ministry of Religious Affairs finds that children who grew up in households where there is domestic violence will reproduce the violence and consider domestic violence as something to be taken for granted; they will grow up resorting to using violence to solve their problems. I am currently counselling a girl who was raped when she was a junior in high school by a close family member. Until now she still lacks self-confidence. For example, she would say, "I am that ugly and revolting for someone to do this to me?" The trauma suffered from domestic violence is real and lingers for a long time, this is detrimental for our children, youth and the country's future.<sup>204</sup>

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<sup>202</sup> Ibid.

<sup>203</sup> Gemari, Pembahasan RUU KDRT Tersembunyi itu Bukan Lagi Isu Private RUU KDRT Parliamentary Debate, What is Hidden is No Longer a Private Issue, 3<sup>rd</sup> September 2004. See <http://kbi.gemari.or.id/beritadetail.php?id=2407>. Accessed: 11 November 2015.

<sup>204</sup> Ibid.

In another workshop organized by the Ministry of Religious Affairs on the 5<sup>th</sup> July 2004, Dr. Musdah Mulia emphasized Islamic ethical principles that bestows equality between men and women:

All religious leaders that I spoke to in this workshop have mentioned that religion teaches us to appreciate the essence of man-kind. Forced sexual intercourse by a husband against his wife, does not fulfill this religious principle, where husbands should appreciate and treat his wife kindly. In Islam, the Quran emphasizes that equal relations between men and women as God is the only superior being.<sup>205</sup>

Muslim women activist such as Aisyah Baidlowi, Safira Rosa Masruchah and Dr. Musdah Mulia utilizes the “responsible husband” trope to advocate for the inclusion of controversial clauses mentioned above. By referencing Quranic verses that elevate women’s rights and Islamic ethical principles that emphasize equality in relations between men and women, Muslim women activists are projecting an alternative interpretation of a “responsible husband.” While their arguments have not displaced the mindset that a husband should protect and provide for his family, they emphasized that a “responsible husband” should also respect and treat his wife kindly and should also not limit her ability to pursue an education and gainful employment.

In contrast, PKS accommodated the inclusion of “economic violence” and “marital rape” into the definition of household violence for different reasons compared to legislators from PKB. For PKS, invoking a husband’s responsibility meant that, as the leader of the household, he should be the main provider for the family and should respect the sexual rights of his wife. The notion of individual rights and women’s rights are unimportant and unrelated for an understanding of marriage as an act of devotion.

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<sup>205</sup> Ibid.

Conversely, using the frame “husband’s responsibility” legislators from PKB imbued the frame with ideas on women’s rights. Both Aisyah Baidlowi, Safira Rosa Masruchah, and Dr. Musdah Mulia argued that invoking husband’s responsibility may mean restricting wife’s actions, but it can also mean securing a women’s autonomy to enact her agency and pursue financial independence. By framing human rights ideas in a culturally and religiously familiar vernacular, women’s rights translators run the risk of their arguments being interpreted in unintended ways. Nevertheless, this enabled them to influence policy on domestic violence culminating to the eventual passage of a law that included the clauses “economic violence” and the notion of “marital rape” represented by the clause “sexual violence.”<sup>206</sup>

Thus far, I have discussed how Muslim women’s organizations worked together with secular women’s groups to issue a bill on domestic violence that excluded polygamy as a form of “psychological violence.” This enabled the bill to be officially accepted and discussed in parliament. Policies that promote women’s rights sometimes begin in spaces that circumscribe individual rights for different groups of women. The Ministry of Women’s Empowerment and Child Protection denied the notion that married women can be victims of sexual violence and preserved the conventional understanding of men as providers for the family, which prompted their attempt to exclude the clause on “economic violence.” By doing so, they attempted to adapt the bill to suit cultural and religious sensibilities in a manner that diluted the provisions for empowering women’s agency and rights. In the next section, I explore Muslimat NU’s Aisyiyah’s and Fatayat NU’s perspectives on these issues. The main goal of the section is to understand how different Muslim women’s organizations approached ideas on domestic violence. This

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<sup>206</sup> Law 23/2004 on the Elimination of Violence in the Household, Article 5 (c,d).

section also investigates to what extent were the changes in parliamentary discourse and policy, as espoused by Aisyah Baidlowi, Safira Rosa Masruchah and Dr. Musdah Mulia grounded in the discourse promoted by Muslim women's organizations?

### **Muslim Women's Organizations: Translators of Women's Rights**

As early as the 1930s, Aisyiyah believed that there were limits to wifely obedience. Women should not follow their husbands in engaging in matters considered un-Islamic. Such an act would constitute a violation of women's right to practice Islam independently. In 1937, Aisyiyah and Muhammadiyah published a guide for Muslim mothers and wife entitled, "Guidance for becoming the Truly Islamic Wife". In the guide, the ideal Muslim woman was one who kept a neat and orderly house, behaved appropriately when interacting with male relatives and was obedient to a husband in matters that were in accordance with Islam.<sup>207</sup>

In the same vein, a booklet produced by Muslimat NU in 1979 described how women should respond in the face of animosity and violent treatment by one's husband: "Islam provides the basis for emancipation, where a wife who knows her rights are capable of her own actions and are not followers of their husbands' footsteps into hell or heaven" (Pimpinan Pusat Muslimat NU 1979, 35). Echoing the perspectives held by Aisyiyah, Muslimat NU also held that women are autonomous actors in "enjoining good and forbidding evil".<sup>208</sup>

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<sup>207</sup>Pimpinan Pusat Aisyiyah, *Guidance for becoming the Truly Islamic Wife*, 1937.

<sup>208</sup>This phrase from Quran (3:104) is often invoked by Islamic organizations as part of their mission and vision.

Documentary evidence indicates that before the spread of gender and women's rights perspectives in Muslim women's organizations, Aisyiyah and Muslimat NU perceived women's ideal roles as that of being an obedient domestic housewife and mother (Pimpinan Pusat Muslimat NU 1979, 3-5). Ideally, women had autonomy in performing religious conduct and carrying out good deeds. Presently, Muslim women's advocacy around the Anti-Domestic Violence Law reveals several changes in the way Muslim women activists perceive women's rights under Islamic law. Muslim women activists have challenged dominant discourses related to "wifely disobedience", "roles and responsibilities" of husband and wife, and husband's "leadership." Muslim women activists perform two types of interpretive tasks when translating human rights concepts. First, they highlight Quranic verses that are commonly interpreted as enshrining women's rights and, second, they re-interpret Quranic verses and imbue them with ideas on human rights. These revised interpretations challenge dominant discourses on gendered roles and hierarchies.

First, Muslim women activists challenge the concept of "wifely disobedience" by highlighting Quran verses, which reveal how husbands are equally capable of being "disobedient" in Islamic law. The idea of wifely obedience or *taat suami* (Indonesian) is a cultural and religiously entrenched behavior expected of women in an Islamic marriage. The notion that women should be obedient to their husband stems from an emphasis on the Quranic verse (4:34) "Men are the protectors and maintainers of women, because Allah has given the one more (strength) than the other, and because they support them from their means. Therefore, the righteous women are devoutly obedient, and guard in (the husband's) absence what Allah would have them guard" (Pimpinan Pusat Muslimat

NU 1979, 10-12). Another *hadith* that is often quoted to promote wifely obedience states, “If a wife prays five time a day, fasts during the month of Ramadan, guards her sexuality, and obeys her husband, she will enter paradise through any door she desires.”<sup>209</sup>

In 2009, a year after the 2008 Anti-Domestic Violence Law was passed, Komnas Perempuan (The National Commission on Violence against Women), together with several leaders of the Muslim and Catholic communities produced three sets of books, each directed for adherents of respective faith groups. Both Nahdlatul Ulama (NU) and Muhammadiyah had written separate books for the NU and Muhammadiyah communities. I read these books closely before my interviews with Muslim women activists and religious leaders from Muslim women’s organizations, NU, Muhammadiyah and more conservative organization such as MUI and Hizbut Tahrir. The close reading of these texts enabled me to get a thorough grasp of the different debates and contentious issues regarding gender-based violence. Although these books were written for the NU, Muhammadiyah and Catholic communities in Indonesia, a quick check of the authors, reveal that elites from Muslim women’s organizations had written most of the content of the book meant for the NU and Muhammadiyah communities, with the introductory remarks in the NU booklet penned by the male Chairman of NU. This meant that these booklets portrayed the perspectives and attitudes of Muslim women activists. I also interviewed male religious elites from NU and Muhammadiyah to verify whether they held similar perspectives with Muslim women activists, and, if they did not, how their understanding of these issues differed. Because my focus is on examining how ideas on women’s rights and arguments challenging gender stereotypical roles and responsibilities

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<sup>209</sup> Reported by Ibn Hibbaan (Hadith Saheeh) as cited in Pimpinan Pusat Muslimat NU 1979, pp. 10-12.

are translated into local contexts, my interviews would quickly move from general questions to how an organization in the anti-direction of the bill would respond to the arguments made by those in the pro-direction of the bill.

A brief analysis of the books is necessary to get a sense of the arguments made by Muslim women activists in the pro-direction of the bill. Muslim women activists highlight certain verses in the Quran that emphasizes women's rights to fair and just treatment. In doing so, Muslim women's organizations argue that men are equally capable of *nusyuz* (Ar) or disobedience when they neglect women's rights. To excavate the concept of rights and individual choice, Muslim women activists refer to Quran verse 4:128. This verse legitimizes a women's choice for seeking divorce and justice should her husband mistreat her: "If a wife fears cruelty or desertion on her husband's part, there is no blame on them if they arrange an amicable settlement between themselves; and such settlement is best; even though men's souls are swayed by greed" (Quran 4:128).<sup>210</sup> A similar verse is quoted by Ali Yafie an Islamic scholar from NU. He argues that the verse (Quran 4:128) allows women to seek for divorce in the event a husband neglects his responsibilities or in the event he has harmed her and refuses to divorce her (Rofiah 2010, 17).

Nor Rofiah, a member of Fatayat NU is one of the primary authors of the booklet "Breaking the Silence: Religion Bears Testimony to the Victims of Domestic Violence to Achieve Justice" produced for the NU community. Nor Rofiah is a member of Fatayat NU and Alimat (a loose alliance of Muslim feminists attempting to reform Islamic marriage law) and is a lecturer at the Perguruan Tinggi Ilmu Al Quran (The Institute of

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<sup>210</sup> Yusuf Ali's Translation. See: <http://corpus.quran.com/translation.jsp?chapter=4&verse=128>. Accessed: 11 November 2015

Quranic Science). Nor Rofiah also has a doctorate in Islamic Studies from McGill University in Canada. According to her the Quran verse (4:34) is often cited without other verses such as (4:128) and (4:19). The latter verses enjoin men to treat women with respect and kindness. Quran verse (4:19) proclaims, "O ye who believe! Ye are forbidden to inherit women against their will. Nor should ye treat them with harshness, that ye may take away part of the dower ye have given them, except where they have been guilty of open lewdness; on the contrary live with them on a footing of kindness and equity. If ye take a dislike to them it may be that ye dislike a thing, and Allah brings about through it a great deal of good."<sup>211</sup> According to Nor Rofiah, the fact that verse (4:34) is more often quoted than verse (4:128) and verse (4:19) indicates gender-discrimination in the methodology of reading the Quran, especially in a patriarchal society where women have been socialized to be subservient to men.<sup>212</sup> By emphasizing verses that highlights women's rights to just, fair and equitable treatment, Muslim women activists are educating the community on the Islamic origins of a rights-based discourse.

Another discursive strategy used by Muslim women's organizations is re-interpreting Quran verses and highlighting how dominant interpretations are not only a violation of human rights but also militate against ethical principles of Islamic justice. Muslim women activists from Aisyiyah, Muslimat NU and Fatayat NU advocated for the Anti-Domestic Violence Bill by challenging dominant ideas regarding the "roles and responsibilities" of husband and wife, and husband's "leadership," especially as it pertains to the interpretation of Quran verse (4:34).

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<sup>211</sup> Yusuf Ali's Translation. See: <http://corpus.quran.com/translation.jsp?chapter=4&verse=19>. Accessed: 11 November 2015.

<sup>212</sup> Interview with Nor Rofiah on 5<sup>th</sup> March 2012 at Nor Rofiah's House.

The interpretation of the Arabic word, *qawwam* or leader, and its meaning in Quran verse (4:34) has been a subject of intense debates between Muslim women activists and male religious leaders. Aisyiyah, Muslimat NU and Fatayat NU also adopt distinct interpretations of this verse. According to Aisyiyah and Muslimat NU, it is more important to determine the qualities of male leadership as opposed to debating whether men are leaders of the household. Both Aisyiyah and Muslimat NU interpret the Arabic word *qawwam*, as “leaders” but argue that men’s leadership is contingent on their qualities to lead: that is, to provide, to protect and to support one’s family (Rofiah 2010, 145; Djohantini 2010, 122). Ultimately, this enables both husband and wife to create a harmonious and stable family, the main goal of an Islamic marriage.<sup>213</sup> Similarly, both women of Aisyiyah and Muslimat NU argue that it is important for the husband to provide a livelihood for the family, especially when women are performing their biological duties of giving birth and breastfeeding.<sup>214</sup> The trope of the “responsible husband” is invoked by women of Muslimat NU and Aisyiyah in a way that emphasizes both reciprocal and complementary duties, especially during a period when women are bound to their biological roles. Still, several Muslim women activists I spoke to from Aisyiyah and Muslimat NU, argue that for a husband to be a good leader, they must allow their wives to actualize her full potential, which includes supporting her wishes to pursue an education or a earn an independent income.<sup>215</sup>

Unlike Muslimat NU and Aisyiyah, Fatayat NU prefers to engage in a contextual analysis of the Quran verse (4:34). Fatayat NU adopts Asghar Ali Engineer’s exegetical

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<sup>213</sup> Interviews with Tri Hastuti Nur, Noordajanah, Abidah and Aisha. See Interview List.

<sup>214</sup> interviews with Noordjannah Djohantini, Aisha, Khodiroh. See Interview List.

<sup>215</sup> Interviews with Tri Hastuti Nur, Abidah, Latifah Iskandar. See Interview List.

method of interpreting the Quran. Asghar Ali Engineer is an Islamic scholar and activist from India known for his reformist writings on Islamic theology. He identifies two types of verses in the Quran: normative and contextual. Normative verses extol what God desires while contextual verses describe actions that are contingent on the context of revelation. According to Asghar Ali Engineer, Quran (4:34), is a contextual verse as it describes the marital relations between husband and wife in Arab society during the context of revelation. The booklet, written by Nor Rofiah, quotes Asghar Ali Engineer at length:

The Quran states that men are *qawwam* (one who provides a livelihood and manages family affairs), but it does not state that men *should be qawwam*. As such, the phrase they (men) “are qawwam” is a contextual statement and not a normative statement.<sup>216</sup>

Based on Asghar Ali Engineer’s interpretation, Nor Rofiah concludes that the Quran verse (4:34) tells us that:

Understanding the verse in the context of the social conditions in which the verse was revealed, Quran verse (4:34) reminds us that men’s dominance over women is not innate or natural but it is contingent on their roles as the breadwinners of the family. In reality there are more women who are sole breadwinners or work to supplement their husbands’ income. This indicates the interchangeability of a husband’s role as the breadwinner of the family with a wife. Instead, it can be said that it is ‘society’s will’ (*kodrat masyarakat*) that men become the breadwinners of the family.<sup>217</sup>

While Fatayat NU adopts a contextual approach to interpreting Quran verse (4:34), Muslimat NU and Aisyiyah argue that men’s leadership is contingent on an equitable

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<sup>216</sup> Rofiah. 2010. *Memecah Kebisuan Agama Mendengar Suara Perempuan Korban Kekerasan Demi Keadilan Respon NU. Breaking the Silence Religion Listens to the Voices of Female Victims of Domestic Violence in the Name of Justice NU’s Response*. Jakarta: Komnas Perempuan. pp. 98-99.

<sup>217</sup> Ibid.

exchange of responsibilities, and a husband's ability to not only provide and protect the family but, also encourage his wife to live up to her fullest potential.

In the next section, I will show how discourses on women's roles and men's leadership within NU and Muhammadiyah are multifaceted. Male religious leaders espouse either conservative and strict, or flexible and rights-based perspectives on gender roles and relations. This fragmentation in interpretation is one of the reasons why Muslim women activists have been allowed the opportunity to shape discourse on gender-based violence.

### **Islamic Institutions: Fragmented Perspectives on Gender-Based Violence**

I interviewed religious elites from NU, Muhammadiyah and MUI as well as Hizbut Tahrir and Muslimah Hizbut Tahrir to see whether their perspectives on Quran verse (4:34) and ideas on gendered roles and responsibilities as well as male leadership, were analogous or differed from Muslim women activists. As my focus is to understand how global women's rights perspectives have impacted local discourses on gender equality, I paid extra attention to how Islamic elites responded to Muslim women's activists' critical analysis of dominant discourses on "disobedience," husband's and wife's "roles and responsibilities," and husband's "leadership".

On the 6<sup>th</sup> March 2012, I interviewed Arwani Faishail who is the Vice-Chairman of the Commission for Religious Problem Solving (*Lajnah Bahstul Masail*) in the Executive Board of NU. I started the interview with a general question, asking him if women can be political leaders according to Islamic law. He promptly replied that Islam does not obstruct women from becoming political leaders if they are willing and capable

of performing the duties of a leader. The majority of women, in his view, do not have the capabilities of being a political leader but there are exceptions, he stressed. I then asked him if women are allowed to be “leaders” in the household. Faishail explained:

It is not that women are not allowed to be leaders. In Islam, the husband and wife relationship is one of partnership; husband should not lead the family like a dictator, there should be give and take, but the responsibilities and role of a husband and wife is clear. Husbands are the breadwinners of the family and a husband should provide a home for his family to protect his family. Women are first and foremost mothers, it is hard for women to do work and both be a mother but this does not mean that they can't do it. Of course there are women who can do it but Islam has created a way out for women to not be burdened by both work and household. Also a woman's nature (*kodrat wanita*) makes them more emotional and this makes it harder for them to be leaders of the family.<sup>218</sup>

Faishail's response reflects a traditional and literal interpretation of Quran (4:34) where men are leaders of the household and gendered roles are prescribed based on perceived biological differences. His views on gender roles and responsibilities are antithetical to the perspectives espoused by Muslim women activists from Muslimat NU, Aisyiyah and Fatayat NU. Faishail's comments that distinguished women's political or public authority with household leadership refer to an older debate on female presidents. In 2001, when Megawati Sukarnoputri, daughter of former President Sukarno, was considered to become President, elites from Muslim political parties reversed an earlier opinion opposing a female president. Scholars studying Megawati's election attribute the religious debates regarding female authority as a political maneuver to prevent a woman from becoming president (Doorn-Harder 2002, Robinson 2004). Another reason explaining Faishail's curious distinction between women's leadership roles in the public and private domain lies in NU's rejection of state's intervention within the private domain, and especially in terms of arranging personal relations between husband and

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<sup>218</sup> Interview with Arwani Faishail on the 6<sup>th</sup> March 2012, at the PBNU Office.

wife. This logic of non-intervention in the personal domain echoes NU's disdain for stricter laws regulating the registration of marriage (as explained in Chapter Five).

To get a range of opinions from NU regarding the issue discussed above, I interviewed a younger religious leader from NU, Maman Imanul Haq who was contesting for a parliamentary seat in the 2014 Parliamentary Elections. Maman Imanul Haq is a younger religious leader in his mid 30s, known in the NU community for advocating a more gender-sensitive interpretation of the Quran and *hadith*. His opinions on “wifely disobedience” were particularly interesting and refreshing. Knowing that he was supporter of the Anti-Domestic Violence Bill, I asked him to comment on the *hadith* that states, “If a wife stays away overnight, leaving her husband’s bed, then angels will curse her till morning” (Hadith quoted in Bisri 2001):

This *hadith* has been contested, and other *ulama* (religious scholars) have argued against it. As I have mentioned before, this hadith is often cited by people who think that physical violence against their wives is permissible in Islam. Islam does not condone violence, especially in a marital relationship where the basis of marriage should be trust, respect and love. *Nusyuz* (disobedience) can be committed by both husband and wife, and in fact, if a husband loves his wife and believes that a wife will be punished because she is refusing to be intimate with him, then he should not force intimacy on her when she is not ready. Why do we expect the wife to be always ready (sexually) to fulfill the husband? If husbands are *qawwam* (leadership) then we should expect more from them, to treat women with kindness and fairness.<sup>219</sup>

Haq’s response does not indicate that he rejects stereotypical gender roles in the same way that Fatayat NU does. Haq’s emphasis on male’s responsibility to treat women with kindness exhibits the constraints that dominant discourse imposes on actors who must work within established, discursive field. In this context, I am referring to the hegemonic traditional discourse espoused by religious leaders like Faishail. Haq accepts the

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<sup>219</sup> Interview with Maman Imanul Haq on the 14<sup>th</sup> February 2012 at the The Commission of Violence against Women’s Building.

dominant discourse that stipulates how husbands are *qawwam* (leaders) of the household and primary breadwinners. However, like Aisyiyah and Muslimat NU, he emphasizes that leadership is contingent on qualities of kindness and fairness. However, Faishail's rigid opinions about marital roles and responsibilities stands in contrast to Haq's perspectives on martial conduct and expectations. These differences are indicative of the fragmented and multiple discourses underlying NU's perspectives on wifely obedience and men's leadership.

On 25<sup>th</sup> April 2012, I interviewed Wawan Gunawan, a religious scholar in the Religious Decision Making Committee (Majlis Tarjih) of Muhammadiyah. Wawan Gunawan is also a religious leader who promotes a gender-sensitive interpretation of the Quran and *Hadith*. I began the interview with Gunawan asking him what his thoughts were on Aisyiyah's and Muslimat NU's perspective that men's leadership is contingent on their ability to provide, protect and support one's family. Gunawan's comments reflected an understanding of how gender roles are shaped by socio-economic context:

Yes, Noordjannah (chairman of Aisyiyah) and I wrote that booklet (he is referring to my quotation). There are several individuals within NU and Muhammadiyah who do not agree with us, but women of Aisyiyah and I argue that this (the statement) is true. In fact, I would even say women's rights are similar with men's rights, their roles may differ according to different situations, life choices, class issues and also context, but ultimately a husband and wife should allow each other to strive to their fullest potential and capabilities. These are the responsibilities of both husband and wife.<sup>220</sup>

Framing women's rights in terms of "husband's responsibility" and emphasizing the kindness and fairness of "male leadership" are ideas that are commonly invoked by male religious leaders. Instead of deconstructing the contextual specificity of Quranic

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<sup>220</sup> Interview with Wawan Gunawan on the 25<sup>th</sup> April 2012 at his house.

revelation (a methodology commonly used by Fatayat NU) or imbuing ideas of equal reciprocity in rights and responsibilities (a methodology adopted by Aisyiyah and Muslimat NU), NU's and Muhammadiyah's construction of gender roles and hierarchies are constrained by the traditional discourses imposed upon them. Male religious leaders of NU and Muhammadiyah who adopt a more gender-sensitive approach to Islam must work within established, hegemonic discursive fields. This means not explicitly refuting dominant interpretation of wifely obedience, women's roles and husband's leadership in the family domain. Nevertheless, echoing the narratives articulated by Muslimat NU and Aisyiyah, several male religious leaders from NU and Muhammadiyah have adopted an understanding of marital relations that emphasizes women's rights without necessarily refuting male leadership and gendered roles in the household.

The multiplicity of opinions within NU and Muhammadiyah regarding the understanding of "wifely obedience" and gendered roles and responsibilities in marriage is distinct from other Islamic civil society organizations like Hizbut Tahrir. As a conservative, hardline and transnational Islamist organization, Hizbut Tahrir's attitudes towards gender roles mirrored PBB and PKS.<sup>221</sup>

On 26 March 2012, I interviewed Iffah Rochmah, the spokeswoman from Muslimah Hizbut Tahrir asking her about her general perspectives on the Law 23/2004 on the Elimination of Violence in the Household. Rochmah explained that Muslimah Hizbut Tahrir did not support and disagreed with the bill. Her organization believes that the law was passed shortly before the Presidential Elections in 2004 as a way for then President Megawati Sukarnoputri to gain support from the women's rights groups.

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<sup>221</sup> As referenced earlier based on Yuyoh Yusroh's understanding of "economic violence."

Rochmah also, mentioned to me that she knew that women's rights groups had failed to include the prohibition of polygamy into the bill. Rochmah saw that as an indication of the "Islamization of Indonesia, where Indonesian Muslims are gradually recognizing that Indonesia should be modeled after an Islamic state."<sup>222</sup> She argued that the Anti-Domestic Violence Law will lead to further confusion between husbands and wives regarding their roles and responsibilities in marriage. According to her, this will result in the destruction of the Muslim family. I interjected and asked Rochmah how realistic is her perspective on women's roles within the family considering that most women need to work to support the family or are the primary breadwinners, and others enjoy earning an independent income. She re-affirms the organization's perspectives:

Marriage relations, the roles and responsibilities of husband and wife are clearly stated in Quran verse (4:34). For us, there is only one way to read the verse (Quran 4:34). There is only one interpretation and no others. The verse is applicable for guiding husband and wife relations in the domestic domain. It (verse) does not mean that women cannot be political leaders or participate in religious and community- building activities outside of the home. We understand that there are other interpretations of the verse, but we adopt the interpretation that women cannot be leaders of the household and that men are leaders of the household.<sup>223</sup>

It should be mentioned that halfway during my interview with Rochmah, she brought her 10-month-old baby into her office and began breastfeeding her son right in front of me, without the use of a breastfeeding cover. She truly was trying to navigate between her motherhood duties and the organizational demands on her time. Part of her ability to easily breastfeed in "public" was because Muslimah Hizbut Tahrir's office was completely separate from the male section of Hizbut Tahrir. Women of Muslimah Hizbut

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<sup>222</sup> Interview with Iffah Rochmah on 26<sup>th</sup> March 2012 at Muslimah Hizbut Tahrir's Office.

<sup>223</sup> Ibid.

Tahrir rarely interact with men of Hizbut Tahrir; communication between the male and female spokespersons of the organization are normally conducted via emails or phone calls.<sup>224</sup> Even in rallies, women in Muslimah Hizbut Tahrir would assemble in blocks separate from the men of Hizbut Tahrir. In their view, the strict physical separation is necessary to refrain from sinful thoughts, which would lead to sinful actions such as extra-marital or pre-marital sex.

While she was breast-feeding, I asked her why did Muslimah Hizbut Tahrir hold such an inflexible interpretation of Quran (4:34). I wanted to understand how she rationalized such a strict and inflexible interpretation of the verse given the economic demands for both husband and wife to work in the present day context:

The roles and responsibility of a wife and husband, a husband's leadership in the family can't just change to suit different contexts. Otherwise other aspects of marital relations will be affected, for example, the Islamic requirement that a wife should obey her husband, that a wife should ask for her husband's permission before leaving the house. Of course, this is a relationship that is not dictatorial or authoritative but one based on friendship and trust. For example, my husband is also a member of HT (Hizbut Tahrir) and he encourages me to use my talents to lead the women of HT (Hizbut Tahrir). But I know what my roles and responsibilities are in the household, and as long as I divide my time efficiently and with the help of Allah, I can accomplish both household and organizational tasks. Besides if you ask any woman, would they prefer to work or stay home and take care of their children, I am sure a lot of them will choose taking care of their children.<sup>225</sup>

Muslimah Hizbut Tahrir is an example of an Islamist organization that rejects gender equality and considers women's rights groups and Muslim women's groups as emulating "Western" concepts and ideas. Although they recognize the reality and prevalence of domestic violence, they argue that the reason behind the victimization of women lies not

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<sup>224</sup> Ibid.

<sup>225</sup> Ibid.

in religious or cultural reasons but socio-economic conditions, in particular, a secular and capitalist society built on the foundations of a neo-liberal economy:

At the end of the day we view these stipulations (wifely obedience and men as leaders of the household) not just as guidelines, but as what is stated in Islamic law. The reality (that is the prevalence of domestic violence) should not change Islamic law. Law should be firm. Meanwhile domestic violence occurs not because of Islamic law but because of the conditions that exist in a capitalist system, in a system that is secular and liberal. Presently, the Muslim *ummah* in Indonesia are not led by true Islamic leaders and do not live in an Islamic state; as a result they do not understand how to arrange martial relations between a husband and wife. The second reason is because of the inequality in the economy, there are not many opportunities and jobs for men as opposed to the cheap labor that women can provide. The lack of jobs for men, the wide availability of alcohol leads to a dangerous situation where husbands, out of depression and stress may end up abusing their wives.<sup>226</sup>

Rochmah's response reveals a reductionist understanding of women's rights and equality as that of attempting to eliminate all forms of gender difference. According to the organization, gender equality stands in complete opposition to Islamic distribution of "different" rights and responsibilities given to a husband and wife. This distribution is "just" because it honors women's identity and agency which, according to Rochmah is preferably expressed in terms of motherhood duties. Her comments seem to indicate that while socio-economic conditions may be a way to rationalize men's abuse of women, gender-stereotypical roles are naturalized desires of women. She asserts, "Indonesian women who support gender equality no longer embrace their identity as Muslims and [no longer] express their Islamic character."<sup>227</sup> Hizbut Tahrir's and Muslimah Hizbut Tahrir's criticism against Indonesia's neoliberal economy is reflected in the way the organization is rebelling against cuts in social funding by the state, and a Western centric notion of modernity, hinged on lax sexual moral and a consumer culture. I use the term neo-

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<sup>226</sup> Ibid.

<sup>227</sup> Ibid.

liberalism to refer to forms of governmentality that includes the dominant ideology of global capitalism and a reduced role of the state, the intrusion of market forces into all aspects of life, and entrepreneurialism as the basis of the nation (Ong 2006, Flew 2014, Schild 2000). As Rinaldo (2008) suggests, it is no coincidence that neo-liberalism and the reduced role of the state in the public sphere has opened up spaces for the growth of religious civil society, including the flourishing of conservative transnational Islamic networks such as Hizbut Tahrir.

Compared to Islamic institutions like NU and Muhammadiyah, Muslimah Hizbut Tahrir and Hizbut Tahrir espoused the most rigid interpretation of Quran verse (4:34). It is important to note that their interpretation of this verse and, in turn, how they perceive women's naturalized roles in an Islamic state captures their refutation of "women's rights" from a liberal perspective. In my in-depth interview with Rochmah, she did not once mention whether husbands are capable of "disobedience," a central theme in the advocacy for the Anti-Domestic Violence Bill as espoused by Muslim women activists from moderate Muslim women's organizations like Aisyiyah, Muslimat NU and Fatayat NU.

There are clear parallels between the opinions espoused by Muslim women's activists involved in the advocacy for the Anti-Domestic Violence Bill and the organizational discourse espoused by Aisyiyah, Muslimat NU and Fatayat NU. Muslim women activists emphasized that men's leadership is not a given natural right, but one that is normative (Fatayat NU) and dependent on various qualities of a "responsible husband" (Aisyiyah and Muslimat NU). Similarly, the trope of the "responsible husband" was also utilized by Muslim women activists in their advocacy for the Anti-Domestic

Violence Bill. In both instances, it can be seen that applying a rights framework does not come at the expense of emphasizing husband's responsibility. Both a rights framework *and* an appeal to the principles of Islamic ethics were employed by Muslim women activists while bargaining with parliamentarians from PKS. Muslim women activists caught in the middle of Islamic and women's rights discourses, framed women's rights language in a way that was relatable to Islamic institutions. At the same time, they emphasized an alternative interpretation of the "responsible husband": one that prioritizes equal (and equitable) responsibilities between a husband and wife.

Navigating between Islamic discourses and women's rights discourses, requires Muslim women activists to move between highly polemical discourses such as a rigid interpretation of wifely obedience and marital roles as espoused by groups like Hizbut Tahrir, and a "radical" interpretation of psychological violence to include polygamy as demanded by women's rights organization such as Kalyanamitra. As translators of women's rights, Muslim women activists must assess the extent to which, they can reference rights' ideas in ways that do not reinforce liberal discourses, and at the expense of Islamic religious principles. They must be able to excavate Islamic passages within the Quran and *hadith* to validate their arguments or refer to Islamic ethical principles that tie with the concept of rights, justice and fairness. Lastly, if these rhetorical strategies fail, then Muslim women activists rely on concrete data compiled by women's rights activists and their experiences counselling battered and sexually abused women and girls while in the field. Their experiences at the grassroots level conducting workshops, speaking at seminars, and holding study circles contribute towards their ability to convey rich and

nuanced narratives on the discrimination that women face, which is largely unfamiliar to other policy makers in Jakarta.

## **Conclusion**

Muslim women activists from Aisyiyah, Muslimat NU and Fatayat NU have been successful in adapting a liberal understanding of women's rights and aligning it with Islamic law. This chapter has showed how Muslim women activists and secular women's organizations sought consensus in reformatting the universal convention on women's rights, CEDAW, to fit the local legal context. By excluding polygamy as a form of "violence," the women's movement in Indonesia was able to push the Anti-Domestic Violence bill forward in parliament. Moreover, Muslim women's activists who were also parliamentarians were able to advocate around a narrative that promoted women's right to pursue independence, safety and happiness in a manner that invoked the Islamic duties of a "responsible husband."

I have also demonstrated how Muslim women's organizations have been afforded space to shape the discourse on gender-based violence as a result of the multiple and fragmented nature of interpretations regarding notions of wifely obedience, men's leadership and marital roles and obligations as conveyed in Quranic verse (4:34). Muslim women's organizational discourse has enabled Muslim women activists involved in formal policy-making to frame women's rights violations in ways that synchronize with an Islamic and local context.

In the next chapter, I discuss how Islamic institutions – NU, Muhammadiyah and MUI as well as Islamic parties such as PKS and PPP – framed their understanding of

“protecting” women’s rights as a pretext to introduce laws that restrict women’s dress codes and behavior. I will explain how Muslim women activists navigated a discourse between Islamic morality and asserting women’s agency. As translators of women’s rights, Muslim women activists must work within established discourses on gender and Islam. The messages established on women’s rights and protection in one moment, are open to multivocal and uncontrollable interpretations in the future. These issues will be investigated in the next chapter.

## Chapter Seven

### Moderating Islamic Conservatism: The 2008 Pornography Law

In October 2008, the Indonesian Parliament passed a Pornography Law bringing an end to ten years of contestation between Islamist, women's groups, and ethnic minority groups. The Anti-Pornography bill (the title of the bill before it became the 2008 Pornography Law) stirred up controversy because, apart from outlawing pornographic acts and images, it placed restrictions on sexually arousing "body movements" and "public performances."<sup>228</sup> In the eyes of women's groups, the Pornography Law was a step back from Law 23/2004 on the Elimination of Violence in the Household.

This chapter examines the pitfalls and drawbacks of establishing a discourse on "women's rights" based on an understanding of "responsibility" and "protection." It assesses how Islamic institutions and Islamic political parties appropriated discursive themes of "responsibility" and "protection" to push for a national law that imposed conservative dress codes and behavior for women and banned depictions of sexually arousing images, body movements, and performances.

The controversy brought about by the Pornography Law forced a discussion between secular and Muslim women's organizations regarding female sexuality. Muslim women's organizations were embedded in a discourse that positioned women's bodies as sources of fornication and immorality. As a result, Muslim women activists framed their advocacy around the bill by calling for the state's responsibility to protect economically and socially vulnerable women from exploitation and victimization in the pornographic and sex industry.

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<sup>228</sup> The People's Representative Council (DPR), *The Anti-Pornography and Porno-Action Bill*, Article 1 (2006)

This chapter will examine how Muslim women activists were able to moderate Islamic patriarchal perspectives that represented women's bodies, behavior, and conduct as sources of both honor and shame. Both Muslim women's organizations and secular women's groups were able to advance an argument that tapped into the structural conditions underlying the pervasiveness of pornographic media. Their advocacy led to positive changes in terms of moderating the hardline tenor of the Law.

In this chapter, I will first present a brief background, highlighting major themes of the 2008 Pornography Law, which was earlier known as the Anti-Pornography Bill. I will then discuss the proponents and opponents of the bill, highlighting the frames and ideas adopted by secular and Islamic political parties, including the government. This discussion will provide a backdrop to charting how discourses on the bill have evolved and were accompanied by revisions of various controversial articles within the bill. Next, I examine Aisyiyah, Muslimat NU, and Fatayat NU's perspectives on women's bodies and female sexuality. I then discuss how the advocacy of Muslim women's activists around the bill influenced the deliberation process in the final stages before the bill was passed. In doing so, I show how political parties' perspectives on the bill have been shaped by the narratives espoused by Muslim women activists.

### **Background on the 2008 Pornography Law**

On March 8, 2006, several women's groups gathered in the heart of Indonesia's capital city, Jakarta. Marching around a large fountain at the center of a bustling roundabout, a main site for street protests in this vibrant democracy, women from different civil society groups, including members of Fatayat NU, held banners and placards protesting against the Anti-Pornography Bill. Three years after the bill was first

introduced in parliament in 2002, conservative-minded drafters included stronger language in the bill, which forbade women to dress and act in ways that were perceived as “sexually arousing.” The introduction of the term “porno-action” amongst other sexually restrictive clauses in the bill became the galvanizing force drawing women’s organizations, activists from Bali and Papua (predominantly non-Muslim regions), artists, academics and journalists to rally against the bill. Organized by a group called Bhinneka Tunggal Ika (The Diverse but One Alliance), the March 8th protest was held on the International Women’s Day to maximize international coverage of the event. The event featured high-profile opponents of the Anti-Pornography bill, including Bhinneka Tunggal Ika’s chairwoman who is also the wife of ex-president Abdurrahman Wahid, Shinta Nuriyah Wahid, movie director Nia Dinata, celebrity writer Ayu Utami, and other celebrities. Expressed on banners and placards with signs such as “Reject the Politicization of Sex, Reject the Anti-Pornography Bill” and “The Anti-Pornography Bill is a form of Violence Against Women,” the message of the protest was clear: the Anti-Pornography Bill was seen as an attempt to formalize Islamic law and conduct in Indonesia. Opponents argued that the bill undermined the religious and ethnic diversity of the country as encapsulated in the Pancasila, the foundational philosophy of the nation.

Despite the fact that public protests were erupting across several cities in Indonesia, accompanied by media advertisements and newspaper articles denouncing the bill, the Anti-Pornography Bill received immense support from Islamic factions, including secular-nationalist parties such as Golkar and the Democratic Party. Shortly after the March 8<sup>th</sup> rally held on the International Women’s Day, supporters of the bill organized a mass protest claiming to attract a “a million faithful followers” (Allen 2009,

17). The protest brought together members of Islamic organizations such as the Majelis Ulama Indonesia (Ulama Council of Indonesia or MUI), Muhammadiyah, Nahdlatul Ulama (NU), Hizbut Tahrir Indonesia (HTI), Persatuan Islam (Islamic Unity or Persis), Forum Umat Islam (The Muslim Forum or FUI), and members of Islamic political parties such as Partai Keadilan Sejahtera (Prosperous Justice Party or PKS), and Partai Persatuan Pembangunan (Development and Unity Party or PPP). Journalists estimated that around 10 000 people attended the rally. Curiously enough, there were as many women attending the 8<sup>th</sup> March Women's Day rally as there were in the rally supporting the bill.

The Anti-Pornography bill was formally introduced in parliament on August 2003 by twenty-four legislators from various political parties.<sup>229</sup> Before this, various drafts of the bill formulated by the Minister for Women's Empowerment and Child Protection and Ministry of Religion had been circulating around in government (Sherlock 2008). The final text submitted to the Legislation Council (Baleg) was drafted independently by the staff of the Faculty of Law at the University of Indonesia (Sherlock 2008). However, this text was also influenced by a draft produced by the Ministry of Religion who had sent their documents regarding the bill through informal channels to Commission VII, the Commission in charge of religion, social affairs, and the empowerment of women (Sherlock 2008).<sup>230</sup>

In September 2003, all political parties in the legislative body agreed to accept the bill and to form a Special Committee (*Pansus*) of 50 members to deliberate on the bill and finalize the draft. The 2003 version of the draft bill was similar to pornography

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<sup>229</sup> As mentioned, in the previous chapter the Indonesian constitution provides for a bill to be submitted in parliament either via a group of legislators or a ministry appointed by the government.

<sup>230</sup> Presently, Commission VIII is in charge of religion, social affairs and the empowerment of women

legislation in other countries and generated little controversy. The bill defined pornography as “substance in the media or tool of communication that is made for the purpose of conveying concepts that exploit sex, obscenity or erotica,” and about a third of the articles in the bill listed prohibitions on pornographic content in printed and televised media (books, newspapers, magazine, film, television) and artistic media (poetry, painting, etc.). At this stage, the bill attracted little attention, and by the time the 2004 general elections took place, the bill was pushed to the backburner because it failed to gather enough political momentum.

Yet there were several individuals within the Ministry of Religious Affairs, the Partai Keadilan Sejahtera (Prosperous Justice Party or PKS), and the Majelis Ulama Indonesia (Majlis Ulama Indonesia or MUI) who urged the parliament to move forward with the bill, citing the destructive moral impact of pornography on society. Shortly after the 2004 general elections, following the recommendations from the Majelis Ulama Indonesia (Majlis Ulama Indonesia or MUI), Zain Badjeber, chair of the Legislation Council of Parliament declared that the bill did not go far enough in terms of restricting “pornography” (Allen 2009, 7). This claim led to the incorporation of a term called “porno-action” which was defined as consisting of “actions in public that exploit sex, obscenity and/or erotica.”<sup>231</sup> The inclusion of the term “porno-action” and several articles that banned seemingly innocuous behavior in public such as “erotic dancing” (Article 6) and “kissing on the lips” (Article 7) reflected an intent by the makers of the bill to impose Islamic morality on society. Furthermore, by stipulating that “sensual body parts”

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<sup>231</sup> The People’s Representative Council (DPR), *The Anti-Pornography and Porno-Action Bill*, Article 1 (2), (2006).

specifically consisted of “the vagina, thigh, hips, ass, navel, and breasts of a women” (Article 4), the bill was explicitly targeting women, in particular, depicting women’s bodies as the primary sources of immorality and sinful behavior.

Indonesian political analysts have cited several reasons to explain the momentum to restore the Bill. First, a widely popular view was that then President Susilo Bambang Yudhoyono requested that the bill be discussed in parliament because he was uncomfortable with and disturbed by the sight of scantily clad women exposing their navels and dancing erotically on television. Yudoyoho was referring to the sensual style of Inul Daristista, a famous *dangdut* (a type of traditional Indonesian dance) performer (Komnas Perempuan 2011, 20).

Another popular view attributes the resurrection of the bill to the demands made by Islamist organizations such as the Front Pembela Islam (Islamic Defenders Front or FPI), the Majelis Mujahiddin Indonesia (Indonesian Mujahiddin Council or MMI), Hizbut Tahrir Indonesia (HTI), the Forum Betawi Rambung (Betawi Brotherhood Movement or FBR), and the Gerakan Pemuda Islam (Youth Islamic Movement or GPI). These organizations have been at the forefront of demands for the implementation of Islamic law. They adamantly supported the Anti-Pornography Bill, arguing that current laws do not systematically address indecent dress codes and conduct and are, as a result, destroying the moral fiber of the nation.

Several analysts have also referred to the Majelis Ulama Indonesia’s (Majlis Ulama Indonesia or MUI) fatwa (judicial opinion voiced by an Islamic scholar) condemning pornography as an impetus for the bill. MUI issued a fatwa condemning pornography and “porno-action” in 2001 (Allen 2009). Following the publication of the

first local edition of *Playboy* in January 2005, Islamic groups called on the government to address pornography citing MUI's fatwa as a template for the bill. On June 6, 2005, Hizbut Tahrir Indonesia (HTI) held a street protest in Bandung, West Java, rallying support for the Anti-Pornography Bill. Harry Moekti of HTI asserted that the source of pornography emerged from Indonesia's involvement in a neo-liberal and Western economy. Moekti rallied the crowd and tapped into the organization's mission of creating an Islamic caliphate as a response to combating pornography and restoring Indonesians' morals. By mid-2005, with enough political momentum creating support for the bill, the parliament began public hearings on the bill. The events that unfolded marked a defining moment in shaping the national discourse on women's bodies and sexuality in Indonesia.

Mounting protests ensued after the inclusion of the term "porno-action" in the 2005 draft bill. The bill defined pornography as "a substance in the media or a tool of communication that is made for the purpose of conveying concepts that exploits sex, obscenity and/or, erotica," while porno-action was described as "an action, in public that exploits sex, obscenity and/or, erotica."<sup>232</sup> While opponents of the bill and Indonesians were generally supportive of legislation that regulated the production and distribution of pornography, due to the fact that the 2005 draft bill included articles dictating public behavior and dress codes, the bill was perceived as implementing aspects of Islamic law. Given that the penalties imposed for individual offenders were much higher than those for the producers and distributors of pornographic material, opponents argued that the bill

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<sup>232</sup> The People's Representative Council (DPR), *The Anti-Pornography and Porno-Action Bill*, Article 1 (2006)

was intended to set moral and ethical standards rather than to regulate the pornography industry.<sup>233</sup>

The list of opponents of the bill included women's rights activist, artists, traditional dancers, and representatives of several local regions. Their primary argument was that the bill violated women's rights and cultural pluralism. Regions where Muslims were a minority such as Batam, Bali, Manado, and Papua feared that Jakarta-centric laws represented Indonesia's step towards implementing Islamic law at the national level, similar to the *shari'a*-based local regulations that peaked in 2001 in some regions of Indonesia (Bush 2008). So intense was the hostility against the bill, that Bali's governor Dewa Made Beratha threatened to secede from Indonesia if the bill was passed.<sup>234</sup> In June 2006, the nationalist party Partai Demokrasi Indonesia Perjuangan (Indonesian Democratic Party of Struggle or PDI-P) that had a strong voter base in Bali threatened to walk out of deliberations on the bill. Much like other opponents of the bill, PDIP challenged the inclusion of articles restricting public behavior and dress codes. Instead, PDIP argued for better implementation of existing laws that regulated pornography, such as the Penal Code, the Press and Broadcasting Act, and the Law on Child Protection. PDIP claimed that, at the very least, if a bill specifically on pornography were to be legislated, it should be revised to focus on restricting the production and distribution of pornographic materials.<sup>235</sup>

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<sup>233</sup> The People's Representative Council (DPR), *The Anti-Pornography and Porno-Action Bill*, Section 9, Articles 57-90, (2006). Producers and distributors are fined between the range of Rupiah 150-300 thousand, while users and "pornography models" are fined between the range of Rupiah 300-350 thousand.

<sup>234</sup> Bali was the first of six provinces and districts to lodge formal objections to the Bill. See: Farida 2009.

<sup>235</sup> The People's Representative Council (DPR), *The Anti-Pornography and Porno-Action Bill*,

The introduction of the term porno-action in the 2005 version of the draft bill and the inclusion of articles that dictated dress codes and behavior set in motion a cataclysmic series of events. Parliamentary discussions and public hearings on the bill took place in the first half of 2006. These debates and the possibility that the bill would be passed triggered mass demonstrations and colorful street protests organized by women's rights activists and minority rights groups. Islamic political parties and Islamic organizations responded with equal impact, amassing their members to rally unequivocal support for the bill. By mid-2006, parliamentary debates, public hearing sessions with the parliament, and demonstrations on the bill petered out. However, controversy over the bill continued to be hashed out in newspapers and social media websites. In mid-2007, the special committee announced a revised version of the 2005 draft bill. The 2007 version of the draft bill accommodated several demands of women's rights groups and ethnic minority groups while maintaining a vague and expansive definition of pornography. The Anti-Pornography Bill was given a new title – the Pornography Bill, and it was eventually passed into law on the 30<sup>th</sup> October 2008.

In the next section, I examine the evolving narrative of the 2008 Pornography Law. Debates on the Anti-Pornography law brought the discussion of women's bodies to the forefront. Muslim women's organizations such as Aisyiyah, Muslimat NU, and Fatayat NU were forced to confront the challenges of adapting principles of piety and modesty with modern day demands of freedom, social justice, and rights. I argue that Muslim women activists involved in the formal political discourse as well as secular women's organizations, such as Jaringan Kerja Prolegans Pro Perempuan (Network for Pro-Women National Legislation Program or JKP3) and Lembaga Bantuan Hukum

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Public Hearing with the Legislative Committee, 13 September 2005.

Asosiasi Perempuan Indonesia untuk Keadilan (The Indonesian Women's Association for Justice and Legal Aid Institute or LBH-APIK), were able to reshape the parliamentary debates on the Anti-Pornography Bill. Building on the discursive context of “protecting women’s bodies,” Muslim women activists and women’s rights organizations adopted a social justice perspective and showed how socio-economic conditions and the globalized pornographic media industry are also complicit entities in the deterioration of society’s morals. While Muslim women’s organizations continue to promote modest dress codes, there is a significant shift in understanding amongst leaders of political parties that women’s bodies are not the sole source of immorality.

### **Objectives: Safeguarding Society’s Morals and Protecting Women**

It is interesting to note that from 1998 to 2001, during the terms of ex-presidents Yusof Habibie and Abdurrahman Wahid, several drafts of the Anti-Pornography bill were apparently issued by the Ministry of Women’s Empowerment and Child Protection.<sup>236</sup> These drafts did not contain the language that would limit women’s dress codes and behavior. As explained by Ratna Batara Munti, between 1998 to 2001 the Anti-Pornography draft bill had been the initiative of the Ministry of Women’s Empowerment and Child Protection.

In 2001, MUI issued a fatwa on “Pornography and Porno-Action.” The fatwa outlines a comprehensive list of attire and actions that are permissible for men and women, guidelines for male-female interaction, and a detailed description of the types of images/actions that can arouse desire (*nafsu birahi*) and sexual lust. This fatwa was the

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<sup>236</sup> Interview with Ratna Batara Munti on the 8<sup>th</sup> June 2012 at the LBH APIK Office. Also see: Sherlock 2008, 3.

impetus needed for other Islamic organizations to urge the government to pass a law regulating “pornography and porno-action.” As explained, the 2005 version of the bill that included the term “porno-action” and a list of provisions dictating women’s dress codes and behavior including censoring sensual body movements was far removed from the original intent of the bill conceived by the Ministry of Women’s Empowerment and Child Protection. Yet, lawmakers from Islamic political parties, PKS and PPP, as well as officials from the Ministry of Religious Affairs, framed the bill as protecting women. As cited in the *Jakarta Post*, in response to mounting public protest at the bill, a lawmaker from PPP exclaimed in exasperation, “What is it that women want? We are trying to protect you.”<sup>237</sup> Similarly, Head of the Ministry of Religious Affairs, Maftuh Basyuni, expressed bewilderment at those who argued that the bill violated women’s rights. According to him the draft law is aimed precisely at protecting women.<sup>238</sup> Thus, despite the fact that the 2005 version of the draft bill had changed considerably to include language encroaching on individual freedom, the official government line has been that the bill is designed to protect women.

Two most salient themes in the discourse surrounding the Anti-Pornography Bill were “safeguarding society’s morals” and “protecting women.” These were frames adopted by both supporters and objectors of the bill. Table 6.1 outlines the different groups’ perspectives on the two frames. Both proponents and opponents of the bill shared similar goals – a desire to “safeguard society’s morals” and “protect women” – but adopted dissimilar philosophical and normative approaches in attaining these goals.

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<sup>237</sup> “Editorial,” *Jakarta Post*, 21 April 2006.

<sup>238</sup> *Ibid.*

Table 7.1: Summary of Pornography Law Frames

Pro Pornography Law	Label	Anti Pornography Law
<ul style="list-style-type: none"> <li>• Pornography degrades morals</li> <li>• Pornography is the main culprit behind the rise in sexual behavior amongst un-married couples</li> </ul>	Society's Morals	<ul style="list-style-type: none"> <li>• There is no clear or causal link between pornography and the perceived rise in pre-marital sex</li> </ul>
<ul style="list-style-type: none"> <li>• Available censorship laws are weak and no longer adequate</li> <li>• The bill will protect women from being objectified in the media</li> </ul>	Protecting Woman	<ul style="list-style-type: none"> <li>• The bill targets individual's dress codes, actions and interactions. individuals not the producers of content.</li> <li>• Rely on existing laws such as the Criminal Code, Broadcasting Law, Press Law and the Child Protection Act to streamline the law enforcement apparatus</li> <li>• The government needs to pass laws to protect women who are victims of sex trafficking</li> <li>• Instead of protecting victims of sex trafficking the bill increases the likelihood that a woman will be penalized because of a vague definition of pornography</li> </ul>
<ul style="list-style-type: none"> <li>• Pornography is a tool of capitalism and neo-liberalism</li> <li>• Women are exploited by capitalism and neoliberalism</li> <li>• Freedom that leads to moral degradation is not freedom of expression</li> </ul>	Protecting Women in a Capitalist/Neo-Liberal Society	<ul style="list-style-type: none"> <li>• Social inequality within a neo-liberal economy increases women's vulnerability to be victims of sex trafficking and pornographic industry</li> </ul>

### Defining Pornography: Sexuality as Natural

The expansive definition of pornography in the 2005 draft bill was challenged by women's rights activists, academics, artists, and politicians from PDIP. By arguing that pornography is symptomatic of immorality and not the main cause of "sinful behavior," PDIP highlighted structural reasons for the increased consumption of pornographic content in Indonesia and the deterioration of society's morals:

The problem of pornography is not that it is the source of immorality, but pornography is a result of a being embedded in a globalized world. We need to recognize the victims of pornography, so that the law can protect instead of victimize them. A law cannot be biased. The definition and scope of what is deemed as pornographic should be clear enough to be operationalized and provide law enforcement officials with certainty when a crime is committed. With regards to the issue or moral building, decency, and behavior, why are we looking for a solution through legal-formal channels? If we need to purify our morals, the best approach is through education and not through legal-formal ways. We are of the understanding that the effectiveness of anti-pornography depends on promoting and enriching our national moral values and traditions. These are the major problems of the bill, which we suggest should be looked into before we proceed with further discussion: First, an unclear definition blurs the boundary between pornography, erotica, and obscenity. Second, the vague definition of pornography makes the law unclear for those who are subject to it. Third, the bill does not recognize that women may enter into pornography unwillingly because they are poor and are victims of sex trafficking; victims are positioned as equally at fault as perpetrators. Fourth, the bill does not include an understanding of pornography as violence against women. In general, those involved in the pornographic industry are exploiting women, and the bill should instead focus on instituting stricter regulation on the pornographic industry. Finally, the definition and regulation in this bill are vague, especially when it comes to artistic performances and cultural, religious rituals. Based on the elaboration above, PDIP believes that the basis and assumptions underlying this bill are insufficient. PDIP will not approve the bill for further discussion.<sup>239</sup>

Despite PDIP's criticisms regarding the 2005 draft bill, other political parties agreed to proceed with the discussions on the bill. These parties include a) Islamic parties such as Partai Keadilan Sejahtera (Prosperous Justice Party or PKS) and Partai Persatuan Pembangunan (Development and Unity Party or PPP); b) parties that enjoy support from Islamic communities but subscribe to the Pancasila (principles of the state) ideology, Partai Kebangkitan Bangsa (National Awakening Party or PKB ) and Partai Amanat Nasional (National Mandate Party or PAN); c) nationalist parties such as Partai Demokrat (Democratic Party or PD) and Partai Golongan Karya (Indonesia's Golkar Party or Golkar). Even though both PKB and PAN pointed out several flaws in the bill, such as

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<sup>239</sup> The People's Representative Council (DPR), *The Anti-Pornography and Porno-Action Bill*, PDIP's Opinion, (2006), pp 3-4.

the lack of sensitivity towards minorities' cultural and religious traditions, as well as the susceptibility of women to be "victims" of pornography, both PKB and PAN supported further parliamentary discussion on the bill.

Opponents of the bill rejected the expansive and vague definition of pornography in the 2005 draft bill. Pornography as defined in the 2005 draft bill failed to differentiate between obscenity, sexual exploitation, and erotica. According to Gadis Arrivia, a professor at the University of Indonesia and an editor of the Indonesian feminist Women's Journal (*Journal Perempuan*), erotica is a natural state for humans who have sexual desires.<sup>240</sup> Mudji Sutrisino, a philosophy professor at the University of Indonesia, expressed similar sentiments during the public hearing conducted by the legislative committee on January 25, 2006:

We need to acknowledge that for thousands of years, the nude body has been an artistic object. The human body is a form of expression, and it is through the body that we witness Allah's creation that is positive and valuable. We should recognize that the aesthetic value of the human's body is positive; pornography should be set apart from erotica. Erotica is an appreciation of specific aspects of the human body while pornography is not as such; this (pornography) is where sexuality is isolated and becomes absolute, where pornography is actualized in men's imagination of women, where the sex industry is built on men's imagination, and where this colonization of men over women begins. This is where the doers of sex – men see women as objects.<sup>241</sup>

Apart from academics, representatives from the arts community expressed similar objections regarding the encompassing and moralistic definition of pornography.

According to Jim Supangkat, a coordinator of arts events and a former journalist, the 2005 draft bill included "language and discourse that failed to distinguish between erotica

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<sup>240</sup> *Junal Perempuan* The Women's Journal, Edisi 38, p. 44.

<sup>241</sup> The People's Representative Council (DPR), *The Anti-Pornography and Porno-Action Bill*, Public Hearing with the Legislative Committee, 25 January 2006.

and sexual exploitation.”<sup>242</sup> Arguing that “pornography has an underlying element of exploitation,” Supangkat outlined how various articles in the bill were related more to outlawing eroticism and sexuality as opposed to pornography. At the same time, he argues that the bill’s definition of pornography is both vague and ineffective:

Even if we want to sanction eroticism and sexuality, it doesn't make sense to group it under pornography; because pornography is about exploitation and gender inequality; and expressing one’s sexuality may be considered obscene depending on the norms and standards of decency in different contexts. A uniform law to regulate eroticism and sexual seems hard to implement.<sup>243</sup>

### **Defining Pornography: Dictating Women’s Dress Codes and Behavior**

Deconstructing the definition of pornography and fleshing out the differences between sexual exploitation, sexuality, and erotica negate Islamic ideas that link women’s sexuality and male-female interaction with illicit sex (*zina*). *Zina* is defined as sexual intercourse between a man and a woman outside a legal marriage (*nikah*). There is consensus in Islamic law surrounding the definition and criteria in which a sexual act is considered *zina*. Islamic legal schools agree that *zina* can be established only when four eyewitnesses witnessed the act of penetration and concur in their accounts. Nevertheless, there is a significant degree of difference among Islamic legal schools as to the conditions required for a valid confession and testimonial evidence. For example, jurists in Hanafi, Hanbali, and Shi’a schools require the confession to be uttered four separate times while Maliki and Shafi’i jurists consider one confession adequate to establish that a couple has committed *zina* (Mir-Hosseini and Hamzic 2010, 29).

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<sup>242</sup> Ibid.

<sup>243</sup> Ibid.

Given that *zina* is defined by the absence of a legal marriage, *zina* rulings are connected with and in practice maintained by other rulings devised by classical jurists for the regulation of sexuality, in particular, those concerning marriage and women's covering (Mir-Hosseini and Hamzic 2010, 30). In Chapters Five and Six, I showed how Muslimat NU's, Aisyiyah's, and Fatayat NU's perspectives on marriage relations, gendered roles, and hierarchies have evolved in a modern context and especially as pertains to polygamy and gender-based violence. I discussed how Muslim women's organizations conceptualized the understanding of *qiwama* in a more nuanced way, rather than just the husband's authority, protection, and leadership. Muslimat NU and Aisyiyah understand *qiwama* in more fluid and flexible terms, as an exchange of duties and rights, and those duties and rights may change depending on a couple's particular circumstances. In this chapter, I want to explore how Muslim women's organizations' understanding of sexuality, women's dress codes and behavior have evolved as a result of national debates related to pornography.

As I have pointed out, Islamic organizations and political parties see a clear relationship between pornography (which is defined broadly to include sexually arousing images and actions), immodest dress codes and illicit sex (*zina*). This point was continually emphasized by proponents of the bill in response to criticisms that the definition of pornography in the bill was unclear, vague, and conflated the idea of sexual exploitation with sexuality and eroticism. For example, during the public hearing held on January 25, 2006, sex therapist Boye Dian Nugraha asserted that sexuality is a natural human feeling:

Sexuality is something that is natural; if we repress and forbid pornography we will have a different set of problems. The need to know and sexual curiosity is

natural. I apologize in advance for what I am about to convey to you, and if this hurts your feelings, but this is what I have come across. My patients who are pregnant teens mostly come from families where talking about sex is a taboo and sex education is minimal. I have also visited several *pesanterans* with Ibu Khofifah (Chairman of Fatayat NU) because there are a lot of cases of homosexuals in *pesanterans*. These teenagers are curious about their sexuality, and the key is to provide them with information through education and not through VCDs or the Internet and film. In this era of globalization, which we can't stop, it is better to provide truthful and accurate information, on sex education compared to what kids are viewing on the internet.<sup>244</sup>

Ahmad Thoyfoer from the Islamic political party (PPP) disagreed with Boye Dian

Nugraha on several points. His response revealed a fundamental failure to acknowledge and recognize the distinction established between pornography as sexual exploitation and erotica.

I agree that pornography is not the sole source of bad and deteriorating morals, and that it (pornography) is one of several sources; so why not regulate and get rid of pornography, we cant wait for the education system to improve to get rid of pornography. It is not education that destroys moral but pornographic pictures and films. When you are part of the state or a particular religion, you are not free, you should adhere to rules established by your country and religion. This is not a deprivation of freedom but a position of enlightenment to abide by religious rules. If you want to be naked, sure be naked, but do it in front of your wife or husband. This law does not deprive you of having sex, because if it does, I will be the first one against it. If those who are against the law assert that they are deprived of their rights of expression, whose rights are we talking about? If these rights belong to the perpetrators of pornography who are destroying our country, should we tolerate their rights, should we be accommodating their rights.<sup>245</sup>

The tendency to ignore the distinction between erotica and obscenity may arise a mindset that views all sexual activities outside the realm of marriage as illicit and sinful.

Another common view that is espoused alongside this perspective regards women's bodies and conduct as the primary agents of immorality driving sinful conduct.

What became the most talked about public hearing session in the Indonesian media

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<sup>244</sup> Ibid.

<sup>245</sup> Ibid.

consisted of a diatribe between Roma Irama, a religiously reformed “king of *dangdut*”, and Inul Darastita, a *dangdut* dancer known for her suggestive hip gyration dance and “immodest tight figure-hugging dresses.”<sup>246</sup> Roma Irama chastised Inul Darastita for nearly half an hour without any interruption from the chair of the commission during the parliamentary public hearing.<sup>247</sup>

Inul would like to know what are the limits (dress codes and actions), what is allowed and what isn't. We are a *Pancasila* nation, and the first principle (of *Pancasila*) is “Godliness” (*ketuhanan*); that's where we should begin our reference point. As such, I will adhere to religious law as a reference point. There are three types of *aurat* – speech, body and action. For example, if a *dangdut* performer makes facial expressions that look as if she is having sex and moves her body and exposes her sexuality, the way she conducts herself will arouse sexual lust from the audience. The Quran states, “O Prophet command your wives, command your daughter, tell the believing women to wear a headscarf.” So we need to describe here, what is the *jilbab*. The *jilbab* is a loose-fitting garment, and in the Middle East it is called the *abayah*. *Abayah* is a kind of cloak that should be used by women to hide their curves. Of course, in terms of the law we have to compromise in accordance with our society. In Indonesia, we have the *kebaya* that is adopted as an ethnic costume for Javanese. This law will have to be written with the intent of compromising. For example, the meaning of hijab is to ensure women's figures are concealed; so what do we do with clothes that are worn too tight? According to the Prophet, wearing tight clothes is the mark of the beginning in the deterioration of a civilization. Eventually, at the end (of civilization) we will see people who no longer use clothes and are naked. So, even if a woman is fully clothed but wears clothes that are too tight, such that we can see all her curves, this is pornographic. So, for example, to arrive at a compromise a woman can wear tight pants, but her blouse must be long enough to cover her behind. Another feature of clothes is that it should not be too revealing around the chest area, because that is also stated clearly in the Quran.<sup>248</sup>

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<sup>246</sup> “Inul bergoyang, Inul digoyang, Inul Gyrate, Inul is Gyrate Upon,” Liputan6TV, 1 May 2003, Website: <http://www.liputan6.com/view/0,53850,1,0,1155606635.html>. Accessed: 12<sup>th</sup> December 2015.

<sup>247</sup> As evident from the transcript from the parliamentary minutes which spanned several pages. Also Ratna Batara Munti, who had attended the public hearing sessions mentioned this to me during our interview. See Interview List.

<sup>248</sup> The People's Representative Council (DPR), *The Anti-Pornography and Porno-Action Bill*, Public Hearing with the Legislative Committee, 25 January 2006.

I quoted Roma Irama's impassioned and uninterrupted diatribe here at length to show how he conflates sexuality with pornography and locates the source of "civilizational deterioration" in women's dress codes and conduct. Other participants in the session agreed with Roma Irama. A participant from the Forum Umat Islam (Muslim Forum or FUI) chimed in that pornography leads to moral decadence, criminal behavior such as rape, sexual harassment, illicit sex, and sexually transmitted diseases. He argued that the solution is to implement Islamic law and that Islamic law can be adapted to suit the Indonesian context. Referencing the intersection between *zina* laws and other laws regulating sexuality, the FUI participant emphasized that Sharia laws dictate that men and women cover their *aurat* to prevent sinful acts such as extra and pre-marital sex, rape, and sexual harassment. Since adultery is forbidden, he argued that Islam has provided solutions to prevent people from committing adultery. A key aspect of that is by abiding the Quran stipulation to cover one's *aurat*. Thus, when opponents of the bill rejected the Anti-Pornography bill, they were resisting the legislation of a vaguely defined law that would give authorities the legal power to dictate and define "modest" dress codes and behavior.

### **Culture as Ethnic and Religious Diversity**

Interestingly enough the majority of performers, academics, and women's rights groups invited to share their opinions during the public hearings did not frame their arguments against the bill in terms of defending individual or human rights. Trisanti Mityani, a female member of parliament from PAN, was one of the few voices that framed her argument opposing the bill in terms of individual rights:

There is discrimination of judgment in the issue of pornography, and the victims are normally women; as a woman, I disagree because this law is mostly directed towards women. I understand every issue that has been explained so far in terms of suitable dress codes, but deciding how to dress is someone's personal right; I have never forced someone to dress a certain way, and no one should force me to dress in a certain way. I urge this law to value and consider human's rights, and I hope this law does not become a tool of oppression for women.<sup>249</sup>

On the other hand, artists, academics, and representatives of ethnic minority groups advanced a narrative that invoked their "cultural rights" as a way of resisting what they perceived as an imposition of Islamic law. For example, Aliansi Bhinneka Tungga Ika (The Diverse but One Alliance), an umbrella organization of several women's and minority rights groups, argued that the bill represented an attempt to enforce Islamic law codes which was an "act of treason" against the *Pancasila* (principles of the state). Designed to preserve the cultural and religious diversity of the nation, the language in the *Pancasila* (principles of the state) was specifically chosen by the first president Sukarno to prevent the country from becoming an Islamic state. Laws that prohibit cultural and ethnic rituals and dress codes not only transgress against individual rights and freedom, but also the principles of religious and cultural diversity enshrined in the nation's philosophy. Opponents of the bill positioned their cultural rights against a perceived incursion of Islamic law. Furthermore "culture" in their view denoted the rich ethnic and religious diversity of the Indonesian nation.

Culture perceived as tradition was a claim that was seemingly accommodated by proponents of the bill. Balkan Kaplale, the chairman of the special committee charged with spearheading discussions on the bill introduced every public hearing session by proclaiming that the bill would respect religious and cultural diversity. Almost all

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<sup>249</sup> The People's Representative Council (DPR), *The Anti-Pornography and Porno-Action Bill*, Public Hearing with the Legislative Committee, 18 January 2006.

supporters of the bill spoke in favor of adapting Islamic law to accommodate ethnic and religious rituals. For example, men in Western Papua put on the *koteka* (penis gourd) during ceremonial rituals. Balinese women adorn traditional attire that exposes shoulders and cloth that is tightly wrapped around the hips when worshipping at the temple. These cultural and religious attires were seen as “exceptions” to rules that perceived women’s “vagina, thigh, hips, ass, naval and breasts” as pornographic.<sup>250</sup> Yet, as Komnas Perempuan (The National Commission on Violence Against Women) pointed out, by making accommodations for traditional rituals and practices that are deemed as “indecent” and “obscene,” the makers of the bill are implying that these practices are pornographic in nature (Komnas Perempuan 2011, 37).

### **Culture as Distilling National Essence**

Supporters of the bill celebrated cultural rituals of ethnic minorities and religious diversity as the “good” aspects of culture that stood apart from the “bad” and immoral aspects of Westernization and modernity. This discourse was prevalent among mainstream Islamic organizations such as NU and Muhammadiyah. In an official statement regarding the bill, NU proclaimed:

NU believes there is no one religion that tolerates pornography / porno action, and therefore it is not appropriate to use religion to support pornography / porno-action. Indonesian Muslims, especially members of NU, should not neglect the teachings of Islam just to follow global culture that can be negative, even in the name of democracy. Because democracy is not without values, and democracy does not mean permitting (*menghalalkan*) freedom which is destructive and that degrades human dignity.

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<sup>250</sup> The People’s Representative Council (DPR), *The Anti-Pornography and Porno-Action Bill*, 2006, Elucidation Article 4.

In the midst of parliamentary discussions and public hearings on the bill, and on February 26, 2006, the day of the Islamic New Year, NU, Muhammadiyah, Persis (a conservative Islamic organization), and other Islamic organizations held a press conference delivering a joint statement on the bill:

Nahdlatul Ulama and Muhammadiyah are calling for a systematic and serious moral movement against pornography and porno-action. Both are very dangerous because they have been shown to damage the morality and national resilience, especially amongst the youth who have a tendency to prefer a hedonistic lifestyle. In this era, pornography has become a tool that will destroy Indonesian culture, and it is now developing into its own industry. As a result, we want the house to resolve the Anti-Pornography Bill for our common good.<sup>251</sup>

The argument advanced by Islamic organizations positioned pornography (albeit broadly defined as all aspects that arouse sexual and erotic feelings) as a negative element of “democracy” and “freedom.” To filter the negative and immoral aspects of “democracy” and “freedom” is a fundamental claim behind national sovereignty as espoused by PKB:

We are not like the West that legalizes pornography as long as it does not contain obscenity or child pornography. Pornography is not a legal issue, but it encompasses religious, social, economic, and cultural as well as technological dimensions. Pornography is not within the acceptable realms of our cultural and moral values as enshrined in the Pancasila.<sup>252</sup>

Rebuking “Western” standards of morality, Yuyoh Yusroh from the Islamic party PKS was unperturbed about Indonesia’s poor standing in Freedom House’s international ranking for human rights. Instead, she expressed confidence that Indonesia as a nation based on good morals has stood up against the global pressure to celebrate “free sex and

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<sup>251</sup> Pusdai Online, “Aktivis Perempuan Ngotot Tolak RUU Pornografi ;Women’s Activists Rejects the Anti Pornografi Bill,” September 16, 2008. Website: <https://pusdai.wordpress.com/tag/pornografi/>. Accessed: 10<sup>th</sup> January 2016.

<sup>252</sup> The People’s Representative Council (DPR), *The Anti-Pornography and Porno-Action Bill*, PKB’s Opinion, 13<sup>th</sup> September 2005.

homosexuality.”<sup>253</sup> Culture inscribed as national essence and sovereignty is expressed not only by PKB and Islamic parties like PKS, but also Islamic youth groups such as Himpunan Mahasiswa Islam (Islamic Student Association or HMI) and Organisasi Siswa Intra Sekolah Atas Menengah (Intra School Student Organization Upper Level or OSIS SMA). According to these student organizations, Indonesia is not a western liberal country and the state should bear responsibility for safeguarding society’s morals.

### **Changes in the 2005 Anti-Pornography and Anti-Porno-Action Bill**

By the end of the public hearing sessions, Balkan Kaplale, chair of the special committee, reiterated the committee’s resolve to pass the bill by the end of 2006. Throughout the public hearings, Kaplale mentioned how his committee had tried to be as inclusive as possible in terms of listening to criticisms and input from a wide segment of the community. He listed how his committee invited feedback from a variety of groups ranging from Islamic organizations to women’s rights groups, Muslim women’s organizations, artists and performers, youth groups, censorship boards, academics, psychologists, and sex therapists.<sup>254</sup> It is worth highlighting that, despite these attempts to include a variety of perspectives into the discussion, public hearing sessions became a platform where opponents of the bill were either criticized (as in the session with *dangdut* dancer Inul Daristista) or ignored (as in the session clarifying the distinction between obscenity and sexuality). The fact that Balkan Kaplale had, during several occasions,

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<sup>253</sup> The People’s Representative Council (DPR), *The Anti-Pornography and Porno-Action Bill*, 1<sup>st</sup> February 2006.

<sup>254</sup> The People’s Representative Council (DPR), *The Anti-Pornography and Porno-Action Bill*, 1<sup>st</sup> February 2006.

refused to allow women's rights groups attending the public sessions to speak indicated that there was significant parliamentary momentum to pass the bill in its current state (Munti 2008, 36).

Thus, by mid-2006, opponents of the bill took to the streets with the primary goal of demanding that the bill be dropped. By the end of September 2006, media reports indicated that a new version of the bill was completed. Confusion arose over the changes made in the official bill, due to the simultaneous circulation of other versions of the bill. This is a common phenomenon in the bill drafting process in Indonesia. In January 2007, the official amended version of the bill was revealed to the public.

The 2007 version of the bill appeared to have accommodated several demands made by opponents of the bill. The new version of the bill set harsher penalties on the producers and distributors of pornography and included language that protected children from the pornographic industry. The term "porno-action" was dropped from the bill. Furthermore, the provisions dealing with public behavior and display of "sensual body parts," including harsh sentences, were also dropped. For example, several articles prohibiting "erotic dancing" (Article 6) and "kissing on the lips" (Article 7) were omitted. The 2007 Bill was half as long as the 2005 Bill (DPR-RI, 2008a).

After several months, in mid-2008, deliberations on the 2007 version of the bill were finally held (Farida 2009). This time, the discussions of the bill were held behind closed-door sessions, purposefully limiting the opportunity for women's rights and ethnic minority groups to follow and monitor the developments.<sup>255</sup> Public records of the minutes of these later sessions were also unavailable. Women's rights activists conveyed to me

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<sup>255</sup> Interview with Ratna Batara Munti on the 8<sup>th</sup> June 2012 at the LBH APIK Office.

how they monitored the closed-door sessions by communicating with specific legislators from PDIP and PKB via text messages, and when legislators took bathroom and lunch breaks.<sup>256</sup>

Despite the diluting of the bill, PDIP and Partai Damai Sejahtera (Prosperous Peace Party or PDS), a Christian party, still opposed the bill and threatened to walkout from further parliamentary deliberations. They argued that the bill continued to regulate public behavior and did not protect local traditions and culture. PKB pointed out that the definition of pornography was still vague and that the bill included language that victimized women.

Given the continuing criticism and controversy surrounding the bill, political analysts expressed skepticism that the bill would be passed before the 2009 General Elections (Sherlock 2007). However, on October 30, 2008, the Anti-Pornography Bill was enacted. PDIP and PDS, two of the DPR's twelve fractions, refused to sign the law and walked out from the plenary session to show their resistance against the law. Two provincial legislatures West Papua and Bali were also united against the law, having threatened to separate from Indonesia over the issue (Andra 2008).

The 2008 Pornography Law defined pornography as “pictures, sketches, illustrations, photos, writing, sounds, moving pictures, animation, cartoons, poetry, dialogues, body movements or other forms of messages through different forms of communication media and/or public performances that contain sexual immorality (obscenity) or sexual exploitation that violate moral norms in the society.”<sup>257</sup> While this definition associates pornography with obscenity and exploitation, the inclusion of “body

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<sup>256</sup> Ibid.

<sup>257</sup> The People's Representative Council (DPR), Law No. 44 of 2008 on Pornography, Article 1.

movement” and “public performances” reflects the fact that the bill perseveres in the regulation of sexuality and public behavior.

Nevertheless, the 2008 Pornography law included several other changes, compared to the 2007 version of the bill (see Table 6.2). First, the title of the bill was revised from the Anti-Pornography Bill to Pornography Bill. Second, language specifically referencing women’s “genitals, thighs, hips, ass, navel, and breasts” was also dropped. Third, the new bill allowed individuals to download and own pornographic material as long as it was meant for private use and personal ownership (Article 4, Elucidation). Finally, a striking and important change lies in the stronger language aimed at the protection of women and children. For example, there are provisions to protect women who were “forced by threat or under domination or pressure” to be involved in pornography (Article 8, Elucidation). Thus, models or actors appearing in pornography, as a result of force, coercion or threat, are not subject to criminal sanctions.

Table 7.2: Comparing three versions of the 2008 Pornography Law

The 2005 Draft Bill	The 2007 Draft Bill	The Final Bill
<p><u>Article 1</u>: Pornography is any substances of media and telecommunication means that are made to explore ideas that exploit sex, obscenity and/or eroticism; Pornographic action is defined as any act that exploits sex, obscenity and/or eroticism in public space</p>	<p><u>Article 1</u>: Pornography is man-made materials of sexuality in the forms of pictures, sketches, illustrations, photos, writing voices, sounds, moving pictures, animation, cartoons, poetry, dialogue, body movements or other communication messages through different forms of communication media and/or shows before the public that can arouse sexual desire and/or violate moral norms in the society</p>	<p><u>Article 1</u>: Pornography is pictures, sketches, illustrations, photos, writing, sounds, moving pictures, animation, cartoons, poetry, dialogues, body movements or other forms of messages through different forms of communication media and/or shows before the public that contain sexual immorality (obscenity) or sexual exploitation that violate moral norms in the society</p>
<p><u>Article 4</u>: No one is allowed to produce or create films, songs, poetry, images, pictures, drawings that exploits sensual body parts and movement.</p> <p><u>Article Elucidation</u></p> <p>What is referred to by sensual body parts are genitals, thighs, hips, buttocks, belly button, women’s breasts partially or completely exposed</p>	<p><u>Article 4</u>: No one is allowed to produce, create, proliferate, duplicate, disseminate, broadcast, download, import, export, offer, trade, rent, lend, or provide pornography that contains:</p> <ol style="list-style-type: none"> <li>Sexual intercourse, including</li> <li>anomalous sexual intercourse</li> <li>Sexual violence</li> <li>Masturbation</li> <li>Nudity or nude performance</li> <li>Genitals</li> </ol> <p><u>Article Elucidation</u></p> <p>Letter d: What is referred to by “nude performance” including exposing breasts, nipples, and/or buttocks.</p>	<p><u>Article 4</u>: No one is allowed to produce, create, proliferate, duplicate, disseminate, broadcast, import, export, offer, trade, rent, or provide pornography that explicitly contains:</p> <ol style="list-style-type: none"> <li>Sexual intercourse, including anomalous sexual intercourse</li> <li>Sexual violence</li> <li>Masturbation</li> <li>Nudity or nude performance;</li> <li>Genitals; or</li> <li>Child pornography</li> </ol> <p><u>Article Elucidation</u></p> <p>Paragraph 1: What is referred to by “to create” here does not include for personal use and interest.</p> <p>Letter d: What is referred to by “nude performance” is a condition where somebody is using apparel but still exposes the genitals explicitly.</p>
	<p><u>Article 8</u>: No one is allowed to voluntarily or based on one’s own consent make oneself an object or a model for anything containing pornography</p> <p><u>Article Elucidation</u></p> <p>Self-Explanatory</p>	<p><u>Article 8</u>: No one is allowed to voluntarily or based on one’s own consent make oneself an object or a model for anything containing pornography</p> <p><u>Article Elucidation</u></p> <p>This provision means that if the actor is forced by a threat or threatened or under the domination or pressure of other people, persuaded or cheated, or trapped by other people, the actor is not subject to a criminal sanction.</p>

Source: Umi Farida, “Reminiscence of Legislation-Making Process of the Indonesian Pornography Law: An Introduction,” In: Estu Fanani and Umi Farida. (eds.) *Kilas Balik Pembahasan Undang-Undang Pornografi*. (Jakarta: LBH APIK, 2009).

The changes in the provisions of the law reflect two ways in which discourses on women's bodies and female sexuality have evolved. First, there is a greater understanding of the intersections between individual immoral actions and the structural sources underlying the prevalence (the consumption, production, and distribution) of pornography. This realization is important for proponents of the law who have singled out women's bodies as the central source of shame and immorality. For example, PKS parliamentarian Hilman Rosyad Shihab reflected on the weaknesses of the 2005 version of the draft bill:

Honestly, this 2005 draft Bill had some drawbacks. First, it did not conform with the Law on law and regulation formulating. Second, it was gender-biased and tended to criminalize women and control women's outfits; and third, it did not focus on main problem of pornography as it more concerned on moral perceptions or religious assumptions.<sup>258</sup>

While proponents of the law still see individual actions and behavior outside the realm of Islamic conduct as sinful, there seems to be a greater awareness regarding the structural and systemic conditions that are a catalyst for immoral behavior. Another PKS supporter of the bill Yuyoh Yusroh acknowledged that her approach towards the Anti-Pornography Bill had evolved since the parliamentary debates due to the mounting skepticism that the law would protect women:

Initially, it was hard, but I realized it's a democracy. I was often locked in the battle of ideas, we often differed on many issues, but our relationship remains intact. We fight for our ideas in the House, including in promoting the pornography bill, but if the outcome is not what we hoped for, we have to accept

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<sup>258</sup> Interview with Hilman R. Syihab, 10 July 2009 cited in Ninik Nurjanah. 2013. *Gender, Progressive Islam and Islamism in Indonesia*. Unpublished Masters Thesis.

the reality.<sup>259</sup>

During the deliberations of the 2005 version of the Pornography Bill, both PKS and PKB appeared to be more flexible than PPP in terms of revising the bill to accommodate criticisms. Both PKS and PKB issued a document known as the “List of Problems” (*Daftar Inventori Masalah* or DIM)<sup>260</sup>, stating their revisions for the bill in which they agreed to the removal of the word “porno-action” from the title of the bill. Moreover, PKB also sought to remove other provisions that dealt specifically with criminalizing individuals (read: women) who “dance erotically” and “gyrate erotically” (Article 6) as well as displays of affection like “kissing on the lips” (Article 7).

Another clear shift in the narrative pertains to the parliament’s focus on the socio-economic context of individuals who are a part of the pornographic industry. Referring to Articles 4, 5, 6, 7, and 8 of the 2005 version of the draft bill, women’s rights activists had argued that the bill “criminalizes more than it protects women.”<sup>261</sup> Articles 4, 6, 7, and 8 of the 2005 Bill forbid the portrayal of particular (women’s) body parts, nudity, erotic dancing, kissing on the lips, and masturbation. As described above, opponents of the bill rejected these provisions arguing that there is a difference between sexuality, erotica, and sexual exploitation. Another important theme cited by opponents was the fact that the bill would violate individual rights. Yet both these frames were unpersuasive in convincing

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<sup>259</sup> A’an Suryana, “Yuyoh Yusroh is Promoting the Pornography Bill,” Jakarta Post, April 12, 2006.

<sup>260</sup> Pursuant to the provisions of Article 32 section (1) of Presidential Regulation No. 68 of 2005, the Minister who is assigned prepares the views and opinions of the Government and provides suggestions for necessary improvement in the form of an Inventory List of Issues (*Daftar Inventarisasi Masalah/DIM*). See Febrian, MS. 2009. Handbook on the Legislative Process. Jakarta: UNDP.

<sup>261</sup> Gadis Arivia. *SBY dan Pular Perempuan*; SBY and Women’s Belly Button. *Harian Kompas*, 28 Januari 2005.

lawmakers who supported the bill. Instead, proponents of the bill who saw the objectives of the bill as “safeguarding society’s morals” were more likely to support the protection of women who were vulnerable to the sex and pornographic industry. Vulnerability in this context referred to women who are poor and lacked alternative choices or were forced into the pornographic industry.

During the first parliamentary session, only two parties PDIP and PKB expressed caution against a law that would criminalize economically disadvantaged women who were involved in pornographic activities. In the final parliamentary discussion of the bill, almost all parties except for PPP expressed support for the clause that considered women who were “forced by threat or under domination or pressure” (Article 8, Elucidation) as victims of pornography (Article 8, Elucidation).

The 2008 Pornography Law has largely eradicated language that focused squarely on regulating women’s bodies and penalizing individual and private consumers of pornography. To what extent have Muslim women’s organizations been influential in shaping these discursive changes related to the bill? In the previous chapter, we have seen how, as intermediary actors, Muslim women’s activists from Aisiyah, Muslimat NU, and Fatayat NU were particularly instrumental in adapting human rights concepts by framing them in an Islamic understanding of the “husband’s responsibility.” In the remaining parts of this chapter, we will examine whether Muslim women’s organizations are able to adapt Islamic inspired law for a modern Indonesian context, where rights-consciousness co-exists with Islamic moral values.

Translation of conservative and rigid Islamic law takes place within established discursive fields that limit the repertoire of ideas and practices available to women of

Aisyiyah, Muslimat NU, and Fatayat NU. As I will explain, women of Aisyiyah were not able to refer to ideas and concepts of individual and women's rights to challenge Islamic conceptions of outward modesty. Women of Aisyiyah who attempted to adapt Islamic moral principles to suit an ethnically and ideologically plural society did so within the bounds of preserving individual morality, maintaining the regulations on dress codes and male-female interaction.

Conversely, women of Muslimat NU and Fatayat NU were able to invoke individual rights and women's rights because of a more flexible understanding of *aurat* provisions and greater institutional support within a fringe section of NU. Hence, Muslim women activists from Muslimat NU were able to espouse "context-appropriate" application of dress codes and behavior as a way of reconciling public morality with individual freedom. Before discussing the differences in the ways Muslim women's organizations influenced the discourse on women's bodies and sexuality, I begin the next section by providing a brief explanation of Aisyiyah's and Muslimat NU's perspectives on female sexuality.

### **Female Sexual Freedom and Morality within Muslim Women's Organizations: Rigid, yet Multiple Discourses**

Since the early 1920s, Aisyiyah has stressed the importance of modest clothing and behavior. In the 1930s, women of Aisyiyah were encouraged to use the *kerudung*, an open style version of the headscarf gathered around the neck. By 1960s, the younger women of Aisyiyah instituted a rule requiring women to don the tight headscarf, also known as the *jilbab*. By the 1980s, women of Aisyiyah were strongly encouraged to use the *jilbab*, and wearing it was made obligatory during several days of the week in

Muhammadiyah schools (Feillard 1999, 10). During the 1990s, with the Ministry of Education staffed with urban-educated Muslims from Muhammadiyah, the government made provisions allowing female students in high schools and colleges to wear the headscarf.

This trend towards concealment of the *aurat* is reflected in Aisyiyah's flagship magazine *Suara Aisyiyah*. In older issues of *Suara Aisyiyah*, Aisyiyah's primary organizational magazine, women's piety, dignity, and morality were perceived to be the hallmarks of a "beautiful, worldly existence."<sup>262</sup> Women's bodies and beauty should be covered and only be seen by a woman's *mahram* (unmarriageable kin). In more recent issues of *Suara Aisyiyah*, the veil is seen not only as a mark of modesty, but a form of "global Islamic identity" and also a "fashion trend."<sup>263</sup> These themes are imparted alongside an emphasis on modesty and *aurat*-centered clothing. Considering the fact that the *hijab* and Muslim dress codes are now a part of a burgeoning fashion industry, these articles in *Suara Aisyiyah* are urging Muslim women to return to the primary spiritual purposes of donning the hijab.

Aisyiyah members conveyed to me, as a matter of fact, that dressing modestly is a key responsibility for all Muslims, both men and women. Their responses revealed to me that women wore the headscarves for a variety of reasons. For example, one of my informants from Aisyiyah revealed to me that she started to use the headscarf when she was active in Himpunan Mahasiswa Islam (Islamic Student Association or HMI), a college-based Muslim youth organization closely associated with Muhammadiyah. She

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<sup>262</sup> See *Suara Aisyiyah* No. 3 March 1975 and No. 8 August 1976

<sup>263</sup> See *Suara Aisyiyah* No. 12 December 2003 p.3 and *Suara Aisyiyah* No. 4 April 2003, p. 12 and 13.

revealed that, in the 1980's, she wore the headscarf as a way to protest herself against Suharto's suppression of student activism, democracy, and Islam. Currently, her views on the headscarf have changed:

Now, I use it (headscarf) because it is required by the organization. I want to serve as part of the organization; therefore, I follow (their rules), although sometimes I think you don't need to put on the headscarf to be seen as religious or modest. I do think that these days women who don the headscarf do so because it is seen as a fashion statement. You see those women, wearing those really fancy headscarves and appearing in magazines. Being a Muslim woman means more than just making sure your inner headscarf matches with your outer headscarf or your long dress matches with your headscarf (refers to a magazine on Muslimah fashion), it means helping others that are less fortunate than you.<sup>264</sup>

On the other hand, other Aisyiyah's members reveal that their practices of modesty are less "strategic;" they are an inherent aspect of their identity. For example, another member of Aisyiyah asserted:

I do not see how veiling prevents women from exercising their "independent will" or their rights. Veiling does not prevent me from carrying out my duties in society. There are reasons why these rules exist; for example, back in the time of prophet Muhammad, the instructions on veiling were revealed in order to protect his wives from harm and to differentiate women from slaves. Now, the reasons for putting on the hijab are to protect oneself from sexual objectification so rampant in images of women portrayed in mass media. There is always a reason why God ordains certain rules; we may not understand it or be able to explain it rationally at first; but through the practice of donning the hijab, developing the feelings of modesty, and being aware of limits when interacting with the other sex, we will be able to make sense of God's commands.<sup>265</sup>

Thus, while the reasons for wearing the Islamic head covering may differ from individual to individual, there is an institutional expectation since the early 1930s for women of Muhammadiyah to cover their heads. In contrast, in the early 1950s, women of Muslimat NU would be seen wearing an open-style and loosely draped around the neck

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<sup>264</sup> Interview with Tri Hastuti Nur, on the 12<sup>th</sup> April 2012, at Aisyiyah's Office.

<sup>265</sup> Interview with Aisha on the 18<sup>th</sup> April 2012, at STIKES Muhammadiyah.

version of the *kerudung* (headscarf). This is reflected in numerous pictures of Muslimat NU members who wore an open-style hijab which exposed the neck during official ceremonies (See Annex 1 for comparison of headscarves for Muslimat NU and Aisyiyah). In fact, according to Feillard (1999), women from elite and modernized families within the NU communities were not obliged to use the *kerudung* (10). It was only in the 1980s, that talk of the tightly worn veil, *jilbab*, began circulating amongst Muslimat NU women. According to Feillard (1999), back in the 1980s-1990s, there seemed to be some flexibility amongst the traditionalist NU community with regards to veiling. Presently, all the women of Muslimat NU, same as those of Muhammadiyah, don headscarves that do not expose the hair near the forehead or neck (see Annex 1). By late 1990s, almost all women of Muslimat NU were expected to don the headscarf, although there were older women who continued to use the loose and neck-exposed version of the headscarf (Feillard 1999).

Veiling aside, since the 1950s, Muslimat NU have issued resolutions to the Ministry of Social Affairs (*Kementarian Social*) to pass laws prohibiting prostitution. They petitioned the government to close down brothels on Bali, Batam, and other islands that were a destination for international sex tourism (Pimpinan Pusat Muslimat NU 1979). At Muslimat NU's 13<sup>th</sup> National Congress held in 1995, Muslimat NU issued a list of policy recommendations to the government. The long list included statements urging the government to allow female government workers to use Islamic dress codes, including the headscarf. Another resolution requested the government to tighten regulations for businesses that exploit women and are related with vice. This documentary evidence reveals that since at least the 1950s Muslimat NU has been

concerned with activities such as prostitutions and brothels that promote illicit sex. This is not to say that Aisyiyah does not echo similar concerns. The important point is that both Aisyiyah and Muslimat NU have since the early 1900s been concerned about societal mores and propriety within the framework of Islamic morality.

The brief discussion above also reveals that Islamic ideology does not have a uniform impact on Muslim women's understanding of modesty. Instead, Islamic ideology affects women's attitudes on modesty and modes of socialization in different ways via their understanding of self and the institutions they participate in. While Aisyiyah has always emphasized the importance of strict dress codes and conduct, Muslimat NU has historically been more flexible on the issue. The different ways in which religious conduct signifies piety affect the repertoire of ideas and practices available to pious actors when they are refashioning and adapting conservative principles.

### **Adapting Islamic-Inspired Law in a Modern Context**

Aisyiyah

On the 23<sup>rd</sup> April I visited Latifah Iskandar, a former parliamentarian from PAN who is also member of Aisyiyah. The 2008 Pornography Law was passed at the time when she was a member of parliament. Other members of Aisyiyah with whom I interacted urged me to speak to her, as they knew she participated actively in the deliberations on the bill. Before my interview with Latifah Iskandar, I referred to minutes of the parliamentary public hearing and noted that she had attended all the public hearing sessions. A main theme that emerged from her speeches was a lament on the growth of the pornographic industry in Indonesia and the easy accessibility of pornographic media for youths and children. Furthermore, she highlighted the unequal power relationship

between women who were actresses and models in the industry and the pimps who hired them.<sup>266</sup> Reading through her speeches, I knew it was important to inquire whether she felt that the 2008 Pornography Law violates women's rights. Her response was slightly unexpected:

I feel that the law has reached a compromise between women's rights and protecting moral degradation within society. I must emphasize that even women's rights groups like LBH APIK and Komnas Perempuan urge that the government should do more to regulate and limit the production and distribution of pornographic content. If you look at the law now and compare it with before, there have been significant changes to the provisions that victimize women. I believe most of the critics of the law are still confused about the latest version of the bill that was passed, because, if you notice, the law does not criminalize people who watch or download pornography for one's own personal use. It respects human rights.<sup>267</sup>

In response I conveyed to her that women's rights activists have critiqued the inclusion of several phrases such as "body movement" and "public performance" in the definition of pornography as it makes women easy targets of moral policing. To this she responded:

Well, so, in the beginning, the bill included the term "porno-action" and we agreed that the language was vague and too strong. Badriyah Fayumi and I (women activists from Muslimat NU) were one of the few legislators that worked hard to ensure that there was consensus and we agreed that the term had to be dropped to move forward. But the main intent behind the term "porno-action" is not to criminalize women who are susceptible to mistreatment and are pressured to become models or actresses in pornographic industry. This is why we ensured that there was language in the bill to protect both women and children who are victims in this industry.<sup>268</sup>

Latifah Iskandar is an example of a Muslim women activist who is an intermediary actor.

Her agency as a Muslim woman intersects with her agency as someone who promotes women's interests. As an intermediary actor, she attempts to adapt an Islamic-motivated

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<sup>266</sup> The People's Representative Council (DPR), *The Anti-Pornography and Porno-Action Bill*, Public Hearing with the Legislative Committee, 18 January 2006.

<sup>267</sup> Interview with Latifah Iskandar on the 23<sup>rd</sup> April at her house.

<sup>268</sup> Ibid.

law to suit a modern and diverse Indonesian context. I also interviewed Siti Noordajannah, the chairman of Aisyiyah, and asked her whether she thought the law violated women's rights. Her response was rather unsettling.

As a Muslim women's organization, Aisyiyah supports the law. Aisyiyah has always emphasized the importance for both men and women to cover their *aurat*. The covering of the *aurat* sustains and promotes good and healthy morals in society. For women, the *aurat* is everything except the face and hand, and for men the *aurat* is between the navel and the knees. Both men and women are also responsible for averting their gaze if they see an image that arouses their sexual desire.<sup>269</sup>

Curious about her perspectives on the perceived incursion of Islamic-inspired law into national code, I asked her what was Aisyiyah's stance on the issue. Her response was interesting and provided me a glimpse into how Muslim women's organization attempted to moderate the formalistic impulse of conservative Islamist organizations:

Aisyiyah, like Muhammadiyah, supports the inclusion of Islamic values into positive law. We think that this is ok. But what is not OK is the criminalization of those who are in dire situations and are forced or taken advantage of and are inadvertently involved in sex trafficking and pornography. This is why we believe in socializing and educating society with good morals. At the same time, we must focus on penalizing the sources of pornography and trafficking and the media industry, including social media that has such a huge impact on young minds.<sup>270</sup>

There are three salient themes in Latifah Iskandar's and Siti Noordjannah's responses that are important to flesh out. First, both respondents did not reject the inclusion of Islamic-based morals into national law. Second, they both referred to the structural and systemic conditions underlying women's participation in the pornographic industry and stressed the need for the further regulation and restriction of the sex industry (pornography and sex trafficking). Third, both women did not invoke the language of individual rights to defend women's rights to freedom of expression, behavior, and conduct. Instead, they

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<sup>269</sup> Interview with Siti Noordjannah Djohantini on the 23<sup>rd</sup> April at Aisyiyah's Office.

<sup>270</sup> Ibid.

seem to indicate that Islamic dress codes and behavior are needed to inculcate good morals at the individual and societal levels.

Curious to understand their perspectives on formalizing Islamic-motivated laws, I asked both Latifah Iskandar and Siti Noordjannah if they thought the criminal sanctions within the 2008 Pornography Law were fair. Both Latifah Iskandar and Siti Noordjannah explained that under the 2008 Pornography Law women who are coerced and pressured into the pornography industry would not be penalized. Siti Noordjannah added that women who are guilty of participating in pornographic films should be counseled instead of going to prison. She added that, furthermore, some of these women who are conscious of their decisions may be “forced” into the pornographic industry because they lack the means to raise their family. That women are “forced” into the pornographic industry because they lacked alternative choices is a common narrative for women of *Aisyiyah*.<sup>271</sup> While they may have supported the 2008 Pornographic Law, they were against the criminalization of women inherent in the pornographic industry. Instead, they preferred a more holistic approach that emphasized the inculcation of Islamic morals.

These perspectives are also reflected in several articles and opinion pieces written in *Suara Aisyiyah* (*Aisyiyah’s Voice*) since the early 2000s. In an article entitled “Teenagers Urged to Fight Pornography,” the solution to the pervasiveness of pornography lies in stemming the production and distribution of “pornographic VCDs” (*VCD porno*) and stricter government regulation of the Internet. While the article’s author notes that there are available regulations such as Article 282 of the Penal Code that restricts the broadcasting of obscene images/films, the writer also points out that there are

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<sup>271</sup> Ibid. But also Latifah Iskandar made a similar remark during her speeches in the public hearing session held on the 25<sup>th</sup> January 2006.

no laws exclusively restricting pornography.<sup>272</sup> The article also spells out clearly how a young and impressionable mind would be overcome by the urge to engage in pre-marital sex if said teenager watches pornographic films. Combined with the fact that Indonesia is second only to Russia in terms of the pervasiveness and size of the pornographic industry (at least as stated in the Associated Press quoted in the article), the article calls for the legislation of stringent laws restricting the sale of pornographic VCDs and pornographic sites on the Internet.<sup>273</sup>

Another article published in *Suara Aisyiyah* (Aisyiyah's Voice) but written by a male religious scholar from Muhammadiyah enjoins the members of Aisyiyah to "address the issue (pornography) in a more serious manner." In particular, he describes how there are pornographic elements underlying artistic and creative expression and how one should learn to distinguish between "good" art and "bad" art. The latter normalizes "free-sex" or extra-marital sex (*zina*), while the former contains beautiful elements that are advantageous for society. He calls on the government to increase the authority and censorship power of the Indonesian Broadcasting Committee (*Komisi Penyiaran Indonesia*, KPI). Furthermore, he recommends parents to be involved in sex education to ensure teenagers receive accurate information about their sexual health, especially when they are sexually mature and curious.<sup>274</sup>

Throughout the public hearing sessions held in parliament, Latifah Iskandar had reiterated several times the importance of tighter government regulations and restrictions

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<sup>272</sup> See *Suara Aisyiyah*, "Remaja Agar Ikut Perangi Pornografi; Teenagers are Urged to Fight Pornography," No.6 June 2004.

<sup>273</sup> Ibid

<sup>274</sup> See *Suara Aisyiyah*, "Pornography Semakin Marak, Bagaimana Sikap Kita?; Pornography is Growing More Pervasive, How Should we Respond?" No. 10 October 2004.

of the pornographic industry. Latifah Iskandar's opinions mirrored Aisyiyah's official statement on the bill. Aisyiyah urged the government to pass a law that would prohibit the broadcasting of pornographic images and content related to sexual exploitation and violence towards women.<sup>275</sup> Latifah Iskandar's opinions and Aisyiyah's statements are consistent with the organization's prior demands for stricter regulation of the pornographic industry. Women of Aisyiyah attribute the increase in demand for pornographic content to structural deficiencies, in particular, the unregulated media industry and internet, and a capitalist-consumerist society that relies on sexually objectifying images of women. As lamented by Tri Hastuti Nur, the head of Research and Development within Aisyiyah, "supporting the bill does not mean that we are against freedom of expression, what we reject is the exploitation of women in this capitalist-consumerist society that profits from exposing women's bodies."<sup>276</sup>

Another important theme espoused by Latifah Iskandar and Aisyiyah members relates to the victimization of women coerced into the pornographic industry. During the public hearing sessions, Latifah Iskandar expressed support for Mudji Sutrisno, a philosophy professor who argued that the law should be wary of criminalizing women involved in the pornographic industry without taking into account their economic backgrounds and the reasons they are involved in the sex industry.

Both Latifah Iskandar's and Tri Hastuti Nur's comments reflect an enthusiastic and earnest attempt to reconcile women's rights, human rights, and Islamic morality. Yet, as illustrated by Aisyiyah's official position on the bill, Latifah Iskandar's parliamentary

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<sup>275</sup> *Suara Aisyiyah*, "Penanganan Pornografi Harus Secara Intense; We should Intensely Address Pornography," No. 10 October 2004.

<sup>276</sup> Interview with Tri Hastuti Nur on the 12<sup>th</sup> April 2012 at Aisyiyah's Office.

speeches and several articles from Suara Aisyiyah (Voice of Aisyiyah), ideas on freedom and rights appear to be less authoritative and persuasive. Instead, women of Aisyiyah refer to Islamic principles such as “caring for the weak and poor” and employ a sociological understanding of pornography to point out the “structural and systemic sources” promoting the growth of pornographic media in Indonesia. Operating within a discursive field that represents morality through strict dress codes and that perceives women’s sexuality as a source of immorality, women of Aisyiyah referred less to the language of human rights or women’s rights. Instead, they invoked Islamic ethical concepts such as “social justice” and sociological concepts such as “capitalist-consumerist culture” to adapt rigid principles of conservative Islam to suit a modern context.

#### Muslimat NU and Fatayat NU

Even though Muslimat NU and Fatayat NU are Muslim women’s organizations within the family of Nahdlatul Ulama, they held opposing positions on the 2008 Pornography Law. Fatayat NU rejected the Anti-Pornography Bill, claiming that they supported the intent behind the bill but rejected the ways in which the bill “targets the individual” and is not “gender sensitive.”<sup>277</sup> In an official statement regarding the bill, Fatayat NU declared, “There is very little emphasis on regulating and restricting the media industry that creates, produces, and distributes pornographic content. The

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<sup>277</sup> Pimpinan Pusat Fatayat NU. *Tanggapan Fatayat NU terhadap RUU Pornografi*; Fatayat NU’s Opinion towards the Anti-Pornography Bill. March 15 2006.

regulations target the individual, and this increases the likelihood that individuals will be targeted as victims and not the producers of content.”<sup>278</sup>

On the other hand, Muslimat NU is a strong supporter of the bill. Chairman of Muslimat NU Khofifah Indar Parawansa deplored the controversy surrounding the bill. She claimed that the bill had been revised to ensure that minority traditions and culture are respected and artistic expression remains permitted. She stressed that, in order to accommodate the views of those who rejected the bill, Muslimat NU had organized a workshop, “Critical Review of the bill Anti Pornography and Porno-Action.” They invited representatives from several segments of society including women’s rights groups, ethnic minority groups, and artists. Khofifah Indar Parawansa added:

There are so many exceptions that are included in the bill, those that accommodate tradition, the arts, and culture. If you look at Article 39, there are several exceptions stated in that article. The bill classifies pornography from the point of view of sexuality and not at a sexual level. The bill considers how one's lust and desires may be aroused. And all of this depends on the context. If you are in the swimming pool and you see people with swimsuits, you maybe aroused, but this is a swimming pool; but, if you are dressed in swimming suit while walking around in a shopping center, that is another story.<sup>279</sup>

According to Sri Mulyati from Muslimat NU, the organization’s support for the bill should not be seen as Muslimat NU blindly following NU.<sup>280</sup> Sri Mulyati stated that the 2005 version of the draft bill had several flaws, such as the bill’s overwhelming focus on dictating individual dress codes and actions instead of instituting clear and effective rules for penalizing creators and distributors of pornography. In this regard, both Muslim women activists from Muslimat NU and Aisyiyah are supportive of wider, systemic

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<sup>278</sup> Ibid

<sup>279</sup> Tempo, “Mega-Akbar Hadang RUU AntiPornografi; Mega-Akbar Obstruct RUU AntiPornography,” 8 March 2006.

<sup>280</sup> Interview with Sri Mulyati on the 3<sup>rd</sup> March 2012 at Muslimat NU’s Office.

changes to create a society with good morals. These changes would originate with ceasing the production, distribution, and broadcasting of pornographic content that “abuses and degrades” women.

Likewise, another Muslimat NU activist, Masruroh Muhtar asserted that the bill was not an imposition of Islamic ethics or modesty. Suggesting that the issue is about preserving women’s “dignity, self-worth, and humanity,” Masruroh Muhtar, like other members of Muslimat NU claimed that the final law, with the exclusion of specific articles referring to women’s body parts, has been successful at severing the link between female sexuality and immorality. She also clarified that the law does not limit individual usage of pornography and allows tourists and Indonesian men and women to use swimsuits in appropriate places. Echoing the perspective of the chairman of Muslimat NU, women of Muslimat NU seem to indicate that the 2008 Pornography Law has achieved a middle ground, balancing between accommodating individual rights and safeguarding public morality.

Muslimat NU’s narrative reveals several logical strands. First, there is a distinction between public and private actions to create and preserve a morally upright nation. Individual freedom can exist within the private domain in so far as it carries minimal public detriment. Second, individual rights or freedom of expression is context-specific. By this I mean that, for Muslimat NU, the notion of individual rights relating to sexual freedom is context-specific where rights are subsumed under normative cultural expectations. Thus, it is a “woman’s right” to expose her *aurat* in a swimming pool because that is the norm. The problem with an understanding of “rights” that is context-specific is that it is easily hijacked, adapted, or reversed according to the discourse of

those in power. The Chairman of Fatayat NU between 2000- 2005, Maria Ulfah Anshor, spells this out clearly:

According to *fiqh*, and I am not referring to any other perspectives, the provision on pornography (as stated in the bill) is closely related to the concept of *aurat*. We have learnt that there are multiple interpretations from ulama regarding *aurat*. One group argues that modesty in terms of *aurat* is based on the context, and this (context) can be extremely gender-biased. As a religious and pious person, I position my religion as my primary source of values and principles. However, this does not mean that I neglect other factors such as culture, humanity, the environment – all these aspects form the context in which I live. When there is a conflict of values, as an individual I will refer to my religious values and principles. At this point, related to pornography, this is a matter of choice, how an individual respond to the (pornographic) materials he views. Morality is something that is very personal. It is not possible for someone to be always obsessed with pornography if they are functional human beings. It is unlikely that the government should implement laws that dictate how a person thinks.<sup>281</sup>

Maria Ulfah Anshor argues that religious principles and values may determine one's behavior, but there are cultural and ideological factors that may shape one's response to pornographic material. While not directly referencing Muslimat NU in her response, she points out that a context-specific understanding of dress codes may be equally repressive of women's rights because it may reflect the patriarchal and misogynistic expectations of sexuality and attitudes towards women's bodies. Thus, while Maria Ulfah Anshor does not use the language of individual rights, she suggests that there is a realm of private actions and thoughts that the government should not regulate nor dictate.

Second, she argues that there is a multiplicity of interpretations regarding *aurat* provisions in Islam. As an organization that takes seriously the cultural and historical context in which the Quran and Hadith are written, Fatayat NU believes that patriarchal kinship and societal relations affect how women are told to dress and act. Acknowledging

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<sup>281</sup> Interview with Maria Ulfah Anshor on the 21<sup>st</sup> February 2012 at a mosque in central Jakarta.

this, she urges the government to consider how “morality” in Indonesia should not only be informed by one’s religion, but that moral decisions are ultimately based on an “individual’s choice.” Enacting individual rights or choice should not be contingent on the context or shaped by dominant discursive fields, but individual choice or rights are intrinsic to all human beings who have agency.

Ratu Dian from Fatayat NU also expressed disappointment at the controversy regarding the 2008 Pornography Law. In response to my question on her thoughts regarding the law, she interjected in mid-sentence and exclaimed:

This debate has been exhausting for all. If you ask anyone in Indonesia, they will tell you that they want to ban pornography; of course, we can all agree on that. What Fatayat NU and other women’s groups are against is that the bill does not specify how it will regulate pornography and instead, it specifies which part of a women’s body can be seen and should not be seen. How can you define pornography in this way? So for non-Muslims or Muslims who don’t use the headscarf, does that mean not wearing the headscarf is pornographic. This is nonsense!<sup>282</sup>

Both Muslimat NU and Aisyiyah had emphasized against provisions which targeted and victimized women, especially those who are in a vulnerable social and economic situation. According to them, structural conditions regulating the production and distribution of pornography are key in promoting good morals. By adopting the language of individual rights and choice, Fatayat NU is attempting to navigate between safeguarding society’s morals and protecting individual rights. Maria Ulfah Anshor suggests that religion may shape an individual’s behavior, but religious principles should not be formalized into national law.

Fatayat NU’s perspectives on the bill were supported by a small and liberal faction within NU. Former president Abdurrahman Wahid who was also ex-chairman of

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<sup>282</sup> Interview with Ratu Dian on the 7<sup>th</sup> October 2011 at Golkar Central Office.

NU opposed the bill. His rejection of the law was based on the defense of women. He was against the use of female sexuality as a political tool by both Islamic and non-Islamic political parties to gain popularity and votes before the 2009 Elections. Abdurrahman Wahid also angered hardliners in 2006 by telling a radio talk show on Jakarta's FM Radio 68H that "pornography was a subjective phenomenon and that even certain verses of the Qur'an could be interpreted as pornography" (Allen 2009). His wife, Shinta Nuriyah Wahid, who was also the Chairman of a large alliance Aliansi Bhinneka Tunggal Ika (Diverse But One Alliance) worked together with her husband and other Fatayat NU members who were against the bill. The eminent and vocal women's rights advocate Musdah Muslia was another notable figure affiliated to Fatayat NU who opposed the bill. A professor at a local Islamic university and the chairman of Indonesian Conference on Religion and Peace (ICRP), Musdah Mulia was invited to speak in several press conferences and public forums organized by PDIP, the main political party opposing the bill. Her speeches pertained to the freedom of expression and human rights within Islam (Munti 2008, 212).

The late Abdurrahman Wahid, Shinta Nuriyah Wahid, and Musdah Mulia are prominent individuals who form the liberal faction within NU. They carry some political clout and influence within PKB, a party that subscribes to the Pancasila (principles of the state) ideology but garners large support from the NU-Islamic community. Thus, Muslim women activists from Fatayat NU found institutional support when they argued against the bill using the language of human rights, individual choice, and freedom of expression. The backing of institutional elites was important for Muslim women activists to adopt the rights framework in their advocacy against the bill.

Yet, by 2006, when the public hearings regarding the bill ended and the chairman of the special committee announced his intention to pass the bill regardless of the mounting and unceasing controversy, women's rights groups realized that the bill would soon become an inevitability despite their resounding protests.

### **Moderating Islamic Conservatism: Public Morality, Private Rights**

JKP3 or Network for Pro-Women National Legislation Program is a group of women's rights organizations focused on policy advocacy related to women's issues.<sup>283</sup> Working with a team of women's rights activists, women's rights lawyers, and Muslim women activists from Fatayat NU, JKP3's goal was to shift the focus of the bill away from the victimization of women and push for the tighter regulation of feasible and common-sense laws restricting the distribution and broadcasting of pornography.

Between 2004 and 2007, women's organizations who were part of JKP3 were united in their rejection of the bill. However, after several changes made in the 2007 version of the draft bill, including dropping the term "porno-action" and several articles prohibiting "erotic dancing" (Article 6) and "kissing on the lips" (Article 7), the women's movement grew fragmented. Instead of an outright opposition to the bill, JKP3 chose to be included in further deliberations regarding the bill. When I spoke to Ratna Batara Munti, chairman of LBH APIK, who was spearheading legal advocacy for the Network, she explained:

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<sup>283</sup> JKP3 consisted of several organizations such as: Fahmina Institute, ICRP, Insitut Perempuan, Kalyanamitra, Kapal Perempuan, Koalisi Perempuan Indonesia LBH APIK Jakarta, Pimpinan Pusat Fatayat NU, Pimpinan Pusat Muslimat NU, Puan Amal Hayati, Rahima, The Asia Foundation (TAF), Yappika, Yayasan Kesehatan Perempuan (YKP), Solidaritas Perempuan (SP), Solidaritas Buruh, Migran Karawang (SBMK) and others.

The women's movement became fragmented when the revised bill was made public. Komnas Perempuan (National Committee on Violence against Women) and Kalyanamitra were still against the bill. They wanted DPR to reject the bill. But myself and a few other members from Fatayat NU, knew that the bill would pass. That was the political momentum at that time; the strong conservative movement and political interest would see to it that the bill was passed. I told the others (women's right activists), that if we don't include ourselves in the bill, to moderate the bill, the repercussion on women's rights would be huge.<sup>284</sup>

I then asked Ratna Batara Munti if there were particular politicians throughout the deliberative process who were accommodative of women's rights and ethnic minorities' rights demands. She indicated that even though PKB and PAN were non-Islamic parties, but with a mass-base of NU and Muhammadiyah supporters, they appeared to be the most receptive towards changes in the bill (Komnas Perempuan 2011). Other Islamic political parties, such as PKS and PPP, and secular nationalist parties, including Golkar and the Democratic Party, wanted the bill to be passed as soon as possible and without many changes.<sup>285</sup> She also informed me that JKP3 had organized several press conferences with legislators from PKB and PDIP to discuss the Pornography Bill since the early days in 2004.

On March 22, 2006, JKP3 organized a workshop, "Formulating a Pornography Law that Protects Women and Children." Acknowledging that there was enough political momentum for the bill to be passed, the goal of the workshop was to discuss and produce a rival bill that reflected the demands of women's rights groups. JKP3 invited guest speakers to suggest revisions on the bill so that it would better protect women and children. Apart from several law and sociology professors, JKP3 invited Badriyah

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<sup>284</sup> Interview with Ratna Batara Munti on the 8<sup>th</sup> June 2012 at the LBH APIK Office.

<sup>285</sup> The People's Representative Council (DPR), *The Anti-Pornography and Porno-Action Bill*, Public Hearing with the Legislative Committee, 26 February 2006.

Fayumi, a PKB legislator, and also a member of Muslimat NU and PDIP Eva Sundari. Both Badriyah Fayumi and Eva Sundari had displayed unwavering commitment and flexibility to negotiate the more controversial aspects of the bill. The revised bill produced by JKP3 formulated a distinction between hardcore and soft-core pornography from erotica. The JKP3 version of the bill provided stiff penalties for producers and distributors of hardcore pornography while specifying the criteria for the distribution of soft-core pornography and erotica for adults according to age groups. JKP3's version of the bill was not accepted, and, as explained earlier, the distinction between erotica, hardcore, and soft-core pornography fell on deaf ears because proponents of the bill saw *aurat* violations as a step towards illicit sex (*zina*).

Yet, Badriyah Fayumi released a statement in March 2006, explaining PKB's position on the bill. She stressed that it was important for the special committee and other legislators to consider the criticism of the bill emerging from women's activists, ethnic minority groups, human rights groups, artists, and performers. She explained that the 2005 version of the bill was deficient in several ways: 1) Almost all articles in the bill were vague; 2) The bill did not protect women and children; 3) The bill did not protect cultural, ethnic, and religious diversity and; 4) The political agenda behind the bill was reflected in how the special committee pushed for the passage of the bill by June 2006. Moreover, Badriyah Fayumi echoed the opinions of women's rights activists and the liberal faction within NU by asserting that the bill is an excessive intervention into an individual's private domain. She emphasized that the primary goal of the bill should be to stop the spread of ideology that exploits sex for commercial purposes.

Interestingly enough, the narrative that Fatayat NU and the liberal faction within PKB and NU employed is reminiscent of Islamic political parties' advocacy for Islamic marriage law in the 1950s. Both sides during different periods have argued that the state should not intervene in the private sphere to protect the values that they consider to be important. For Islamic political parties in the 1950s, the intrusion of the state signified Islamic marriage rules being eclipsed by a codified and secular state law. Currently, proponents of human rights and women's rights who are also pious and devout Muslims representing a minor fringe within Islamic institutions (PKB and NU) are protecting individuals' rights for sexual freedom within the private domain. PKB's final statement before the law was passed reflected these internal deliberations within the party:

[T]his country that has been overcome by the ideology of sexual exploitation for profit, industrialization and commercialization... PKB has been the bridge between proponents and opponents of the bill. As a result, PKB has been committed in building a society that is civilized, with good morals and is dedicated to protect the children of this nation from the negative impact of pornography. It is because of these reasons that PKB supports the changes in the name of the bill from the Anti-Pornography Bill to the Pornography Law. Also PKB has been committed from the start in ensuring that this law not only respects and protects but also ensures the flourishing of cultural, ethnic, and religious diversity of the country. PKB has worked with other political parties to ensure that controversial articles and phrases that have the potential to be misinterpreted have been excluded from the bill. PKB has worked hard to accommodate criticisms of the bill and have arrived at compromises and solution. We have worked towards moderating and limiting the state's intervention of individual rights. This is reflected in the clarification of the bill in Article 4 and 6, which states that production and ownership is not forbidden if it is meant for personal use and interest. In terms of criticism regarding the bill's lack of protection of women and children, Article 3 (d), and Article 4 (e), protects women and children who are exploited in the sex industry.<sup>286</sup>

PAN's final statement before the law was passed also illustrates Muhammadiyah's and Aisyiyah's perspectives on stricter regulations for the production and distribution of

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<sup>286</sup> The People's Representative Council (DPR), *The Anti-Pornography and Porno-Action Bill*, Final Opinion of FPKB, 30th October 2008

pornography:

Because of the strong polemical support for and against this bill, we have kept an open mind and accepted the input and suggestions of the community. We see it as our duty to regulate the product and practice of pornography and to diminish the negative impact that pornography has on the citizens of Indonesia. The prevalence of pornography in Indonesia is a result of a lack of regulation. For example, up till now there are no regulations about hardcore pornography, or children involved in pornography, moreover, the distribution of pornography and adults viewing child pornographic material.<sup>287</sup>

PKB's and PAN's final statement regarding the bill before it was passed into law echoes the perspectives of Muslim women's organizations. Both Latifah Iskandar and Badriyah Fayumi are members of Aisyiyah and Muslimat NU, respectively. They were not only vocal about their party's perspectives, but also the Muslim women's organizations they represent. PAN's official statement on tightening the regulation of the pornography industry is grounded in Aisyiyah's discourse regarding pornography, in particular, addressing the exploitation of women in a capitalist-consumerist economy and tightening regulations on the production and distribution of pornographic material. PKB's official statement also reflects the fringe liberal position within NU. Fatayat NU stressed the accommodation of individual rights in the bill while Muslimat NU advocated for a version of rights and freedom that was "context-specific." Both these themes are prevalent in PKB's final speech as seen in their support for the inclusion of clauses that would allow for the individual consumption of pornography. Finally, another theme espoused by PKB and PAN that reflects Muslim women's organizations discourse is the emphasis on the protection for women and children who are vulnerable to sexual exploitation. The final law explicitly includes an article that forbids child pornography

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<sup>287</sup> The People's Representative Council (DPR), *The Anti-Pornography and Porno-Action Bill*, Final Opinion of FPAN, 30th October 2008

and a clause that protects individuals who are forced into pornography from being subjected to criminal sanctions.

## **Conclusion**

This chapter has fleshed out the general thematic ideas and frames adopted by intermediary actors – actors embedded in both Islamic and human rights discursive fields – for a bill that limits sexual freedom. The first part of the chapter examined the evolving discourses of the 2008 Pornography Law. After presenting the discursive changes in the bill, I presented my argument showing how Muslim women’s organizations’ perspectives on women’s bodies and female sexuality had influenced parliamentary discourse on the bill.

The controversy brought about by the Pornography Law forced a discussion between secular and Muslim women’s organizations regarding female sexuality. In the final stages of the deliberations on the bill, Muslim women activists worked closely with several women’s groups such as JKP3, LBH APIK, and Komnas Perempuan. Although Muslim women activists’ were constrained by the dominant Islamic discourse that linked women’s covering with sexual propriety and the lack of it with illicit sex (*zina*), they worked with secular women’s groups to adapt Islamic moral principles to suit an ethnically and ideologically plural society.

Women of Aisyiyah are embedded within a discursive field that signifies morality through strict dress codes. As such, women of Aisyiyah referred less to ideas such as freedom and individual rights in their advocacy for the bill. Instead, they invoked Islamic ethical concepts such as “social justice” for women and children forced into pornography

and sex trafficking and sociological concepts such as “the exploitation of women in a capitalist-consumerist culture” to reveal the flaws in the 2005 version of the bill. They stressed that the Pornography Law should not victimize women and children, but instead should address the sources of pornography – that is, promote stricter regulation of the production and distribution of pornography in printed and televised media including the internet.

On the other hand, women of Muslimat NU and Fatayat NU were able to invoke ideas on individual rights and women’s rights because of a more flexible understanding of *aurat* provisions and greater institutional support within a fringe section of NU. While women of Muslimat NU advocated for a “context-appropriate” understanding of dress codes and behavior, women of Fatayat NU argued for the application of individual rights in moral and personal choices. In doing so, both Muslimat NU and Fatayat NU were navigating a middle ground balancing between accommodating individual rights and safeguarding public morality.

Translation of conservative and rigid Islamic law takes place within established discursive fields that constrain the repertoire of ideas and practices available to women of Aisyiyah, Muslimat NU, and Fatayat NU. As intermediary actors embedded in Islamic and human rights discursive fields, Muslim women’s activists framed their discourse in ways that resonated with both Islamic institutions and secular women’s groups. More importantly, these ideas and frames were influential not only in shaping policy, but also changing the narrative on women’s bodies and female sexuality.

## Chapter Eight

### Conclusion

#### Main Argument and Findings

Throughout this dissertation, I have argued that intermediary actors—actors who participate in both Islamic and women’s rights discourses and are affiliated with both Islamic and women’s rights networks—hold the potential to reshape, adapt, and contextualize global ideas on women’s rights to suit local context. The institutional resources available to Muslim women activists by virtue of their affiliation to mainstream Islamic institutions (NU and Muhammadiyah) provide them with the religious authority and credibility to push for social change. Access to Islamic networks affords them the capabilities to maneuver for internal institutional change. The effect of global discourse on women’s rights in a Muslim majority country, such as Indonesia, depends on the potential that intermediary actors have in shaping their opponents’ and the government’s discourse, and policy on women’s rights and Islam. I have explained that intermediary actors’ success (high potential), failure (low potential), and partial success (medium potential) to influence discourse and policy on Islam and women’s rights depend on two factors—the nature of discursive and institutional power. I have defined discursive power as the ability to define the legitimate ways of saying and doing things in a given society. Institutional power describes the ability of actors to shape and implement policy as well as to determine the availability of allies for opponents seeking to enact cultural and social change.

In this study, I applied this framework to three case studies. In the first case study, I examined discourse and policy related to Islamic marriage law from the 1950s to the

present. A historical analysis of the relationship between religious elites and government actors revealed that institutional power over Islamic family codes was concentrated within Islamic institutions, in particular, the Ministry of Religious Affairs. Through interviews with members of the Islamic elite and discourse analysis of official Islamic institutions' religious edicts (*fatwa*), I showed that the nature of discourse, as espoused by the two largest Islamic institutions in Indonesia, Muhammadiyah and NU, was rigid and intolerant of change. As such, I predicted that the potential for Muslim women activists who navigate between Islamic and women's rights discourses to shape their opponents' discourse and influence policy is low.

As I demonstrated in Chapter Five, Muslim women activists' attitudes towards polygamy have evolved since the 1950s. Through a critical and contextual interpretation of Quranic verses on polygamy, Muslim women activists from Aisyiyah, Muslimat NU, and Fatayat NU have been able to argue for an egalitarian construction of marriage law from within the Muslim legal tradition. Moreover, their reconceptualization of the principle of monogamy in Islam is rooted in ideas such as individual happiness, rights, and equal reciprocity. However, due to the factors mentioned above, these shifts in subjectivity and attitudes have not led to substantial changes in Islamic institutions' discourse on polygamy nor resulted in significant policy change on Islamic marriage law. Nevertheless, I argued that organizational shifts towards developing rights-based attitudes have enabled Muslim women activists to mobilize for women's rights policies in ways that resonate with Islamic principles on justice, promoting "social good" and protection for the weak and poor.

In the second case study on gender-based violence in Indonesia, I focused on discourse and policy related to the 2004 Law Regarding the Elimination of Domestic Violence in the Household. In the first part of the case study, I described how secular women's groups which started the first women's crisis center in Indonesia worked together with Muslim women activists to issue a draft bill on Anti-Domestic Violence. I argued that since institutional power was not concentrated within Islamic institutions as it was for Islamic marriage law, Muslim women activists were able to work with secular women activists to address issues of domestic violence so long as controversial issues, such as polygamy, were excluded from the bill. I demonstrated that institutional power—the ability to shape and implement policies and determine the availability of allies for opponents seeking social change—had played out through the democratic deliberations over the bill. During these deliberations, the government, represented by the Ministry of Women's Empowerment and Child Protection, established parameters for the discussion on a few issues. First, the government emphasized that its intervention into the domestic domain did not equate to the government overstepping its role within the family, an area which, the government claimed, fell within the “personal,” and not “public domain.”<sup>288</sup> The underlying message of the Ministry of Women's Empowerment was that the government did not want to be seen as responsible for introducing a law that would result in the disintegration of family life. This response from the Ministry of Women's Empowerment opened the floor for other opinions from Islamic opponents who argued that Islamic law had already established methods of conflict resolution for domestic disputes. Second, the government redefined the target population, and rejected the notion

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<sup>288</sup> The People's Representative Council (DPR), Parliamentary Minutes, Law 23/2004 on the Elimination of Violence in the Household, Book 1, p.152.

that married women could be subject to marital rape.<sup>289</sup> Hence the future law should exclude “married women” from any consideration of domestic sexual abuse. Third, the government redefined the relational criteria of victimhood, so that the law would only apply to victims of domestic abuse who are in a legal marriage or individuals who share family ties (biological or adopted). As illustrated in Chapter Six, workshops, media campaigns, and meetings between opponents and proponents of the law—or, in other words, the democratic processes of deliberation—resulted in several changes in the final wording of the bill. First, the clause on marital rape was preserved. Second, although domestic workers do not share legal or biological ties with members of a household, the law considered domestic workers as legal members of the household. By analyzing interviews with particular activists from Aisyiyah, Muslimat NU, and Fatayat NU who were also involved in the formal process of decision-making, I explained how these intermediary actors were pivotal in bridging the divide between opponents and proponents of the law. I also illustrated how the argumentation and frames they employed to push for the controversial clauses discussed above were rooted in Muslim women’s organizational discourse on equal (and equitable) marital roles and responsibility, wifely obedience, and male leadership within the family. I discussed how Aisyiyah, Muslimat NU, and Fatayat NU adopted a critical and contextual interpretation of Quranic verse (4:34) in order to dispel patriarchal ideas underlying notions of wifely obedience and male leadership. Thus, by framing women’s rights violations in language that appealed to Islamic principles of social justice, protection for the weak, and an emphasis on the husband’s and wife’s (equitable and equal) responsibilities, Muslim women activists successfully shaped the policy on gender-based violence in Indonesia. Lastly, in Chapter

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<sup>289</sup> Ibid.

Six, I demonstrated that religious leaders from NU and Muhammadiyah articulated distinct attitudes towards the expectation of wifely obedience and permissibility of wife beatings. As such, I argued that these variations in perspectives indicate that Islamic institutions' discourses on such issues tend to be flexible, thus offering Muslim women activists the space to use religious knowledge and effect social change.

In the third case study, I examined discourse and policy related to the 2008 Pornography Law. As I stated, the 2008 Pornography Law was introduced in 2005 as the Anti-Pornography and Porno-Action Bill. The bill regulated various areas of life beyond pornographic material and included an expansive definition of pornography that targeted women's bodies as primary sources of immorality. My framework predicted that since institutional power rested within the democratic process and nature of discourse was "rigid yet multiple," Muslim women activists would have partial success (medium potential) in shaping official parliamentary discourse and policy. In the last case study, I showed how the women's movement was responsible for spearheading the Anti-Domestic Violence Bill. In this case study, I explained how the bill was issued by Islamic institutions (MUI, NU, Muhammadiyah), including other smaller conservative Islamic organizations and Islamic political parties such as PKS. Despite the fact that interest in the bill had waned in 2004, in 2005, Islamic parties and elites from Islamic institutions managed to gather allies and revived a more conservative and hardline version of the bill in parliament. I also demonstrated that against this political backdrop, the process of democratic policy making was susceptible to the appointment of gatekeepers—such as the chairman of the legislative special committee in charge of discussion of the bill—who were biased towards promoting the agenda of Islamic actors. However, I also showed

how particular Muslim women activists from Aisyiyah, Muslimat NU, and Fatayat NU were vital in moderating several clauses of the bill.

I then analyzed the discourse espoused by Islamic institutions and Muslim women's organizations regarding female sexual freedom. I demonstrated that these discourses were *rigid*: all Muslim women's organizations and Islamic institutions had a clear interpretation of *aurat* (permissible dress codes) and *zina* (illicit sex). However, these discourses were also *multiple*: the application of these interpretations in formal state law that regulated public dress codes and actions differed across Muslim women's organizations and Islamic institutions. I explained that the ways Muslim women activists had fought to moderate the conservative clauses in the 2008 Pornography Law had depended on the discursive fields in which they were embedded. Women of Muslimat NU and Fatayat NU were able to invoke ideas on individual rights and women's rights because of a more flexible understanding of *aurat* provisions and greater institutional support within a fringe section of NU. On the other hand, women of Aisyiyah are embedded within a discursive field that signifies morality through strict dress codes. For that reason, women of Aisyiyah did not cite ideas such as freedom and individual rights in their advocacy for the bill. Instead, they invoked Islamic ethical concepts, such as "social justice" for women and children forced into pornography and sex trafficking, and sociological concepts, such as "the exploitation of women in a capitalist-consumerist culture" to reveal the flaws in the 2005 version of the bill.

Together these three case studies show that the local discourse and policy on gender relations and women's rights in Indonesia have been inspired by global women's activism, but, at the same time, Indonesian women activists have utilized language and

terms and legal frameworks that appeal to local cultural, religious and nationalistic trends. Furthermore, the extent to which transnational ideas on women's rights are adapted, repurposed, and remade to suit particular societies depend on the potential that intermediary actors have in shaping governments' and opponents' narratives on such issues.

These case studies also illustrate how Muslim women activists, secular women's rights activists, Islamic elites, and the government both resist and appropriate selective aspects of Islamic law and international principles of human rights. As Merry (2006b) explained, when a human rights framework encounters another framework, their collision adds a new dimension to the way individuals think about problems. According to her, there is not a coherent synthesis or a merging of frameworks, but two somewhat distinct sets of ideas and meanings that coexist (180-181). Throughout the three different case studies, I have shown how Muslim women activists blend two distinct frameworks—Islamic law as embodied in *fiqh* (Islamic jurisprudence), Quranic exegesis, *hadith*, and *sunnah*—and women's rights norms as represented in CEDAW. Muslim women activists are selective of certain principles of human rights as well as principles of Islamic law: sometimes they adopt classical jurisprudential law in line with ideas on complementarity and inequality, and at other times they seek an interpretation of *fiqh* that takes into account the historical and structural context in which it was formulated. Sometimes they follow the “spirit” of the Quran that emphasizes justice and equality, and other times they employ a literal interpretation of Quranic exegesis.

As I have shown in Chapters Five, Six, and Seven, Muslim women activists from different organizations select and combine principles of human rights and Islamic law in

distinct ways. Activists from Muslimat NU adopt a context-based interpretation of Quranic verses on polygamy but preserve the interpretation that men are required to provide financially for their wives in exchange for their obedience. Nevertheless, they refer vaguely to human rights norms by suggesting that “obedience” does not equate to a suppression of women’s rights to pursue education and employment. On the other hand, activists from Aisyiyah argue that Quran 4:34<sup>290</sup>, which stipulates the maintenance for obedience equation, should only be applied in a situation when women are unable to work and earn an income, such as when she is carrying out her biological duties (giving birth and breastfeeding). In other instances, the stipulation should be applied depending on the context. Therefore, in their interpretation male authority and financial maintenance are not immutable. In a complete reformist interpretation of Quran 4:34, Fatayat NU follows the methodology of Islamic scholar Fazlur Rahman known for his theory on the “double movement.” His theory is premised on the fact that applying a literal interpretation of the Quran and Islamic jurisprudence can sometimes undermine the principles and objectives of the Quran. In the same vein, Fatayat NU reaffirms the argument made by Rahman by emphasizing that Quran 4:34 should be interpreted in terms of a normative and not an objective statement. The assumed normativity of male authority and hierarchical gender relations represents a husband’s relations to his wife during a specified period of time and place that may be inapplicable elsewhere.

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<sup>290</sup> Quran (4:34) states: “Men are the protectors and maintainers of women, because Allah has given the one more (strength) than the other, and because they support them from their means. Therefore, the righteous women are devoutly obedient, and guard in (the husband's) absence what Allah would have them guard. As to those women on whose part ye fear disloyalty and ill-conduct, admonish them (first), (Next), refuse to share their beds, (And last) beat them (lightly); but if they return to obedience, seek not against them Means (of annoyance): For Allah is Most High, great (above you all).” Translation by Yusuf Ali.

I have argued that the distinct ways Muslim women's organizations adapt human rights norms and combine them with Islamic messages depends on the institutions to which they are affiliated. Each Islamic institution, such as NU and Muhammadiyah, espouses traditional and conservative ideas that discriminate against women in different ways. To a certain extent, Muslim women activists' ability to adapt human right norms is circumscribed by these philosophical criteria. At the same time, the discursive context in which norms on human rights encounter Islamic law also matters. In Chapter Six, I have explained how Muslim women activists from across Aisyiyah, Muslimat NU, and Fatayat NU who were involved in formal policy-making appropriated the CEDAW inspired model on gender-based violence to suit local understandings of marital responsibilities and social justice. Despite being affiliated to an Islamic institution that held a conservative and traditional interpretation of the duties of an "obedient wife," Aisyah Hamid Baidolowi argued for the inclusion of the clause on "marital rape," claiming that a responsible husband would not engage in sexual intercourse without the permission from his wife. Emphasizing women's freedom to engage in sexual intercourse in marriage, the activist from Muslimat NU framed her argument in Islamic vernacular while referencing human rights norms. In a discursive context that is fragmented, where Islamic institutions and religious leaders espouse distinct opinions regarding notions on wife beatings and domestic conflict resolution, Muslim women activists are able to appropriate certain controversial principles articulated in a western-inspired model on gender-based violence to suit the local cultural context. Conversely, in a discursive context that is rigid yet multiple (as explained above), Muslim women activists are still constrained by the

distinct religious philosophies of the institutions in which they affiliated in their attempts to integrate principles of social justice, protection for the vulnerable, and human rights.

### **Contribution to the Literature on Political Culture and Transnational Feminism**

When confronted with aspects of Islamic practice that apparently condone the violation of women's rights, such as female genital mutilation, child marriage, polygamy, wife beatings and others, scholars, public intellectuals, politicians, and western media commentators often respond with a seemingly innocuous question: Is Islam compatible with human rights? Within the field of political science, political culturalists have posed a similar question (Fish 2002; Inglehart and Norris 2003). Using World Values Survey (WVS) data on 74 countries between 1995-2001, Inglehart and Norris (2003) argued that Islam is negatively associated with gender equality. Fish (2002) demonstrated that the subordination of women in Islamic countries is one of the main reasons behind the continued presence of repressive regimes. In Chapter One, I presented several arguments to counter these assertions. First, Inglehart and Norris's (2003) study excluded India and Indonesia, the two countries that account for 21% of 1.6 billion Muslims in the world (Pew 2013). Second, whether a country is "Islamic" or not is measured according to the predominant population (Inglehart and Norris 2003, 63) or according to the presence of a clear majority or plurality of Muslims (Fish 2002, 7). While such a measure of an Islamic country is not flawed, it only points to the relationship between religious affiliation and attitudes (for example, how many percent of Muslims are in favor of polygamy?). Such a blunt measure of "Islam" does not clearly reflect how religious orientation and interpretation of Islam affect social attitudes. Third, I referenced other scholars (Moaddel

2006; Meyer, Rizzo, and Ali 1998) who have designed more sophisticated measures to describe the relationship between Islamic beliefs and practices and Muslims' attitudes towards gender equality. Evaluating the relationship between respondents' frequency of religious worship and self-described religious affiliation with their attitudes on gender equality provides us with a static understanding of devotees' attitudes on gender and Islam. Instead, my project calls for an examination not of whether or not "Islam" is compatible with women's rights,<sup>291</sup> but for a deeper analysis of actors' language, ideas, and arguments—their discourse—to understand how common values, points of meaning, and principles on women's rights are generated by actors in diverse social and political groups.<sup>292</sup> In other words, my project contributes to the literature on political culture by highlighting the mechanisms, the pathways that exert influence on society's attitudes on gender equality.<sup>293</sup> In three distinct case studies, I have shown how the actors who navigate between Islamic and women's rights discourse hold the potential to shape the government's and opponents' attitudes on gender and Islam. The manner in which they interpret Quranic verses, frame their arguments, and negotiate with women's rights and Islamic actors, shape discourse on gender and Islam, and in turn, influence policy on women's rights.

The literature on transnational feminism has thus far examined the impact of global women's activism on local women's rights in terms of two paradigms: first, a

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<sup>291</sup> Scholars such as Edward Said (1978) have discounted theological arguments to explain the political actions and social attitudes of Muslims spanning different countries and culture.

<sup>292</sup> The main ideas in this sentence are inspired by Yuval-Davis' (2006, 284) conceptualization of transversal politics.

<sup>293</sup> The scholarship on contentious politics (McAdam, Tarrow, and Tilly 2001) focuses on "causal mechanisms" or "mechanistic explanations" to provide a more detailed qualitative explanation on causal relationships.

unidirectional and universal approach that proposes similar frameworks to empower women in distinct contexts; and second, the political identity approach that captures the multidimensional influence on women's rights. The latter approach pays attention and represents the varied and intersecting struggles of women in different locations, social and political groupings. In my dissertation, I argued that the tension in these approaches can be addressed by examining the mutual construction of global and local ideas, discourses and legal frameworks on women's rights. I have illustrated how this global-local framework operates in three distinct case studies. In the first case study, I show how shifts in attitudes amongst Muslim women activists are reflected in their support for monogamy as the basis of marriage in Islam. Through a critical reinterpretation of Quranic verses on polygamy, Muslim women activists are not only unearthing the egalitarian ideas within Islamic legal tradition, but their discourse reflects the integration of women's rights principles, such as individual happiness (as opposed to familial obligations) and equal roles and responsibility between partners in a marriage. In the second case study on gender-based violence, I elaborated on the processes of adapting principles of human rights to local contexts which include the following steps: first, drawing attention to local problems in terms of a violation of women's rights; second, framing solutions to those problems in the local vernacular; third, remaking ideas and meanings on women's rights. In the third case study on the pornography law, I explained how conservative and hardline interpretations of Islamic morality were moderated to accommodate the demands of ethnic minorities and women's rights activists. These processes are as follows: first, highlight the absence of the principles of "social justice" and "individual rights" in conservative and moralistic solutions; second, reframe

moralistic solutions as problems that defy ethical Islamic principles such as “caring for the weak and poor” and target the state for complicity in perpetuating the “structural and commercial sources” of pornographic media; third, reshape the narrative on “pornography” in a manner that disconnects women’s bodies from being the main sources of immoral behavior. Thus, building on the works of Tripp (2006) and Basu (2000), my dissertation shows how the Indonesian women’s movements have been inspired by ideas on social justice and equality emerging from international forums. However, the discourse on gender relations within the family and women’s rights in general, are produced in the context of the interaction between women’s activists (both secular and religious) the government, and Islamic institutions and elites. More specifically, both secular and religious women’s activists have adapted global ideas on women’s rights in ways that appeal to cultural, religious and nationalistic trends.

### **Applying the Argument Beyond Indonesia**

This project addressed two questions. The first question concerns how global ideas are adapted, applied, and refashioned in the local context. How do we explain the coexistence of seemingly contradictory attitudes on gender equality against the backdrop of circulation of ideas on human rights norms and Islamic conservatism? What are the processes and mechanisms that explains how civil society actors and government elites develop shared understandings of ideas on gender and Islam? The second question concerns whether intermediary actors have been effective and the conditions under which they have successfully shaped discourse and influenced policy on Islam and women’s rights.

To answer the first question, I argued that intermediary actors—actors who participate in both Islamic and women’s rights discourses and are affiliated to both Islamic and women’s rights networks—are able to shape ideas and influence policy on Islam and women’s rights through a series of actions: first, through a shift in organizational attitudes adopting a human rights approach towards Islamic marriage laws, in particular, polygamy; second, by adapting human rights which includes referencing human rights principles to make sense of local grievances and framing human rights violations in Islamic and local terminology and categories; and third, by highlighting the absence of general principles of Islamic ethics or the purposes of the *Shariah*<sup>294</sup> (*maqasid Al Shariah*) in policy solutions influenced by Islamic conservatism.

The primary mechanism—intermediary actors—has been under-theorized in the literature on Islam and feminism and on Muslim women’s movements. As explained in Chapter One, numerous scholars have focused on studying Islamic piety, explaining how Islamic ritual practice contributes to an individual’s cultivation of agency (Gole 1996; Mahmood 2008). At the same time, another group of scholars has examined how Islamic piety is related to Muslim women’s participation in the public sphere (Badran 2009; Brenner 1996; Deeb 2006; Doorn-Harder 2006; Rinaldo 2008, 2010, 2013). Several of the aforementioned scholars have described how activists refer to human right norms and adopt reformist methodologies such as *ijtihad* (independent reason) to interpret the Quran and *hadith* (Badran 2009; Doorn-Harder 2006; Rinaldo 2008, 2010, 2013). I built on the work of these scholars to systematically theorize how actors who employ both Islamic

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<sup>294</sup> Shariah law is commonly used to denote Islamic law. In this dissertation, I have used the term Islamic *fiqh* to mean Islamic rules of jurisprudence, that is, the legal theoretical jurisprudential work of jurists in the pre-modern era attempting to understand and translate Shariah into legal rules. Following Brown (1997), Messick (1993), and An-Na’im (1990), I use Shariah to mean a divine Islamic discourse that includes spiritual, legal, moral, economic, and political ideas.

discourse and human rights norms shape public understandings and localized laws on women's rights.

While my project adopts a context-specific definition of intermediary actors, the processes of cultural translation that I have specified in the three case studies can also be applied if we broaden the definition of intermediary actors to include those who combine Islamic discourse, Islamic law, and human rights norms and models. Sharafeldin's (2015) research examined innovative approaches and also highlighted compromises that occur when non-governmental organization (NGO) activists advocate for new understandings of *qiwamah* and *wilayah* in contemporary Muslim family law. *Qiwamah* is generally referred to mean a husband's authority over his wife and his financial responsibility towards her. In exchange for a husband's guardianship, a wife is expected to be obedient. *Wilayah* generally denotes the right and duty of male family members to exercise guardianship over female members, for example, a father's permission to allow a daughter's hand in marriage (Mir Hosseini, Al-Sharmani and Rumminger 2015). By discussing NGO's reforms of personal status law (PSL) in Egypt, Sharafeldin illustrated how NGO activists are attempting to reconcile ideas of equality and complementarity<sup>295</sup> in human rights and Islamic law. Sharafeldin argued that "human rights norms seem to be becoming part of NGO's attempts to create new understandings of *qiwammah* and *wilayah*" (164). Throughout her research, she highlighted the different strategies and approaches taken by NGO activists. Her research exhibits processes similar to those I have identified earlier. In the following section, I delineate these processes using the narrative in her work.

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<sup>295</sup> Complementarity refers to how women and men are assigned different roles to promote love and compassion (love and compassion) within the family.

First, she pointed out that the NGO activists she studied had found inspiration to address concrete problems on the ground, experienced in their day-to-day activism, by referring to international human rights documents such as CEDAW. At the same time, as devout Muslims, they were also inspired by Islam. Several of these activists brought to bear human rights norms in their attempt to excavate the principles of equality and justice in Islam. These processes of applying human rights understanding and its emphasis on equality and non-discrimination for NGO activists in Egypt parallel Indonesian Muslim women activists' attempts to reconcile human right norms with Islamic principles of justice and equality. In both cases, human rights norms inspired devout Muslims to establish an egalitarian construction of gender rights from within the Islamic legal tradition. Second, through discourse analysis of published reforms of the PSL, she illustrated how NGO activists had framed the reasons for reforms to include the following: "the current lived realities of the family and society; and enlightened expressions of Islamic law" (168). Furthermore, she maintained that the encounter between human rights and Islamic law resulted in activists having to make several compromises in terms of complying with the traditional and discriminatory understandings of *qiwamah*. By comparing two versions of reforms on the PSL, Sharafeldin showed that the earlier version had rejected the clause on wifely obedience while the latter version had included it. The latter version suggested using the term "*mutual commitments*" instead of the word "*ta'a*" or obedience (173). According to Sharafeldin, for reasons that can not be determined, the NGO activists chose to adopt a gradualist approach that framed obedience in terms of "mutual obligations" while maintaining the effects rendered by those terms.

In the same vein, I discussed in Chapter Six how the promotion of economic independence for women had been framed in terms of a clause on “economic violence” with an underlying notion that a husband who did provide financially for his family was irresponsible. Capturing the processes I have identified as adapting the legal model of human rights law to suit the local legal and structural context, Sharafeldin also demonstrated that the NGO activists in Egypt had excluded controversial issues and had never once addressed divisive topics such as inheritance and mixed marriages. As I explained in Chapter Six, secular women’s rights activists had chosen to exclude polygamy as a form of psychological violence as its inclusion might have deterred the government and Islamic parties from formally discussing the bill in parliament. Finally, Sharafeldin also argued that when human rights ideas are framed to complement local cultural understandings, or if they are framed to satisfy the interest of powerful actors, there are bound to be drawbacks and weaknesses that are portrayed in terms of contradictory language reflected in legal codes. In the case of reforms on the PSL, NGO activists argued for shared responsibility between spouses for the well-being of the family but maintained the provision that men are financially responsible for the family. Thus, NGOs accepted a wife’s obedience to some level (177). Sharafeldin argued that, in the encounter between human rights and Islamic law, local laws “both resist and appropriate international law” (180). The processes that I systematically trace in my dissertation such as a) drawing on human rights norms as inspiration to solve concrete problems; b) framing rights based ideas in ways that appeal to local discourse, interests of powerful actors, and local legal structure; and c) transforming the structure and underlying notions of human rights norms such as equality, individual freedom, and non-discrimination, are

all processes that are evident in Sharafeldin's study of NGO activism around PSL reforms in Egypt.

My second question on the effectiveness of intermediary actors speaks to the relationship between state and religious elites. While the application of this framework beyond Indonesia is still preliminary, I have gathered some observations on the issue. In Indonesia, reforms of Islamic marriage law have been seemingly insurmountable; yet women's rights policies related to gender-based violence, human trafficking, and gender mainstreaming have proceeded despite an active religious coalition blocking their passage. In Chapter Five, I mentioned that Indonesian management of state-religion relations follows a communalized legal structure (Hajjar 2000) where members of different religious communities are subject to separate systems of personal status law, normally accompanied by a parallel system of Islamic and civil courts. In Indonesia, communal autonomy pertaining to personal status laws has historically and continues to be preserved under the authority of elite religious leaders. However, the Indonesian state does not identify Islam as the official religion and does not incorporate religious law into the national legal regime. Even though Islamic constituencies may pressure the government to enforce conservative aspects of Islamic law on matters pertaining to the penal, civil, and administrative codes, women's movements may also maneuver and mobilize to seek state intervention and legal reforms. The cases on gender-based violence and pornography law discussed in Chapters Six and Seven exemplify these dynamics. In other words, when institutional power (the ability to enact and implement law as well as the ability to determine opponents' allies) is not under the autonomous control of religious elites, both Islamic constituencies and women's movement may maneuver and

bargain for state support. In both these cases, intermediary actors, actors who participate in Islamic and women's rights discourse, hold the potential to shape the state's and opponents' ideas and policy on women's rights.

On the other hand, Morocco provides a good example of the "nationalization of religion" (Hajjar 2000, 24). The Moroccan constitution, written in 1962, states that the king is the first legislator, supreme political arbitrator, and Commander of the Faithful (Maghraoui 2001). Islam is the state religion in Morocco, and the legitimacy of the king lies in his ability to represent the religious sphere. The *mudawwana*, the family law based on Islamic jurisprudence, is the only state law that claims adherence to Islamic law and therefore falls under the authority of the King. The *mudawwana* was codified in 1957 by the newly independent Moroccan state. The *mudawwana* was grounded in a conservative interpretation of the *Maliki* school of Islamic law, where male guardianship and authority prevailed in marriage, divorce, and child custody (Salime 2011, 3). After the independence of Morocco, the king established direct control over religious institutions such as the *ulama's* (religious leaders) council. Although there are "independent preachers" in private mosques and other informal settings (Tozy 1999 in Salime 2011, 5), the mainstream *ulama* comes under the authority of the Ministry of Religious Affairs which falls under the purview of the king.

The relationship between religious elites and the state determines whether intermediary actors have the potential to influence discourse and policy related to women's rights. When the king and state-co-opted religious leaders draw on religious law to shape national legislation, they hold institutional power to formulate and enact laws. In the Moroccan case, as both the Commander of the Faithful and supreme political

arbitrator, the king's legitimacy rests not only upon his ability to represent the religious sphere but also upon his ability to maintain national security. Extending my framework to the Moroccan case, I predict that Islamist women and feminist activists would have significant ability in shaping official discourse and policy on women's rights in that country.

On 10<sup>th</sup> October 2003, King Mohammad VI announced reforms to the *mudawwana*<sup>296</sup> (Charrad 2012, 7). Although the women's movement had led the initiative to reform the *mudawwana* since 1992, the reforms were finally approved a year after the 2003 Casablanca bombings. According to Salime (2011, xii) the attack "legitimized the Moroccan state's contribution to the controversial way on terror". Against the backdrop of the U.S. War on Terror and the King's intent to position Morocco as the ally of neo-liberal regimes ahead of other Arab-Islamic countries (110-133), the women's movement repositioned its discourse "as forces of modernity and democracy in contrast to the obscurant and archaic Islamist groups" (Salime 2011, 132). They mobilized for *mudawwana* reforms by framing it not as a women's rights issue, but by appropriating the discourse on democracy, modernity and moderation (133). Similarly, the attack also enabled Islamist women to reposition their discourse and establish "Muslim women" as "agents of moderation in relation to both secular feminist and religious extremists" (Salime 2011, 132). While Islamist women's demands were formerly directed inwards to male leadership, after the attack, Islamist women adopted

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<sup>296</sup> For a detailed analysis of the substance of the reforms see Charrad 2012, 7. These are several of the changes: the marriage age for women was raised to 18, where it remained for men, and the role of the matrimonial guardian was diminished in that it became optional instead of required. Women can now enter into marriage contracts on their own, and judges are now required to provide written justification for the authorization of underage marriage, whereas before they could more easily permit marriage for females younger than 15 years of age (HREA, Moroccan Family Code, English translation).

the motherhood trope and redefined it as moderating “Islamic extremism” (132). The attack enabled them to maneuver for more space, targeting the state to pursue their long-standing demands and to be officially recognized as mothers and educators for the masses. Hence, when institutional power is not monopolized by independent religious leaders - as in the case of Morocco where the king had to balance national security concerns and his role as Commander of the Faithful - feminist activists and Islamist women were able to claim more space to maneuver the state to pursue their demands. While my framework does not consider the role of exogenous shocks (terrorist attacks) on shaping state’s national security agenda, I add a caveat by stating that the power of exogenous shocks in altering domestic events depends, on the manner in which the nature of external shocks challenges the authority of powerful actors. For example, in Morocco, government’s enactment of neoliberal policies and norms have historically altered power relations between the king, religious elites, and the women’s movement. For example, Salime (2011, 25) traces how neoliberal reforms have engendered the state’s cooptation of the discourse of rights, and, at the same time, created channels of communication with Islamists that resulted in the establishment of the first Islamist party in the country in 1997. Hence, when institutional power is not monopolized by independent religious actors, an attack that threatens the state’s neoliberal agenda may benefit the interests of both liberal and Islamist women activists.

### **Alternative Arguments**

Theories on public opinion in the United States inform us that, in the absence of coherent mass ideologies, social elites and the media play a significant and disproportionate role in influencing public opinion (Stimson 2004; Zaller 1992). Social elites “frame” public discourse by emphasizing certain perspectives, aspects, and symbols of an issue. By “framing” public discourse, social movement scholars consider social elites as performing the work of meaning making or creating “shortcuts” to form opinions on issues. Theories on the relationship between elite actors and public discourse emerged to investigate a puzzling phenomenon: despite people’s ignorance of the facts surrounding various issues, people form opinions on these issues all the time. Theories on public opinion research reveal that people form opinions despite not spending the time and effort necessary to be informed because of the significant role that social elites perform in framing public discourse and creating heuristic cognitive short cuts for the citizenry.

My dissertation examined the role intermediary actors play in shaping opponents’ and government’s discourse. I considered the discourse of the latter through official organizational documents and the responses of elite actors. Considering that most of the Muslim women activists I interviewed and organizational discourse I analyzed were written by elite Muslim women activists, it is possible to inquire as to the role Muslim women elites play in shaping public attitudes on gender and Islam. However, my theory on intermediary actors should not be undermined by this role, considering that my project does not focus on public discourse or attitudes and instead examines official government discourse and opponents’ discourses. Instead of studying how the public forms opinions on gender and Islam, my theory on intermediary actors focuses on the mechanistic

pathways that lead to changes in opinions within the government and Islamic institutions. Nevertheless, it is worth considering whether intermediary actors have a *standing* in the media. By standing, I mean “having a voice in the media” and being treated as actors who are a regular media source (Ferree 2002, 13). If particular intermediary actors have a high standing in the media, it will be illuminating to investigate whether these particular actors are able to shape public opinion discourse on gender and Islam in Indonesia.

### **Moving Forward and Addressing Caveats**

Although I have shown how Muslim women’s organizations have been able to reconcile human rights norms with an egalitarian interpretation of Islam, the data I have relied on are based on interviews with elite women and discourse analysis of official organizational documents. In order to achieve a broader sample of opinions regarding the relationship between human rights, women’s rights, and Islam, I would perform a large N survey of Muslim women’s organizations through stratified random sampling at the regency (*kabupaten*) level. This survey would include general questions on participants’ opinions on Islam and women’s rights, followed by particular questions on their political stance and social attitudes towards issues ranging from general topics to particularly controversial social issues. The large N analysis would provide me with a fuller picture as to the role of intermediary actors in internally shaping their organizations’ mindsets and attitudes.

I have argued that the relationship between institutional and discursive power determines the potential for intermediary actors to shape discourse and policy on Islam and women’s rights. I have also discussed my preliminary observations on how this framework can be applied in the Egyptian and Moroccan cases. In order to situate my

study in a broader and comparative context, I propose to study the social attitudes of prominent Muslim women's organizations in Muslim majority countries with a dynamic history of women's activism.<sup>297</sup> I will examine the types of issues groups advocate and the ways they frame their advocacy. By illuminating how Muslim women activists maneuver around dominant religious values and combine religious ideologies with human rights and cultural norms, the findings from my dissertation and proposed research will carry theoretical implications on the future of women's rights in Muslim majority countries.

Throughout the course of my dissertation research, I came across women activists from different walks of life. Some were raised in devout families and subsequently studied the ideas of Karl Marx, Antonio Gramsci and Islamic scholars such as Fazlur Rahman. Others had received secular training but grew interested in Islam, and learnt about *fiqh* (Islamic jurisprudence) and Quranic exegesis later in life. Despite their diverse backgrounds and upbringings, and often varied perspectives on issues such as polygamy, women's sexual freedom, abortion and homosexuality, these women shared similar aspirations: to help women achieve economic self-reliance, establish secure and stable family lives but not at the expense of a meaningful and happy existence. This dissertation has focused on the ideas, language and argumentation as well as the strategies employed by these activists to shape public discourse, policy and shared understandings of women's rights. It is my hope that this dissertation will generate fruitful lessons for women activists in other Muslim majority countries and enable them to draw comparative

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<sup>297</sup> Three countries that I can think of are Morocco, Egypt, and Tunisia. See Salime's (2011) discussion on Muslim women activism in Morocco and Badran's (2009) discussion on feminist and Muslim women activism in Egypt. Women's activism in Tunisia has a long history; see Charrad (2007).

insights from the ways Indonesian women activists navigated between Islamic law, human rights, cultural traditions and nationalist ideas.

## Appendix A

### Interview List

Name	Title	Location	Date
Irfan Abubakar	Director, Center for the Study of Religion and Culture, Syarif Hidayatullah State Islamic University	Irfan Abubakar's Office at Syarif Hidayatullah State Islamic University	31 <sup>st</sup> September 2011
Dwi Rubiyanti Kholifah	Asian Muslim Action Network (AMAN)	AMAN's Office	3 <sup>rd</sup> October 2011
Budhy Munawar Rachman	Program Officer Islam and Development, The Asia Foundation	The Asia Foundation's Office	4 <sup>th</sup> October 2011
Ratu Dian Hatifah	Member Fatayat NU Law, Politics and Advocacy Division member of Golkar	Golkar Central Office	7 <sup>th</sup> October 2011
Lies Marcoes	Senior Officer of the Fahmina Institute and previously, Senior Program Officer for Gender	The Asia Foundation	10 <sup>th</sup> October 2011
Hana Satriyo	Director for Gender and Women's Participation	The Asia Foundation	10 <sup>th</sup> October 2011
Listyowati	Chairperson, Kalynamitra	Kalyanamitra's Office	15 <sup>th</sup> October 2011
Rena Herdiyani	Deputy of Program, Kalyanamitra	Kalyanamitra's Office	15 <sup>th</sup> October 2011
Neng Dara Affifah	Commissioner, National Commission on Violence Against	Komnas Perempuan's Office	16 <sup>th</sup> October 2011

	Women, Komnas Perempuan, Fatayat NU member		
Dani Sri Budi Eko Wardani	Professor, Center of Politics, Puskapol University Indonesia	University of Indonesia	21 <sup>st</sup> October 2011
Leila Nurrohmah	Rahima Foundation	Rahima's Office	4th November 2011
Sita Aripurnami	Director, Women's Research Institute	Women's Research Institute Office	10th November 2011
Edriana Noerdin	Director of Research, Women's Research Institute	Women's Research Institute Office	10 <sup>th</sup> November 2011
Leya Catleya	Independent Consultant for UN and World Bank	Restaurant in South Jakarta (Kebayonaran Baru)	17th November 2011
Maman Imanul Haq	Leader, Lembaga Dakwah Nahdlatul Ulama, Legislative Member (Commission VIII)	The Commission of Violence against Women's Building	14 <sup>th</sup> February 2012
Hussein Muhammad	Kyai (Venerated Scholar) Pesanteran Dar Al Tauhid Cirebon, Founder Fahmina Institute, Commissioner Komnas Perempuan	The Commission of Violence against Women's Building and Fahmina's Office	16 <sup>th</sup> February 2012 and 20 <sup>th</sup> February 2012
Maria Ulfah Anshor	Ex-Chairman (2005-2009) Fatayat NU	Mosque in Central Jakarta	21 <sup>st</sup> February 2012
Ida Fauziyah	Chairman Fatayat NU (2010-2015)	Fatayat NU's Office	24 <sup>th</sup> February 2012
Sri Mulyati	Chairman III, Muslimat NU	Muslimat NU's Office	3 <sup>rd</sup> March 2012
Siti Musdah Mulia	Advisor Fatayat NU, Professor Syarif Hidayatullah State Islamic University, Chairperson	ICRP's Office	5 <sup>th</sup> March 2012

	Indonesia Conference on Religion for Peace		
Nor Rofiah	Member Research and Development Division, Fatayat NU	Nor Rofiah's House	5 <sup>th</sup> March 2012
Arwani Faishail	Vice-Chairman of the Commission for Religious Problem Solving ( <i>Lajnah Bahstul Masail</i> ) in the Executive Board of NU	Nahdlatul Ulama Office	6 <sup>th</sup> March 2012
Huzaemah T Yanggo	Director Post- Graduate Program The Institute of Quranic Science (IIQ), Chairman Research and Social Development Majlis Ulama Indonesia (MUI)	The Institute of Quranic Science (IIQ)	16 <sup>th</sup> March 2012
Ismail Yusanto	Spokesperson Hizbut Tahrir	Hizbut Tahrir's Office	21 <sup>st</sup> March 2012
Siti (Pseudonym) and Sara (Pseudonym)	Youth Members	Muslimah Hizbut Tahrir	23 <sup>rd</sup> March 2012
Iffah Rochmah	Spokeperson Muslimah Hizbut Tahrir	Muslimah Hizbut Tahrir	26 <sup>th</sup> March 2012
Tri Hastuti Nur	Director of Research and Development, Aisyiyah	Aisyiyah's Office	12 <sup>th</sup> April 2012
Shoimah Kastolani	Chairman III, Aisyiyah	Aisyiyah's Office	17 <sup>th</sup> April 2012
Aisha	Chairman I, Aisyiyah	Sekolah Tinggi Ilmu Kesehatan (STIKES)	18 <sup>th</sup> April 2012

		Muhammadiyah	
Khodiroh	Member Aisyiyah	Aisyiyah's Office	18 <sup>th</sup> April 2012
Ruhaini Dzuhayatin	Director of the Center for Women Studies at The State Islamic Institute (IAIN) in Yogyakarta, and a member of Aisyiyah	Pusat Studi Wanita IAIN Yogyakarta	19 <sup>th</sup> April 2012
Eli Nur Hayati	Founding Member and Director, Rifka Annisa	University Muhammadiyah	19 <sup>th</sup> April 2012
Abidah	Member Nasyiatul Aisyiyah	Nasyiatul Aisyiyah's Office	20 <sup>th</sup> April 2012
Latifah Iskandar	Chairman V, Aisyiyah and Former Legislative Member (2004-2009)	Latifah Iskandar's House	23 <sup>rd</sup> April 2012
Siti Noordjannah Djohantini	Chairman, Aisyiyah	Aisyiyah's Office	23 <sup>rd</sup> April 2012
Wawan Gunawan	Member Majelis Tarjih (Committee for Religious Problem Solving) Muhammadiyah	Wawan Gunawan's House	25 <sup>th</sup> April 2012
Khofifah Indah Parawansa	Chairman, Muslimat NU	Muslimat NU's Office in Jakarta	1 <sup>st</sup> May 2012
Shinta Nuriyah Abdul Wahid	Advisor, Muslimat NU	Muslimat NU's Office in Jakarta	14 <sup>th</sup> May 2012
Nursyahbani Katjasungkana	Email Interview	Email Interview	31 <sup>st</sup> May 2012
Harioh Hariah	Secretary Jaringan Kaukus Perempuan, Women's Caucus (DPD)	Harioh Hariah's Office in the Parliament Building (DPR)	6 <sup>th</sup> June 2012

Ratna Batara Munti	Chairman, LBH APIK	LBH APIK Office	8 <sup>th</sup> June 2012
Leya Maryana	Ex-legislator (2004-2009) Representative of PPP	Parliament Building at Women's Caucus Event and Café at Plaza Indonesia	11 <sup>th</sup> and 14 <sup>th</sup> June 2012
Yuda Irhlang	Activist Ansipol - Aliansi Masyarakat Sipil Untuk Politik dan Perempuan/ Civil Society Alliance for Politics and Women	Yuda Irhlang's House	18 <sup>th</sup> June 2012
Ninik Rahayu	Member Fatayat NU, Commissioner Komnas Perempuan, Founding member Alimat	Hotel Lobby in South Jakarta	19 <sup>th</sup> June 2012
Chairun Nisa	Legislator in Commission VIII, Representative of Golkar	Parliament Building	19 <sup>th</sup> June 2012
Aisyah Hamid Baidlowi	Advisor, Muslimat NU	Muslimat NU Office	20 <sup>th</sup> June 2012

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