

An Investigation into Government-Based Services for the Women Victims of Domestic Violence in Central Java Province

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Abstract

The literature on domestic violence in the past two decades has tended to focus on the nature and effect of domestic violence on women and children. Little research exists evaluating support services for women victims of domestic violence in Indonesia. This thesis examines the effectiveness of domestic violence services delivered by the Central Java government through the establishment of integrated service centres (*Pusat Pelayanan Terpadu/PPTs*). This thesis also critically evaluates the regulatory and policy framework guiding government responses to domestic violence at the national, provincial and district level. By exploring the interrelations of Domestic Violence Law (DV Law), Islamic Law, and gender relations, this thesis offers a vigorous understanding of the problems for women victims of domestic violence in accessing justice. The study of two PPTs shows that local regulation (*Perda*) is essential for the effectiveness of domestic violence services, and the role of individuals in the Office of Women's Empowerment is also influential. As the ultimate goal of the DV Law is to eradicate domestic violence, Indonesia needs to reform its justice system by amending the Marriage Law and the Compilation of Islamic Law (KHI), broadening the jurisdiction of the Religious Court, and establishing Court-Mandated Counselling. To achieve such reform requires the advocacy and the presence of women in the parliament; hence, the active participation of women in formal politics is necessary to change the masculine nature of the parliament and challenge conservative Islamic organisations who seek to resist efforts to enhance gender equality.

Declaration

I certify that this thesis does not incorporate, without acknowledgment, any material previously submitted for a degree or a diploma in any university; and that to the best of my knowledge and belief it does not contain any material previously published or written by another person except where due reference is made in the text.

Sukendar

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Abbreviations

APBD	<i>Anggaran Pendapatan dan Belanja Daerah</i> - Regional Revenues and Expenditure Budget
APE	<i>Anugerah Parahita Ekapraya</i> – Award for Public Service
ARG	<i>Anggaran Responsif Gender</i> - Gender Responsive Budgeting
BAPERMAS	<i>Badan Pemberdayaan Masyarakat</i> - Body for Community Empowerment.
BAPPEDA	<i>Badan Perencanaan Pembangunan Daerah</i> - Regional Development Planning Board
BAPPENAS	<i>Badan Perencanaan Pembangunan Nasional</i> - National Development Planning Board.
BP3AKB	<i>Badan Pemberdayaan Perempuan, Perlindungan Anak, dan Keluarga Berencana</i> - Office of Women Empowerment, Child Protection and Family Planning
BP4	<i>Badan Penasehat Pembinaan dan Pelestarian Perkawinan</i> - the Marriage Advisory Body
BPP	<i>Biro Pemberdayaan Perempuan</i> - Office for Women Empowerment
DPR	<i>Dewan Perwakilan Rakyat</i> - the People's Legislative Assembly
KPI	<i>Koalisi Permempuan Indonesia</i> - Indonesian Women Coalition

KPK2BGA	<i>Komisi Perlindungan Korban Kekerasan Berbasis Gender dan Anak</i> - Commission for Protection of Victims of Gender-Based Violence
KPPA	<i>Komisi Perlindungan Perempuan dan Anak</i> - Commission for Protection women and Children
KPU	<i>Komisi Pemilihan Umum</i> - Commission of General Election
KUHAP	<i>Kitab Undang-Undang Hukum Acara Pidana</i> - Criminal Procedure Law
LRC-KJHAM	<i>Legal Resources Center untuk Keadilan Jender dan Hak Asasi Manusia</i> - Legal Resources Center for Gender Equity and Human Rights, a local NGO based in Central Java
MUI	<i>Majelis Ulama Indonesia</i> - Indonesian Muslim Scholars Council
MWECP	<i>Kementerian Pemberdayaan Perempuan dan Perlindungan Anak</i> - Ministry of Women Empowerment and Child Protection
P2TP2A	<i>Pusat Pelayanan Terpadu Pemberdayaan Perempuan dan Anak</i> - Integrated Service Centre for Women and Child Empowerment
PERDA	<i>Peraturan Daerah</i> - Local Regulation
PPKPA	<i>Pusat Penanganan Kekerasan terhadap Perempuan dan Anak</i> - Centre for Handling of Women and Children Victims of Violence
PPT	<i>Pusat Pelayan Terpadu</i> – Integrated Service Centre
PUSKESMAS	<i>Pusat Kesehatan Masyarakat</i> - Public Health Centre

RPJMD	<i>Rencana Pembangunan Jangka Menengah Daerah</i> - Regional/Local Medium Term Development Plan
SKPD	<i>Satuan Kerja Perangkat Daerah</i> - Work Unit of Local Government Agencies
SPM	<i>Standard Pelayanan Minimal</i> - Standard of Minimum Service
UMK	<i>Upah Minimum Kota</i> - City Minimum Wage
UPPA	<i>Unit Perlindungan Perempuan dan Anak</i> - Women and Children Protection Unit

CHAPTER ONE

INTRODUCTION

“I feel exhausted to commute from my home to the police station many times, while, at the same time, I have to look after my baby on my own. It has been three years, but my case is not yet settled”¹

Overview

The quote above exemplifies the grievances of women victims of domestic violence in the City of Semarang. It is an example of the challenges women victims of domestic violence face in accessing support and advocacy from the government. Their predicaments range from problems in reporting their cases, their treatment by law enforcers, and difficulties in accessing health services. In addition, a patriarchal Javanese culture worsens the plight of women victims of domestic violence. This thesis evaluates the Central Java Government’s delivery of support and advocacy services for victims of domestic violence in two government integrated service centres (*Pusat Pelayanan Terpadu/PPT*). It examines the PPT of the Province of Central Java and the PPT of the City of Semarang. It considers the policies of the government at central, provincial and district level on domestic violence, the functions of the law enforcers (police, prosecutors, and judges), and the roles of health workers, social workers, NGOs, and grassroots organisations in delivering services for victims of domestic violence.

¹ Interview with SV-4 (25 years), survivor of domestic violence, in Semarang, 19 October 2014.

Domestic Violence Intervention: A Theoretical Framework

Violence against women is “a salient and pervasive issue; it can affect women at any stage of their lives, and takes many forms, including physical, psychological, sexual and economic abuse.”²

Regarding the context of the violence, women are more likely to be the victim of violence in their own homes. The household remains one of the most dangerous places for women worldwide. Amnesty International confirms, “at least one out of three women has been beaten, coerced into sex, or otherwise abused in her lifetime.”³ Usually, the abuser is a member of her own family, or someone known to her.⁴ In its article, “Domestic violence is a war zone”, The *Jakarta Post*, notes:

Violence within families has no borders. The beating of mainly wives and girlfriends happens in every country around the world. Domestic violence pays no heed to wealth or status, race or religion; it is almost as common among the rich as among the poor, in the world’s biggest countries and on the tiniest of islands.⁵

The fact that the *Jakarta Post* names domestic violence as a form of ‘war’ in the article’s title illustrates the dangers for women of marrying into violence. As Heather Brook points out, in *Stalemate: Rethinking the Politics of Marriage*, “the

² Lombard, Nancy and McMillan, Lesley, *Violence Against Women; Current Theory and Practice in Domestic Abuse, Sexual Violence and Exploitation*, Jessica Kingsley Publishers, London and Philadelphia, 2013, p. 9

³ Amnesty International, *Violence against Women Information*, available Online: <https://www.amnestyusa.org/our-work/issues/women-s-rights/violence-against-women/violence-against-women-information> (last viewed: 03 March 2017)

⁴ Lombard and McMillan, *Op. Cit.*, p.10

⁵ The Jakarta Post, *Domestic violence is a war zone*, 09 March 2010, available online: <http://www.thejakartapost.com/news/2010/03/09/domestic-violence-a-war-zone.html> (20 April 2015).

majority of female homicide victims are murdered by 'sexual intimates,' usually their husbands."⁶ Domestic violence affects women everywhere.

However, there is no single definition of domestic violence. The terms 'wife beating', 'battered wives', 'wife abuse', 'woman abuse', 'spousal abuse', 'intimate partner violence', 'family violence', and 'domestic violence' have all been used to describe this phenomenon, and such terms have been the topic of debate and controversy. I choose the term 'domestic violence' for this thesis. This is because in Indonesia most domestic violence happens in the marital relationship, inside the family home. The term encompasses all forms of violence, not only physical abuse suggested by terms, such as 'wife beating.' Domestic violence is a useful term because it demonstrates the nature of the violence. It is important to be very clear here: to use the term 'domestic violence' is not to suggest that it is merely a private matter between husbands and wives. It is a public problem that takes place in domestic space. According to Dobash and Dobash, two main issues are at stake: (a) the varying terms above reflect different conceptions of intimate relationships between men and women, with some terms reflecting the idea of formal marriage, while others encompass a long-term intimate relationship without the official sanction of marriage; and (b) the terms reflect different conceptions of the phenomenon, such as male violence, mutual violence, or female violence. Both of these issues have been the subject of considerable debate whenever the problem was rediscovered, described, and named. While the term 'wife abuse' offers a clear image of men's violence against

⁶ Brook, Heather, "Stalemate: Rethinking the Politics of Marriage", *Feminist Theory*, Vol. 3, Number 1, 2002, p. 48

a female partner, it also contains notions of formal marriage as a necessary condition of concern and attention. By contrast, the term 'domestic violence' includes the idea of state and non-state sanctioned relationships, but tends to ignore the conception of gender asymmetry in the perpetration of the violence. For reasons of popular usage rather than resolution of these debates, the term 'domestic violence' has become the accepted term in common usage throughout most of the world.

Domestic violence can be defined as a form of antisocial behaviour, which occurs when a family member or ex-partner attempts to physically or psychologically dominate or harm the other. It can also be understood as physical, sexual, economic, or psychological abuse directed toward one's spouse, partner, or other family members.⁷ Research indicates that domestic violence has physical, emotional, and psychological consequences for women. Physical injuries include injuries from being beaten, chronic pelvic pain, frequent vaginal and urinary tract infections, and sexually transmitted diseases from sexual violence, and other health concerns. Psychological illnesses include depression, suicidal tendencies, and Post-Traumatic Stress Disorder.⁸ As Lisa Hajjar notes, it "has been one of the principal causes of female injury in almost every country in the world."⁹ In addition, domestic violence affects more than just the individual victim; it is a

⁷ Makahamadze, Tompson, Isacco, Anthony, and Chireshe, Excellent, "Examining the Perceptions of Zimbabwean Women about the Domestic Violence Act", *Journal of Interpersonal Violence*, Volume 27, Number 4, 2012, p. 707

⁸ *Ibid.*, p. 707

⁹ Hajjar, Lisa, "Religion, State Power, and Domestic Violence in Muslim Societies: A Framework for Comparative Analysis", *Law & Social Inquiry*, Volume 29, No. 1, Winter, 2004, p.8

public safety issue that affects all of society.¹⁰ “It impacts on everyone: children, neighbours, extended family, the workplace, hospital emergency rooms, good Samaritans who are killed while trying to intervene, and the death row inmates who cite it as a reason not to be killed.”¹¹ Globally, nationally, and locally, domestic violence as a form of violence against women is an endemic social problem, and is now also recognised as a human rights issue.¹²

One of the problems of domestic violence is that exact statistical figures on the extent of domestic violence remain hard to capture. This is not least because of the hidden nature of much violence against women (and the culture of silence that surrounds them).¹³ According to Hajjar, in “Religion, State Power, and Domestic Violence in Muslim Societies: A Framework for Comparative Analysis”, domestic violence is also a hidden problem because of the dearth of reliable information. The reasons for this include: the inability or disinclination of victims to report the violence; the refusal or failure of authorities to document it or make reports publicly available; and official and/or social acceptance of certain forms and degrees of intra-family violence.¹⁴

In Muslim societies in the Middle East, Africa, and Asia, available data about domestic violence is extremely limited and uneven. For some countries, there is virtually no statistical data. Most of the existing information about domestic violence comes from local and international organizations, including

¹⁰ Wills, Donna, “Domestic Violence: the Case for Aggressive Prosecution”, *UCLA Women's Law Journal*, Vol. 7, 1996-1997, p. 173

¹¹ *Ibid.*, p.174

¹² Lombard and McMillan, *Op. Cit.*, p.10

¹³ *Ibid.*, p.10

¹⁴ Hajjar, *Op. Cit.*, p. 8

women's and human rights organizations, and certain bodies of the United Nations with mandates that focus on or include women's rights. It is the very intimacy of domestic space and relationships that makes such violence difficult to study and document. Moreover, it is the importance of the family in every society that makes the formulation of effective strategies to protect women from abuse so controversial.¹⁵

According to Dale Bagshaw and Donna Chung, the extent to which a problem such as domestic violence exists in the community will never be accurately known, given the social sanctions preventing the open discussion of the issue and the various ways the problem is manifested. However, for the purposes of government policy and intervention, estimates of social problems must be undertaken.¹⁶ Therefore, according to Lombard and McMillan, lifetime prevalence rates tend to offer us the most reliable indicator of the extent of the problem, and these suggest one in four women will experience domestic abuse in her lifetime and between one in five and one in seven women will be raped or sexually assaulted.¹⁷

According to Julia Babcock et al., prior to the 1980s, little attention was paid to domestic violence intervention. Issues of 'family privacy' versus societal 'best interests' were paramount; domestic violence was sometimes thought best

¹⁵ Hajjar, *Ibid.*, p.8

¹⁶ Bagshaw, Dale, and Chung, Donna, "Gender Politics and Research: Male and Female Violence in Intimate Relationships", *Women Against Violence*, Issue: Eight, July 2000, p.4

¹⁷ Lombard and McMillan, *Op. Cit.*, p.10

‘left behind drawn curtains’¹⁸ In addition, women were reluctant to report the domestic violence that they experienced. This is because, according to Lori Heise et al., regardless of the definition used, all surveys are likely to underestimate the level of abuse in intimate relationships. Women are frequently reluctant to disclose abuse because of feelings of self-blame, shame, loyalty to the abuser, or fear. Moreover, women in many cultures are socialised to accept physical and emotional chastisement as part of the husband’s marital prerogative, making them less likely to self-identify as abused. Researchers agree that the tendency among women is to minimise, rather than to inflate, incidents of abuse.¹⁹ Hence, the invisibility of violence against women has been long-standing.²⁰ In Indonesia, which is predominantly Muslim, the notion of respect and family honour makes domestic violence invisible, and some men use ‘Islamic teachings’ to justify their violence.²¹ However, this case is not exclusive to Indonesia, other Asian countries such as the Philippines and India, which are predominantly Catholic and Hindus face the similar problems. Religion is often used as a pretext for violence. However, according to Mohamad and Wieringa, patriarchal gender norms are the key factor in the prevalence of domestic violence globally.²² The insistence on ‘harmonious Asian families’ produces gendered expectations especially with respect to women’s behaviour. “All over Asia, women are stereotyped as either

¹⁸ Babcock, Julia C., Green, Charles E., Robie, Chet, “Does batterers treatment work? A meta-analytic review of domestic violence treatment”, *Clinical Psychology Review*, 23, 2004, p. 1024

¹⁹ Heise, Lori L, Raikes, Alanagh, Watts, Charlotte H, Zwi, Anthony B., “Violence Against Women: A Neglected Public Health Issue in Less Developed Countries,” *Social Science Medicine*, Vol. 39. No. 9, 1994, pp. 1167

²⁰ Lombard and McMillan, *Op. Cit.*, p. 236

²¹ Aisyah, Siti, *Rereading of Qur’anic Understanding on Domestic Violence*, Lambert Academic Publishing, Germany, 2012.

²² Mohamad, Maznah, and Wieringa, Saskia E., *Family Ambiguity and Domestic Violence in Asia*, Sussex Academic Press, Eastbourne, 2013, p. 20

naturally or religiously ordained to be subservient, dutiful, passive and demure.”²³

This leads to the subordination of women, and the trivialisation and justification of domestic violence.

According to Marianne Hester, the criminalisation of domestic violence, so that it is seen as a crime like any other, has been especially important in symbolising the shift from domestic violence being perceived as merely a ‘private’ problem to it being seen as an issue of public concern.²⁴ The effort began in the 1970s. Hajjar writes:

In the 1970s, women's rights activists in many Western societies began pursuing an agenda (generally successfully) of bringing criminal law to bear on intra-family violence. One outcome was to open up the private sphere to increased state intervention, at least in principle, by establishing prohibitions and punishments for violence between family members. Criminalisation undermines the ability of perpetrators to claim that what they do at home is private. The model of criminalising domestic violence has become a popular goal in other parts of the world.²⁵

In the southern hemisphere, in countries such as Brazil, Argentina and Chile, the issue of domestic violence has emerged in the context of increased organising by women, either as part of national democratic movements or international development projects, urban community struggles, or emerging feminist movements. In those countries, the women’s movements have their roots in women organizing against military/authoritarian regimes. As women came together to protest state repression, they began to analyse gender oppression in their own lives. In South Africa, women participating in the national democratic

²³ Wieringa, Saskia E., and Mohamad, Maznah., *Ibid*, p. 20

²⁴ Hester, Marianne, “The Three Planet Model: Towards an Understanding of Contradictions in Approaches to Women and Children’s Safety in Contexts of Domestic Violence”, in Nancy Lombard and Lesley McMillan, *Violence Against Women; Current Theory and Practice in Domestic Abuse, Sexual Violence and Exploitation*, Jessica Kingsley Publishers, London and Philadelphia, 2013, p. 39

²⁵ Hajjar, *Op. Cit.*, p. 9

struggle ensured that gender issues were placed on the political agenda. In India, several notorious rape cases in 1979 focused public attention on women's plight and galvanised the nascent women's movement to press for new legislation to address sexual violence and dowry harassment. Elsewhere, a focus on violence emerged, in part, within the context of the UN Decade for Women that focused attention on the role of women in international development. For the first time, international funding became available to support women-focused non-governmental organisations (NGOs). Pre-existing women's organisations, as well as new ones, were able to use the 'legitimacy' conferred by the Decade to deepen their analysis of gender framing the social context of their lives.²⁶

According to Hajjar, in the 1980s, women's organisations around the world began campaigning for international recognition of domestic violence as a human rights violation, and lobbying for legal sanctions and prohibition. In the 1990s, domestic violence became a major issue in a global campaign to end violence against women, part of a larger ongoing effort to promote women's rights as human rights.²⁷

The global campaign against domestic violence seeks to redress the abuses that women suffer in the home. It builds on earlier efforts to extend international law into the private sphere to address needs and vulnerabilities unique to women. A major breakthrough was the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which was adopted by the United Nations General Assembly in 1979 and came into force in 1981. CEDAW, which

²⁶ Heise et al., *Op. Cit.*, pp.1170-1172

²⁷ Hajjar, *Op. Cit.*, p.12

is often described as the international bill of rights for women, clearly establishes the 'indivisibility' of women's rights in public and private life, and brings violations by individuals within the purview of the international law, making states responsible for the actions of private parties (Article 2). While CEDAW recognises the importance of culture and tradition in shaping gender and family relations, it imposes on states the obligation to take 'all appropriate measures' to modify social and cultural patterns of conduct that are discriminatory or harmful toward women.²⁸

However, CEDAW does not explicitly identify violence against women as a human rights violation. Thus, a campaign was mounted to rectify this gap. The UN responded to this campaign by adopting the Declaration on the Elimination of Violence against Women in 1993 and, in 1994, appointing Radhika Coomaraswamy as the first Special Rapporteur on Violence against Women. In 1995, the Beijing Platform for Action (issued at the conclusion of the Fourth World Conference on Women) included an affirmation of the need to combat domestic violence. More than any previous initiative, the Beijing platform articulates a clear set of factors that perpetuate domestic violence, which:

derives essentially from cultural patterns, in particular the harmful effects of certain traditional or customary practices and all acts of extremism linked to race, sex, language or religion that perpetuate the lower status accorded to women in the family, the workplace, the community and society.²⁹

²⁸ Hajjar, *Ibid*, p.13

²⁹ UN Women, *The United Nations Fourth World Conference on Women*, available online: <http://www.un.org/womenwatch/daw/beijing/platform/violence.htm> (last viewed 11 August 2017)

Increased attention over the last four decades has resulted in violence against women no longer being as 'hidden' or 'invisible' as it once was.³⁰ Many countries have been working to eliminate domestic violence, including Muslim-majority countries. While CEDAW recognises the importance of culture and tradition in shaping gender and family relations, it imposes on states the obligation to take 'all appropriate measures' to modify social and cultural patterns of conduct that are discriminatory or harmful toward women, including the interpretation of Islamic teachings.

The awareness of the detrimental impacts of domestic violence on women and children, and the pressure to comply with international law, has led governments in some countries to implement programs to address domestic violence. Also, it has resulted in some governments funding community action and research, as well as changes to public policy and law enforcement.³¹

Domestic violence has been criminalised in several Muslim countries. It has also been criminalised in South Asian countries such as Pakistan through its *Domestic Violence Act (Prevention and Protection)* of 2012, and in Southeast Asian countries such as Malaysia through the *Domestic Violence Act 1994 (ACT 521)*. In Central Asia, according to Yvonne Corcoran-Nantes, domestic violence is considered a serious issue.³² However, only Kazakhstan has issued a law on the

³⁰ Babcock et al., *Op. Cit.*, p. 1024

³¹ Stover, Carla Smith, "Domestic Violence Research: What Have We Learned and Where Do We Go From Here?," *Journal of Interpersonal Violence*, Vol. 20, No. 4, 2005, p. 450

³² Corcoran-Nantes, Yvonne, *Lost Voices: Central Asian Women Confronting Transition*, Zed Books, London, 2005, pp. 153

prevention of domestic violence,³³ while Uzbekistan has not yet enacted any regulation of it, and settles domestic violence cases primarily through the traditional conciliation procedures of the *Mahalla*.³⁴ Kyrgyzstan signed its Bill on 17 April 2017, but some provisions will not take effect until 1 January 2018.³⁵ In some Middle Eastern countries, domestic violence laws are still absent, such as in Iran, Iraq, Kuwait, and Qatar.³⁶ In Indonesia, after a series of heated debates and demonstrations, domestic violence has been criminalised through Law Number 23, 2004, on the Elimination of Domestic Violence (the DV Law), which is discussed in Chapter Three.

Criminalisation of domestic violence marks new hope for women to fight for their rights. However, bringing domestic violence into the public sphere and criminalising it is not the definitive answer to the problem of domestic violence. There are several questions that are subject to debate among scholars, feminists, and social workers, including whether the perpetrator should entail rehabilitation or incarceration. Should domestic violence be brought to the state justice system or to non-state (local) justice system? Does no-drop prosecution policy violate woman victims' agency? Are victims of domestic violence treated well in the

³³ Legislation Online, *Law Of The Republic Of Kazakhstan 'On Prevention of Domestic Violence'*, available online: <http://legislationline.org/documents/action/popup/id/16323> (last viewed 31 July)

³⁴ Abdulloeva, Dillorom, "Domestic Violence in Uzbekistan: Can It Ever Be Stopped?", *Registan*, 20 January 2014. Available online: <http://registan.net/2014/01/20/domestic-violence-in-uzbekistan-can-it-ever-be-stopped/> (last viewed 31 July 2017). For more information about *Mahalla*, see: Corcoran-Nantes, *Op. Cit.*, p. 154-156

³⁵ Human Rights Watch, *Kyrgyzstan: New Domestic Violence Law*, 10 May 2017. Available Online: <https://www.hrw.org/news/2017/05/10/kyrgyzstan-new-domestic-violence-law> (last viewed: 31 July 2107)

³⁶ Sawe, Benjamin Elisha, "Nations without Domestic Violence Regulation", *the World Atlas*, 15 March 2017. Available online: <http://www.worldatlas.com/articles/nations-without-domestic-violence-regulation.html> (last viewed 31 July 2017)

services provided? Do intervention schemes work effectively to eliminate domestic violence?

There is a notion that all cases of domestic violence should be processed through the courts. Advocates of this position argue that the symbolic power of the law, coupled with arrest, prosecution, conviction, and punishment, is a process that not only conveys the clear condemnation of society for the abuser's conduct, but also allocates responsibility for the violence to the perpetrator.³⁷

In the United States of America, a 'no-drop' prosecution policy for domestic violence cases has been in place since the 1980s, starting in San Diego, and providing a model for some other cities. The 'no drop' policy means the case will be processed and the perpetrator prosecuted without any opportunity for the victim to drop the case. According to Andrea J. Nichols, "[n]o-drop prosecution policies do not allow prosecutors to dismiss charges; rather, prosecutors are required to follow through with prosecution and actively involve victims' cooperation."³⁸ Angela Corsilles, in "No-Drop Policies in the Prosecution of Domestic Violence Cases: Guarantee to Action or Dangerous Solution?," notes that:

[g]enerally defined, a no-drop policy denies the victim of domestic violence the option of freely withdrawing a complaint once formal charges have been filed. In turn, the policy limits the prosecutor's discretion to drop a case solely because the victim is unwilling to cooperate.³⁹

³⁷ Hajjar, *Op. Cit.*, p. 9

³⁸ Nichols, Andrea J., "No-Drop Prosecution in Domestic Violence Cases: Survivor-Defined and Social Change Approaches to Victim Advocacy," *Journal of Interpersonal Violence*, Vol. 19, iss. 11, 2014, p. 2116

³⁹ Corsilles, Angela, "No-Drop Policies in the Prosecution of Domestic Violence Cases: Guarantee to Action or Dangerous Solution?," *Fordham Law Rev*, Vol. 63, 1994-1995, p. 856

According to Donna Wills, in “Domestic Violence: The Case for Aggressive Prosecution,” the ‘no drop’ policy means prosecutors refuse to allow perpetrators to control the system of justice through their victims.⁴⁰ Supporters of ‘no drop’ policies argue that they empower victims by giving them discretion to prosecute, or even to threaten to prosecute. In actuality, however, the policy also empowers abusers to further manipulate the victims and endanger their lives, the children’s lives, and the safety and well-being of the entire community. By proceeding with the prosecution with or without the victim’s cooperation, the prosecutor minimises the victim’s value to the perpetrator as an ally to defeat criminal prosecution.⁴¹ Wills explains further that abusers are ‘master manipulators.’ They will do anything to convince their victims to get the prosecution to drop the charges. They call from jail threatening retaliation. They cajole their victim with promises of reform. They remind her that they may lose their jobs and, hence, the family income. They send love letters, pledging future bliss and happiness. They have their families turn off the victim’s electricity and threaten to kick the victim and her children out into the street. They pay the victim to leave town so that she will not be subpoenaed. They use communal property to pay for an expensive lawyer, and try to convince jurors that the whole incident was the victim’s fault because *she* attacked *him*. They prey on the victim’s weaknesses, especially if drug and alcohol abuse or physical and mental disabilities are present, and on her love for their children. They negotiate financial and property incentives that can cause acute memories of terror and pain to fade dramatically. Prosecutors watch with

⁴⁰ Wills, Donna, “Domestic Violence: the Case for Aggressive Prosecution”, *UCLA Women’s Law Journal*, Vol. 7, 1996-1997, p. 180

⁴¹ Wills, *Ibid.*, p. 180

practiced patience as vulnerable women succumb to their abusers' intimidation and manipulation. Then, by using creative legal manoeuvring, 'no drop' prosecutors try to hold the perpetrators of violence responsible to counteract victims' lack of cooperation.⁴² San Diego, California, is regarded "not only the first place to try no-drop, but widely respected as being the most successful no-drop site"⁴³ in 2000, where the prosecutors dismissed only 3 percent of domestic violence cases, followed by Klamath Falls, Oregon, with 9 percent and Everett, Washington, with 24 percent.⁴⁴

There are some critiques of the 'no drop' policy. According to Corsilles, the 'no drop' policy needs to be evaluated to understand the reasons of non-cooperation by victims.⁴⁵ Similarly, Eve Buzawa and Aaron Buzawa, in "Courting Domestic Violence Victims: A Tale of Two Cities," suggest that the emphasis on the perpetrator by such prosecution schemes tends to ignore women's choices in addressing the violence, as jailing the perpetrator can break down the relationship between victims and perpetrator.⁴⁶

In Indonesia, in most cases, prosecution leads to divorce and the separation of the family. Therefore, some women do not go to the police or the courts, because not only do they not know about the services available, but also they are concerned that the courts will only make things worse. Fear of losing

⁴² Wills, *Ibid.*, p.179

⁴³ Communicating with Prisoners, "Prosecuting Domestic Violence for Mass Incarceration of Men," available online: <http://www.acrosswalls.org/no-drop-domestic-violence-prosecution/> (last viewed: 07 October 2017)

⁴⁴ Communicating with Prisoners, *Ibid.*

⁴⁵ Corsilles, *Op. Cit.*, p.857

⁴⁶ Buzawa, Eve S., and Buzawa, Aaron D., "Courting Domestic Violence Victims: A Tale of Two Cities", *Criminology & Public Policy*, Volume 7, Number 4, 2008, p. 681

family income and the impact on the future of the children results in some women dropping their cases, or using other strategies such as the ‘elastic band strategy,’ a strategy by women to be ‘kind’ to their abusive husbands, while, at the same time, seeking internal support from family and relatives, and external support such as from elders, imams, and counsellors in a service centre.⁴⁷

However, Buzawa and Buzawa also concede that not all offenders can be rehabilitated. They argue that research has identified a subset of perpetrators, which includes those that are *generally* violent and accounts for the most severe injuries. They are not likely to be rehabilitated, at least within current treatment parameters. These offenders pose a threat to intimates as well as to the public. Therefore, an alternative would be to use no drop policies to target high-risk offenders. To do so effectively, the information systems need to be sufficiently robust for police to identify high-risk abusers and immediately develop evidence sufficient to sustain a conviction independent of victim cooperation. In such cases, victim services need to be involved immediately because this subset of victims and their children are at elevated risk.⁴⁸

Buzawa and Buzawa also suggest that prosecutors consider whether potential charges can be brought based on the offender’s cumulative criminal history. In turn, judges need to be educated that when they have a serious repeat offender, typical domestic violence treatment programs are not likely to be effective, and prolonged incarceration followed by intensive supervision may be

⁴⁷ Hayati, Elli Nur, et al., “Elastic band strategy: women’s lived experiences of coping with domestic violence in rural Indonesia”, *Global Health Action*, Volume 6, Issue 1, 2013, available online: <http://dx.doi.org/10.3402/gha.v6i0.18894> (last viewed: 08 October 2017)

⁴⁸ Buzawa and Buzawa, *Op. Cit.*, p. 681

the only way to effectively protect the victims. Such a process would refocus limited resources—even to the extent of advocating mandatory prosecution through conviction, but only for the charge of chronic, repeat offenders—on a small subsection of the population of abusers.⁴⁹ Buzawa and Buzawa contend that the criminal justice system is not properly structured to focus on the stated interests or obvious needs of victims, but instead, focuses on ‘punishing’ or (hopefully) rehabilitating offenders. Therefore, they suggest that eliminating traditional boundaries to the provision of victim services and responding more directly to their needs might best serve them and society as a whole.⁵⁰

Similarly, Hester states that the criminal justice approach deals only with a minority of domestic violence cases, and is focused on individual (mostly physically violent) incidents. Such an approach is, therefore, unable to adequately address or reflect the reality of domestic violence: that is, ongoing coercive controlling behaviours by the perpetrator.⁵¹ Therefore, some out-of-court efforts need to be adopted including transforming the cultural beliefs that lead to violent, coercive and controlling behaviour. In Central Java, cultural beliefs, especially religious beliefs, need to be understood before deciding what kinds of intervention to make. For example, initiatives have been put in place by NGOs such as Rifka Annisa,⁵² in Yogyakarta Province, Indonesia for the rehabilitation of offenders.

⁴⁹ Buzawa and Buzawa, *Ibid.*, p. 682

⁵⁰ Buzawa and Buzawa, *Ibid.*, p. 682

⁵¹ Hester, *Op. Cit.*, p. 39

⁵² Rifka Annisa, Arabic words means “Loving women.” Some NGOs that advocate women’s rights name themselves with Arabic words such as Rahimna (Our womb) and Amal Hayati (My life activity) to negotiate with the view spread by conservative Muslims that the idea and advocacy of women’s rights come from the West.

According to Hajjar, the issues associated with women's rights in the context of family relations constitute the quintessential challenge to the 'universality' of human rights.⁵³ The international campaign against domestic violence has heightened and focused concern about the rights of women in their relations with family members who are supposed to protect them from domestic violence. The resultant legal and policy initiatives have clarified state responsibilities, but has also increased the pressure on countries to bring their own legal regimes into conformity with international law to provide women's rights and protect women from violence. However, the success of this international campaign has generated criticism and reprisals that counter efforts to empower women and endow them with enforceable rights within the family.⁵⁴ For example, in many developing countries, critics of international human rights law have seized upon the emphasis on individuals as rights-bearing subjects, charging that these are inherently Western values, and thus alien to societies that prioritise collective relations and mutual duties rather than competitive individualised rights claims.⁵⁵

In societies where resistance to women's rights is expressed as a defense of social traditions or religious beliefs, women's rights activists have been challenged to cultivate a strong distinction between cultural practices and violence against women. Disrupting tacit tolerance for practices that constitute domestic violence requires efforts to make such practices visible *as* violence, to delegitimise justifications for the use of violence by bringing culturally relevant arguments to

⁵³ Hajjar, *Op. Cit.*, p.14

⁵⁴ Hajjar, *Ibid.*, p. 14

⁵⁵ Hajjar, *Ibid.*, p.14

bear in the defence of women's safety and well-being, and to challenge laws, jurisprudence and ideologies that construe such practices as vital to the greater good of society.⁵⁶ In Indonesia, where religious beliefs are strongly held by society, reinterpretations of some religious teachings that are male-biased and discriminate against women need to be undertaken.⁵⁷

Hajjar's views are in line with Philippa Venning's findings in her research on domestic violence in Indonesia, "Marrying Contested Approaches: Domestic Violence Case Resolution in Indonesia". Venning argues that despite the focus of legal empowerment programs on increasing women's autonomy and finding creative solutions to legal problems, there is increasing pressure on women victims of violence to use the state criminal justice system to resolve domestic violence, and this is justified by international human rights principles. This pressure impedes empowerment programs and fails to recognise the capacity of local communities to apply and adapt international principles to their local context.⁵⁸ Venning writes:

imposing the view that domestic violence cases should be handled through the state criminal justice system... may be detrimental to individual victims of violence as their choice and views on how to resolve the problem are discounted and may result in communities rejecting international principles for being foreign imports and inappropriate for local conditions. ..This imposition also fails to appreciate the capacity of local communities to apply and adapt international principles to the local context as appropriate.⁵⁹

⁵⁶ Hajjar, *Ibid.*, p. 15

⁵⁷ Munir, Lily Zakiah, "Domestic Violence in Indonesia", *Muslim World Journal of Human Rights*, Volume 2, Issue 1, 2005, p. 2

⁵⁸ Venning, Philippa, "Marrying Contested Approaches: Empowerment and the Imposition of International Principles: Domestic Violence Case Resolution in Indonesia", *Journal of Development Studies*, Vol. 46, No. 3, March 2010, p. 397

⁵⁹ Venning, *Op. Cit.*, p. 399

Venning's point reinforces Radhika Coomarswamy's view that one of the critical issues for policy-making in the criminal justice system is to take into account the cultural, economic and political realities of their countries.⁶⁰

Another view related to domestic violence intermediation approaches comes from Cris Sullivan and Deborah Bybee. In "Reducing Violence Using Community-Based Advocacy for Women with Abusive Partners", they argue that social and community resources to support victims of domestic violence are important. Sullivan and Bybee assert that instead of an offender-centred approach, the emphasis should be on a victim or survivor-centred approach that is developed by the community. They note the effectiveness of social support and community resources in enabling women to successfully escape intimate partner violence. The resources needed by women with abusive partners include proper medical attention, affordable safe housing, and help from social service agencies.⁶¹

Based on their research in the USA with respondents from a range of cultural backgrounds (African American, Asian American, Latina, Arab American and Native American) in a domestic violence shelter in the Midwest, Sullivan and Bybee identified three elements of intervention that serve to protect women from further abuse and increase their quality of life:

First, the participant, not the advocate, guided the direction of the intervention. Second, activities were designed to make the community more responsive to the woman's needs, not to change the survivor's thinking or her belief system. This related to the third supposition, which was the belief that

⁶⁰ Hajjar, *Op. Cit.*, p. 9

⁶¹ Sullivan, Cris M., and Bybee, Deborah I., "Reducing Violence Using Community-Based Advocacy for Women with Abusive Partners", *Journal of Consulting and Clinical Psychology*, Vol. 67, No. 1, 1999, p. 44

survivors were competent adults capable of making sound decisions for themselves.⁶²

In addition, Sullivan and Bybee believe that the success of the community-based program that they researched was due to its core principles: by providing non-judgmental support and active assistance to women, the program sent an important message that at least one segment of the community understood their needs and was available to help. The program also provided valuable information regarding where resources could be located within the community, and how to approach the individuals in control of those resources. By achieving success throughout the intermediation, women were likely to believe they could effectively obtain community resources in the future.⁶³

Similarly, Lombard and McMillan suggest that intervention should engage with services for women, both statutory and non-statutory. Moreover, service interventions should seek to increase women's empowerment and agency, maximise choice and facilitate decision-making. The disempowerment of women is a significant consequence of violence against women and interventions that seek to restore a woman's capacity for free and independent decision-making are likely to be most helpful. This is not to say that all women who experience men's violence are always disempowered; indeed, women's capacity for resistance, agency and survival must be recognised.⁶⁴ Another factor impacting on the success of intervention is that, to be safe and efficient, it must be based in solid

⁶² Sullivan and Bybee, *Op. Cit.*, p. 51

⁶³ Sullivan and Bybee, *Ibid.*, p. 51

⁶⁴ Lombard and McMillan, *Op. Cit.*, p. 239

training located in a theoretical framework that allows an understanding of why such violence and abuse occurs.⁶⁵

Lombard and McMillan's contention is noteworthy, as there have been some cases of re-victimisation of women by service providers. Without proper training in the gendered nature of domestic violence, people providing the services will have inadequate skills for dealing with victims. Intervention in domestic violence, which is different from other forms of violence, cannot be conducted without proper protocols and procedures for how to treat victims. These must be based in an awareness that is gender- and victim-sensitive by all actors directly or indirectly responsible for the intervention. The police need to be sensitive when registering the violence reported by the victim. The judiciary needs to be sensitive when making judicial decisions in domestic violence trials. Doctors offering health services to victims also need to be sensitive, as victims have specific needs which are different from other patients'. Policy-makers making final decisions on policies should also be sensitised to bring about more effective policies to prevent domestic violence. Lombard and McMillan assert that both interventions themselves, and those intervening, need to be free from judgment about cultural preferences, lifestyle choices, family practices, and ways of living. Women who experience violence face enough challenges, without the additional burden of insensitive treatment.⁶⁶

Many individuals, including those involved in service provision, still hold the belief that 'battered women could simply leave if they want to.' This

⁶⁵ Lombard and McMillan, *Ibid.*, p.240

⁶⁶ Lombard and McMillan, *Ibid.*, p. 240

assumption not only ignores the many structural obstacles preventing women from leaving abusive partners, but also ignores the fact that many women do in fact leave their assailants, sometimes only to be beaten even more severely or killed.⁶⁷ This myth also presumes that the one and only option for all women with abusive partners is to leave the relationship, a view that not only ignores the agency of battered women themselves in deciding what is best for them, but also ignores the religious or cultural prescriptions many women face when making relationship decisions.⁶⁸ In addition, Lombard and McMillan suggest that people must be careful not to assume that women's decision not to engage with legal agencies is always because they are unable to do so, or have no personal power to engage; rather, it is important to recognise that their decision may represent resistance and agency and the desire to deal with their situations in their own way.⁶⁹

Unlike Western countries such as Australia where de facto relationships are more acceptable,⁷⁰ in a Muslim-majority country like Indonesia, it is harder for women to leave heterosexual marital relationships, get divorced and live as single women with or without children. This is because structural and cultural conditions can act as obstacles for women, as marriage is a government-and

⁶⁷ Sullivan and Bybee, *Op. Cit.*, p. 43

⁶⁸ Sullivan and Bybee, *Ibid.*, p. 43

⁶⁹ Lombard and McMillan, *Op. Cit.*, p. 239

⁷⁰ Brook, *Op. Cit.*, p. 50

religion-sanctioned institution. This is why “the vast majority of women in Indonesia are married.”⁷¹

In Indonesia, numerous works have been written with respect to domestic violence both in the Indonesian language and in English. Munir (2005), in “Domestic Violence in Indonesia”, found that religious teachings have contributed to discrimination against women and domestic violence, and hence, reinterpretation is a necessity to create more equal gender relations.⁷² Linda R. Bennett et al. (2011), in “Domestic Violence in Nusa Tenggara Barat, Indonesia: Married Women's Definitions and Experiences of Violence in the Home,” explore married Muslim women’s definitions of domestic violence in Nusa Tenggara Barat (NTB) Province. Bennett et al. found that ‘violence in the home,’ or domestic violence, is the most prevalent form of gender-based violence among Muslim women in Nusa Tenggara Barat (NTB) Province. Through a social dialogue technique, Bennet et al. also found that Muslim women in NTB perceive infidelity, threats to hurt someone in the family, verbal abuse, and unwanted sex as domestic violence. These definitions resonate with international human rights definitions.⁷³ In “Behind the silence of harmony: risk factors for physical and sexual violence among women in rural Indonesia,” Elli Nur Hayati et al. examine the influence of socio-demographic factors and men’s psychosocial and behavioural characteristics on physical and sexual violence experienced by

⁷¹ Aisyah, Siti, and Parker, Lyn, “Problematic Conjugations: Women’s Agency, Marriage, and Domestic Violence in Indonesia”, *Asian Studies Review*, Vol. 38, No. 2, 2014, p. 206

⁷² Munir, *Op. Cit.*, p. 2

⁷³ Bennett, Linda R., Sutjahjo, Sari Andajani., and Idrus, Nurul I., “Domestic Violence in Nusa Tenggara Barat, Indonesia: Married Women's Definitions and Experiences of Violence in the Home”, *The Asia Pacific Journal of Anthropology*, Vol. 12, Number 2, 2011, p. 146-163

women in rural Java. They find that Javanese women live with a high degree of gender-based subordination within marital relationships, maintained and reinforced through physical and sexual violence. They suggest that women's risk of physical and sexual abuse is related to traditional gender norms.⁷⁴ Furthermore, Hayati et al. examined how women in Purworejo, a district in Central Java, cope with the domestic violence they experience. One of the strategies is the 'elastic band strategy,' in which women are 'kind' to the perpetrators while seeking help from internal (family) supports, and external agencies such as police and service centres.⁷⁵ Siti Aisyah and Lyn Parker, in "Problematic Conjugations: Women's Agency, Marriage and Domestic Violence in Indonesia," is a valuable source to understand domestic violence in Indonesia. Similar to Bennet et al., Aisyah and Parker find that most domestic violence occurs within marriage, and wives constitute the largest group of victims.⁷⁶ In addition, they argue that women's agency and the expression of agency in a marital relationship can be a catalyst of domestic violence. Although the focus of the fieldwork research is Makassar, the capital city of South Sulawesi Province, it is still relevant to domestic violence in Central Java Province, as the vast majority of citizens of both provinces are Muslims and the institution of marriage in all provinces is regulated by the same set of laws. These studies provide valuable information to comprehend how domestic violence in Indonesia is produced.

⁷⁴ Hayati, Elli N, et al., "Behind the Silence of Harmony: Risk Actors for Physical and Sexual Violence among Women in Rural Indonesia", *BMC Women's Health*, Volume 11, Issue 52, 2011, p. 6, available online: <https://bmcwomenshealth.biomedcentral.com/articles/10.1186/1472-6874-11-52> (viewed: 6 November 2017)

⁷⁵ Hayati et al, 2013, *Op. Cit.*, p. 5

⁷⁶ Aisyah and Parker, *Op. Cit.*, p. 206

Very little has been written on the evaluation of intervention or support and advocacy services for victims of domestic violence in Indonesia, especially in the English language. According to Carla Smith Stover (2005), in “Domestic Violence Research: What We Have Learned and Where Do We Go from Here?”, while research into domestic violence has grown steadily in recent decades, most research has focused on the *nature* of domestic violence, its forms, causes, and effects on women and children. Few studies conduct evaluations of the interventions made by the government or non-government agencies.⁷⁷

One of the works concerning interventions into domestic violence in Indonesia is the work of Siti Aisyah, who carried out a study of domestic violence in Makassar, South Sulawesi. In *Rereading of Qur’anic Understanding on Domestic Violence*, she wrote a chapter discussing interventions to address the problem of domestic violence.⁷⁸ However, Aisyah does not discuss service delivery or outcomes, whether from the perspective of service providers or victims of domestic violence. Venning also examines state intervention on domestic violence, finding that Indonesia tends to focus on legal aspects, but ignores local aspects such as local culture and wisdom.⁷⁹ The work of Fatahillah Abdul Syukur and Dale Margaret Bagshaw focuses on dispute resolution services provided by the Religious Court to settle family violence issues. In “When Home Is No Longer “Sweet”: Family Violence and Sharia Court–Annexed Mediation in Indonesia,” Syukur and Bagshaw argue that mandatory mediation by the Religious Court, known as court-annexed mediation, has the potential to be a

⁷⁷ Stover, *Op. Cit.*, p. 450

⁷⁸ Aisyah, *Op. Cit.*, p. 165-192

⁷⁹ Venning, *Op. Cit.*, p. 397

champion of Indonesian legal reform, because it has similar characteristics to *musyawarah* (negotiation), settling disputes in an amicable way. This could include domestic violence cases.⁸⁰ However, this may be difficult to achieve, as the judges who choose mediation as a way to settle individual legal disputes often lack the skills and knowledge to conduct mediation. In the Indonesian context, where domestic violence is culturally invisible, and not all victims want to solve their cases through the court system, mediation offers an alternative resolution process. In addition to court-annexed mediation, some services for victims of domestic violence in Central Java also offer free community-based mediation services. However, due to lack of skills and knowledge, mediation can disadvantage the victim, especially if the perpetrator enjoys high status in society, or where the power of the parties is asymmetrical. Syukur and Bagshaw's study forms the basis for my analysis of how women in Central Java settle disputes in the area of family law, especially in negotiating divorce, custody, and property settlements arising from domestic violence.

The study that forms the basis of this thesis explores the effectiveness of particular interventions by the Indonesian Government in domestic violence by examining why victims of domestic violence seek help, to evaluate what form of service they receive, and how it meets their needs. It also explores NGOs' and grassroots organisations' perceptions of existing services.

⁸⁰ Syukur, Fatahillah Abdul, and Bagshaw, Dale Margaret., "When Home Is No Longer 'Sweet': Family Violence and Sharia Court-Annexed Mediation in Indonesia", *Conflict Resolution Quarterly*, Vol. 30, No. 3, Spring 2013, p. 290

The Indonesian Government has demonstrated concern about violence toward women. It ratified CEDAW in 1984, and through implementing the Law number 7, 1984, it is obligated to respect, protect, and fulfil the rights of women victims of violence, victims of human trafficking, victims of sexual exploitation, and victims of all forms of discrimination against women. In accordance with the law, Indonesia has also issued further regulations for the elimination of violence against women. These include regulation number 23, 2004, on the Elimination of Domestic Violence and regulation number 21, 2007, on the Elimination of the Crime of Trafficking. Moreover, in 1999, Indonesia established a National Commission of Anti-Violence against Women (*Komisi Nasional Anti Kekerasan Terhadap Perempuan*), commonly shortened as the Women's Commission (*Komnas Perempuan*). The commission works to protect women's rights and ensure that efforts taken by governments to eliminate violence against women are implemented throughout the country. As of August 2011, at least 400 PPTs had been established at the national, provincial and district level throughout Indonesia.⁸¹

The Indonesian government has made efforts to eliminate violence against women through schemes such as the Gender Mainstreaming Program. On the Instruction of the President of Indonesia, number 9, 2000, the Gender Mainstreaming Program was authorised and assigned to 28 ministries within the Indonesian government. This aims to realise gender equality and ensure women *and* men equally benefit from the inclusion of a gender perspective in the

⁸¹ Women's Commission (*Komnas Perempuan*), Annual Report (*Catatan Tahunan*), 2011.

development processes carried out by the ministries, from planning, implementation, monitoring and evaluation of policies and programs. Yet, despite these efforts, violence against women increases annually. According to the report of the Women's Commission, in 2012 there were 216,000 cases of violence against women.⁸² The number increased to 279,000 cases in 2013,⁸³ and 293,000 cases in 2014.⁸⁴ Hence, an investigation of existing policy, programs and services is both relevant and necessary.

The focus of this thesis is Central Java Province. It is a province on the island of Java, located in between West Java and East Java Province. Java is one of the main islands of Indonesia, home to more than 86 percent of Indonesia's population. The capital city of Indonesia, Jakarta, is located in Java, which compared to the other islands has better overall infrastructure. Java Island is divided into six provinces: the special province of Jakarta, Banten, West Java, Central Java, East Java and the special province of Yogyakarta. Of importance here is that Central Java province has been a pioneer in domestic violence services, establishing a service centre for victims in 2003, a year before the enactment of the DV Law. Moreover, Central Java has received an award of public service for eliminating violence against women (*Anugerah Parahita Ekapraya*) for nine consecutive years from 2005 to 2013.⁸⁵ Despite this, domestic violence remains high.

⁸² Women's Commission (*Komnas Perempuan*), Annual Report (*Catatan Tahunan*), 2013

⁸³ Women's Commission (*Komnas Perempuan*), Annual Report (*Catatan Tahunan*), 2014

⁸⁴ Women's Commission (*Komnas Perempuan*), Annual Report (*Catatan Tahunan*), 2015

⁸⁵ Wawasan (Daily Newspaper), "Nine years the Central Java holds the Award (*Sembilan Tahun Jateng Borong Penghargaan*)," 23 December 2013.

Aims of the Thesis

This thesis aims to critically analyse the current policies and programs of the Central Government of Indonesia in addressing domestic violence. Secondly, it evaluates the role of the PPT of Central Java Province and the PPT of the City of Semarang in delivering services for the victims of domestic violence. Third, it identifies the needs and expectations of women victims of domestic violence receiving services provided by Central Java and Semarang PPTs. Fourth, it considers the role of NGOs in the integrated service model in Central Java and Semarang PPTs, the support they offer to victims of domestic violence, and their perception of the services provided by both PPTs. Fifth, it considers the influence of grassroots organisations on PPT services, and analyses how these groups provide their support for victims of domestic violence.

Significance of the Study

The literature on domestic violence in the past two decades has tended to focus on the nature, causes, and effects of domestic violence on women and children. However, little evaluation of particular forms of intervention or support and advocacy services for victims of domestic violence exists in Indonesia, especially in the English language. This thesis enriches the literature on intervention and advocacy in domestic violence, in that it provides an analysis of the institutional development of the Integrated Service Centres for the Victims of Gender-Based Violence and Children in Central Java (PPT). It aims to inform social workers, advocates, health providers and other agencies and institutions involved in policy design with strategies to develop better services for women victims of domestic

violence. It does this by focusing on the perspective of women, the victims of domestic violence. Concomitantly, this research extends the literature on the role of intervention in domestic violence.

Research Methodology

This thesis employs a qualitative analysis to engage in a process of observation and one-to-one interviews, exploring Central Java Government initiatives to address domestic violence through the establishment of Integrated Service Centres (PPT). PPT refers to government-based services for victims of domestic violence. The service centre name uses the word *korban* (which means 'victim' in English) to refer to women who experience domestic violence. For this reason, I use the term 'victim' in this thesis. Moreover, the term 'victim of domestic violence' (*korban kekerasan dalam rumah tangga*) is officially used in the regulatory documents including the DV Law, as well as in formal speeches by government officials. The use of this term conveys a compelling message on the necessity of solving the problem of domestic violence in Indonesia.

After the period of the New Order (1966-1998), Indonesian feminists have fought to change terms that feminised women, by changing the term '*wanita*,' (meaning women), was used in the New Order Era, to the term '*perempuan*' (also meaning women). This is considered by Indonesian feminists to be more empowering for women as '*perempuan*' is absorbed from the sanskrit word '*empu*' (master/*guru*), while '*wanita*' is derived from Javanese words '*wani ditata*' (dare to be managed), which means that a 'good woman' is a woman who

is submissive to her husband.⁸⁶ Their efforts have resulted in the government changing the nomenclature of the Ministry of Women's Empowerment in 2004, from *Pemberdayaan Wanita* to *Pemberdayaan Perempuan*. Both mean 'Women's Empowerment', but *Perempuan* does not reinforce women's subordination. Similarly, the word '*korban*' (victim) sends a similar message, because it does not diminish the problem of domestic violence. This is a significant change as Joan W. Scott argues - language can be a source of gender bias. Feminists need to use poststructuralism theory in their analysis because one of the important analytical tools that feminists have appropriated from structuralism is language, which is 'a central focus of poststructuralist analysis.'⁸⁷

The thesis adopts a case study approach which focuses in two PPTs. The first is the PPT of the Province of Central Java, and the second is the PPT of the City of Semarang. The Central Java PPT was established by the government of the Province, and acts as a referral agency for the thirty-five PPTs of the districts and cities in Central Java. The second PPT is the PPT of the City of Semarang, which is one of thirty-five PPTs within the Province of Central Java. Based on the report of the Women's Commission of Central Java, this PPT received the greatest financial support in 2013, and has the highest number of victims of domestic violence in Central Java.

⁸⁶ Sudarwati and Jupriono, "Betina, Wanita, Perempuan: An analysis of Leksikal-semantic, Historical Semantic, Pragmatic (*Betina, Wanita, Perempuan: Telaah Semantik Leksikal, Semantik Historis, Pragmatik*)," *Journal FSU in the Limelight*, Vol. 5, No. 1, July 1997, available online: <http://www.angelfire.com/journal/fsulimelight/betina.html> (last viewed 30 September 2017)

⁸⁷ Scott, Joan W., "Deconstructing Equality-Versus-Difference: Or, The Uses of Poststructuralist Theory for Feminism", in Hirsch, Marianne and Keller, Evelyn Fox, *Conflict in Feminism*, Routledge, London, 1990, p. 135

A feminist perspective is applied in this study because most victims of domestic violence are women living within a patriarchal culture.⁸⁸ Dobash and Dobash, in *Violence against Wives: A Case Against the Patriarchy*, suggest that domestic violence is a means of men as husbands controlling women as wives.⁸⁹ Domestic violence is overwhelmingly perpetrated by men. Over the past two decades, research into domestic violence has focused upon the predominance of male violence. In Australia, men commit about 91 percent of homicides, 90 percent of assaults, nearly all sexual assaults, and almost all armed and violent robberies. Researchers such as Dobash and Dobash (2001), Daly & Wilson, (1992), Straton (1994), Yllo and Gondolf (1993), amongst many others, have provided evidence for the preponderance of male violence toward women.⁹⁰ In Central Java, in 2012, 402 of 609 (66 per cent) cases of violence against women were domestic violence cases, with the majority of victims (90 percent) being women. Similarly, in 2013, 495 of 627 or 78 per cent of cases were domestic violence cases, and 80 per cent of victims were women.⁹¹ This confirms Aisyah and Parker's argument that, in Indonesia, women comprise the vast majority of victims of domestic violence in marital relationships.⁹² Although men can be victims too, women are the most vulnerable.⁹³

An Interpretive Interactionism approach is also employed in this thesis. This approach relates public issues to personal troubles and the problems of

⁸⁸ Bagshaw and Chung, *Op. Cit.*, p. 12

⁸⁹ Dobash R.E, and Dobash, R, *Violence Against Wives: A Case Against the Patriarchy*, The Free Press, New York, 1979, p. 1-13

⁹⁰ Bagshaw and Chung, *Op. Cit.*, p. 4

⁹¹ Central Java Government, KPK2BGA Report, 2014

⁹² Aisyah and Parker, *Op. Cit.*, p. 206

⁹³ Makahamadze et al., *Op. Cit.*, p. 707

individuals.⁹⁴ This approach is based on a post-positivistic paradigm which is in line with the feminist theory that rejects essentialism. I relate the public or structural issues in PPT services to the individual/personal experiences of women using the PPT. Other public policy issues such as the Domestic Violence Law and the Marriage Law are discussed and related to the personal issues of the victims as these laws affect victims' personal lives as individuals.

The Interpretive Interactionism approach that is adopted in this thesis is Interpretive Evaluation Research,⁹⁵ because this form of research engages with the study of policy-making in its analysis of services for victims of domestic violence. The result of this approach, according to Denzin, is to provide policymakers with pragmatic, action-oriented recommendations for alleviating a problem. This thesis explores the perspectives of those experiencing the problem, that is, women victims of domestic violence in Central Java. This approach sides not with policymakers, but with the service users - the women victims of domestic violence.⁹⁶ However, this does not mean that the point of view of the policymakers cannot be considered, as they may have some criticisms or self-evaluations on the policy they made and its implementation.⁹⁷ The strength of this approach is that it can produce meaningful descriptions and interpretations of social processes. It can explain how certain conditions came into existence and persisted. Moreover, interpretive evaluation research can also provide the basis

⁹⁴ Denzin, Norman K., *Interpretive Interactionism*, Sage Publication, California, 1989, p. 18

⁹⁵ Denzin, *Ibid.*, p.18

⁹⁶ Denzin, *Ibid.*, p. 18

⁹⁷ Denzin, *Ibid.*, p. 22

for practical proposals concerning the improvement or removal of certain programs.⁹⁸

The interpretive approach is ideographic, unique, and biographical. Therefore, the interviews examine women's personal lives, their feelings and emotions. In this way, the *emic*, the inner voice of the interviewees, can be revealed. Every human situation is novel, emergent, and filled with multiple, often conflicting, meanings and interpretations. The interpretivist attempts to capture the core of these meanings and interpretations, by focusing on the language interviewees use, as the languages of ordinary people illuminates their experiences.⁹⁹ The process of interpretation in this approach is shaped by history, power, emotionality, and the beliefs of the people¹⁰⁰ in a certain context.

Data collection methods

The research combines a qualitative approach and a series of one-to-one interviews exploring how the Central Java Government addresses domestic violence through the establishment of domestic violence service centres. Primary data is collected through a series of semi-structured in-depth interviews, conducted with key people in the Indonesian Government (at the Central, Provincial, and City level); PPT staff; victims of domestic violence; NGO and grassroots organisation staff. Participants share their views, experiences, and

⁹⁸ Denzin, *Ibid.*, p. 23

⁹⁹ Denzin, *Ibid.*, p. 25

¹⁰⁰ Denzin, *Ibid.*, p. 25

perceptions of the issues outlined in the interview guides. The interview guide is attached in the appendix of thesis.

A total of 60 interviews was conducted between July and December 2014, shown in the table below.

Research Participants

Type of Respondent	Basis for Recruitment	Number of Respondents
Senior Policy Makers in the Ministry of Women's Empowerment and Child Protection	Policy-makers develop the regulations for the PPT	8
PPT staffs	Who deliver services to victims of domestic violence	28
Victims of domestic violence	Recipients of the services delivered by PPT	12
NGO activists	involved in delivering services to victims and act also as a watchdog for the PPT	6
Grassroots Organisations	involved in delivering services to the victims of domestic violence	6

Interviews with policy-makers in the Ministry of Women's Empowerment and Child Protection at the national, provincial and city level yield information about current policies and programs to address domestic violence. Semi-structured interviews used guides to explore the following areas of inquiry:

- 1) The Ministry's stance on domestic violence, with the aim to understand whether there is national support for eradicating domestic violence, and whether domestic violence is considered a priority issue;
- 2) A history of the policy process of services for victims of domestic violence, in order to understand the processes and policy guiding the establishment of the PPT; and
- 3) The guidelines and protocols of the PPT, to understand how these inform service provision for victims of domestic violence.

PPT staff provided information about the policy and organisational culture of the PPT, its work scheme, and procedures for supervision and quality assessments.

This information forms the basis for the evaluation of the work of the PPT in delivering services to victims of domestic violence. Semi-structured interview questions for the PPT members explored:

- 1) The history of the establishment of the PPT, in order to understand factors and actors in the establishment of the PPT;
- 2) Training and resources, in order to understand how PPT staff get skills and knowledge shaping service provision;
- 3) Networks and alliances of the service, to understand the collaboration and referral process with NGOs and grassroots organisations who also deliver domestic violence service to victims; and
- 4) Perceptions and views of domestic violence, to explore dominant understanding of domestic violence across the wider system of units and agencies working with victims.

Victims of domestic violence were questioned about their needs, expectations, and perceptions of services provided by the PPT. Semi-structured interview questions for victims included the following areas of inquiry:

- 1) Perceptions and views of domestic violence, to get a sense of how personal views about domestic violence reveal wider social attitudes and beliefs about domestic violence;
- 2) The ways that victims cope with the domestic violence they have experienced, which aims to understand their responses to domestic violence, supports network, and the role of PPT plays in those network as a priority or last resort in seeking help;
- 3) Victims' perceptions and views on the services provided by the PPT, to provide a sense of their satisfaction, grievances, and expectations of

services provided by individual units and agencies delivering PPT services.

Interviews with NGOs allied with the PPT provide information about their involvement in the establishment of the PPT and in delivering services to victims of domestic violence. Semi-structured interviews with NGOs explore the following:

- 1) The nature of the collaboration, to understand motives that drive NGOs to liaise with the PPT;
- 2) Funding models for the services they provide to victims, to understand where the NGOs get funding;
- 3) Training and resources to get a sense of the emphasis and importance given to training by NGOs; and
- 4) NGOs' perceptions and views on services provided by the PPT, to understand what criticisms exist and their overall satisfactions with services provided by governmental arms of the PPT.

Interviews with grassroots organisations provide information about the role of religious-based grassroots organisations in PPT services, and how they offer support to victims of domestic violence. Semi-structured interviews with grassroots organisations explored:

- 1) The nature of collaboration, to understand grassroots organisations' motives of involvement in the PPT;
- 2) The emphasis or specification nature of the services provided to victims to understand their standing, uniqueness, and reasons for involvement;
- 3) Funding models for the services provided for victims of domestic violence, to understand where they get funding for the services;
- 4) Training and resources to provide a sense of the emphasis and importance given to training by the organisations; and
- 5) Perceptions and views about services provided by the PPT, which aims to chart what criticisms they offer about the services provided by governmental arms of the PPT.

Further secondary data has been collected from documents relating to the efforts of Indonesian government to eliminate domestic violence and deliver services for victims. These include government regulations at the Central, Provincial and City

government level (see Figure 1 below), case reports, meeting minutes, reports of NGOs and grassroots organisations, and newspaper reports. Political, legal, and media documents provide the background and history to the PPT, actors and serve to identify key factors, trends and changes in the policies and programs of the central and local government to address domestic violence. These documents inform the analysis of the interviews with participants.

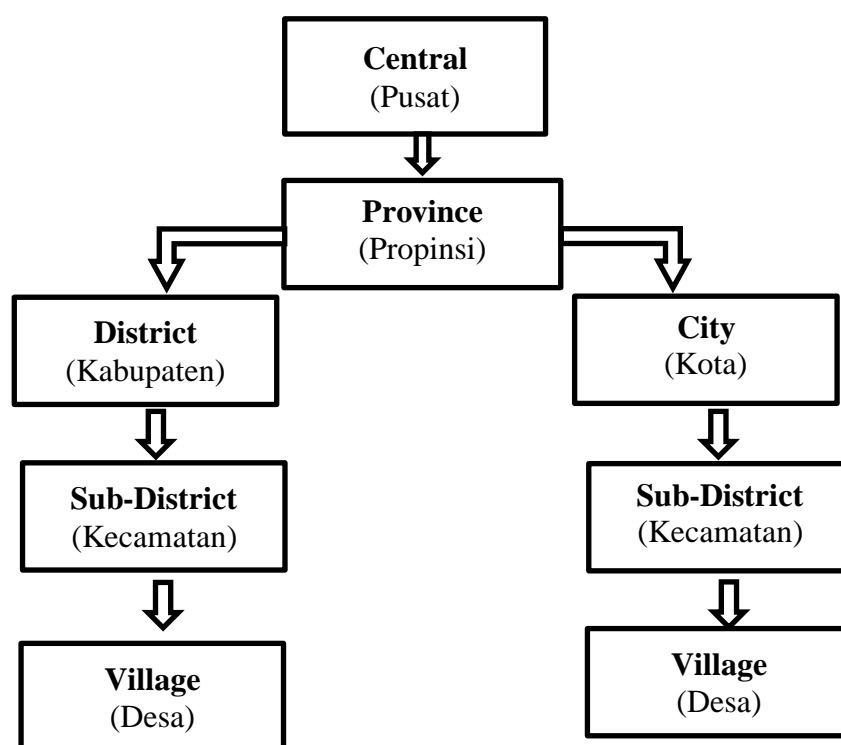


Figure 1: Structure of Indonesian Government based on Law No. 22, 1999.¹⁰¹

¹⁰¹ Districts and city are the same level of government. The distinction is based on whether the government administration is located in a rural area (district) or an urban area (city). Within districts and cities there are sub-districts (*kecamatan*) which are smaller administrative government units. Each sub-district is further divided into villages. Villages in rural areas are called *desa*, while in urban areas they are referred to as *kelurahan*. See: Usman, Syaikhu, "Indonesia's Decentralization Policy: Initial Experiences and Emerging Problems", *SMERU*, September 2011, available online: <http://www.smeru.or.id/sites/default/files/publication/euroseasexperience.pdf> (last viewed: 02 September 2017)

Data Analysis

The data is interpreted in the light of history, culture and beliefs to highlight gender relations, domestic violence, and services for the victims. As this thesis uses an interpretive research method, then, as Paul Rabinow and William M. Sullivan put it, there is “no verification procedure we can fall back on. We can only continue to offer interpretations”. Therefore, insight and judgment are an essential part of any inquiry.¹⁰² Moreover, just as value-free interpretive research is impossible,¹⁰³ so too is gender-free knowledge.¹⁰⁴ Hence, this thesis takes the side of the victims of domestic violence, as they are in the weakest position, the targets of services, while it is the policymakers and the governments who determine what form of service they will receive.

Moreover, as this research employs feminist perspectives, it is “not only about women, but also *for* women,” as it aims to have a significant impact on women and thus improve women’s lives. Feminists believe that objective knowledge is not possible. Knowledge should be used for emancipatory purposes. Feminist research, like interpretive interactionism research, is biographical. The comprehension and interpretation of everyday life must consider the gendered, situated, structural, and practical features of that world. According to Denzin, there are several strengths of feminist research that include:

¹⁰² Rabinow, Paul, and Sullivan, William M., *The Interpretive Turn: Emergence of an Approach, in Interpretive Social Science: A Reader*, University of California Press, London, 1979, p. 7

¹⁰³ Rabinow and Sullivan, *Ibid.*, p. 7

¹⁰⁴ Rabinow and Sullivan, *Ibid.*, p. 27

To connect experiences such as personal troubles to public issues and institutional formations; to present the phenomenon to be evaluated in the language, feelings, emotions, and actions of those being studied; to identify the different definitions (local and scientific) of the problem and the program under evaluation; to identify the moral biases that structure the definition of the problem and the program; to compare and contrast local and scientific interpretations and understandings of the program; and to make proposal for change based on the fit between lived experiences (successes, failures) and the possibilities for change that exist within the program being evaluated.¹⁰⁵

This research connects experiences of PPT stakeholders, that is, victims of domestic violence, to an analysis of the government policies and DV Laws to examine the effectiveness of the services.

Ethical issues

I understand the risk of distress that can occur during interviews with victims of domestic violence. Therefore, consent was obtained from each participant who had experienced domestic violence before the interview. Approaching and requesting participation by victims of domestic violence occurred through PPT staff and social workers. Any feelings of coercion or discomfort that might be felt by participants have been minimised by informing victims that the interview is not compulsory, they can drop out at any stage, and their identity will not be disclosed. Moreover, interviews of victims of domestic violence were conducted by a woman academic and social worker who has experience in dealing with victims of domestic violence. The venue for the interview was chosen by the participants for safety and comfort concerns. Some women preferred to be interviewed in the shelter and some in their family's house, so there was no chance for outsiders or perpetrators of domestic violence to approach the

¹⁰⁵ Denzin, *Op. Cit.*, p.25

participants. Since the nature of the interview questions is to explore services that the women received, rather than the nature of the violence they experienced, distress or discomfort was also less likely. However, if participants became distressed, there were PPT counselling staff available to work through participants' distress.

Participants were informed in advance that participation was voluntary, and that they may terminate the interview at any stage, or say 'no comment' in response to any question. Moreover, participants knew in advance that their identities would not be disclosed, and their answers would be treated as confidential. Participants were also told that the information they provided was valuable and would be used to improve services for survivors of domestic violence in the future. As participants remain anonymous, they are identified by the following codes: SV-1 and SV-2 and so on for victims of domestic violence; PS-1 and PS-2 for PPT Staff; and SO-1 and SO-2 for senior officers at the Ministry of Women's Empowerment and Child Protection.

Structure of the thesis

This thesis contains seven chapters.

Chapter One has established the directions for this thesis. It serves as a theoretical framework, presenting information about domestic violence worldwide and research about domestic violence in Indonesia. I argue that an investigation of intervention into domestic violence is necessary as research on domestic violence in the last two decades has focused more on the nature, causes, and effects of

domestic violence. As this research adopts a feminist approach, it takes the side of women victims of domestic violence, with the aim to improve women's lives in Indonesia.

Chapter Two explores the socio-cultural context in which domestic violence takes place. It examines the interrelations between Javanese culture, Islamic teaching and state laws to consider how these shape the construction of gender relations and the creation of 'ideal' Javanese femininity.

Chapter Three examines the Indonesian Central Government's response to domestic violence. It explores Indonesia's commitment to eradicating domestic violence through the ratification of CEDAW, the enactment of the DV Law in 2004, and the establishment of service provisions for victims of domestic violence. This chapter also critically examines flaws in the DV Law which disadvantage victims, arguing that Indonesia needs to ratify the Optional Protocol of CEDAW to increase victims' access to justice.

Chapter Four investigates domestic violence services in Central Java Province. It explores the role of the Central Java government in establishing its PPT and enacting local regulations (*Peraturan daerah/Perda*) to provide services for victims of domestic violence. It considers the roles of individual women civil servants in the PPT, discussing how they negotiated the patriarchal culture to establish and develop the PPT. This chapter also examines the PPT from the views of its stakeholders. Despite being commended for nine consecutive years for the quality of its services (2005-2013), the PPT of Central Java faces problems including budget transparency and lack of training.

Chapter Five investigates domestic violence services in the City of Semarang. It examines the policies and work of the PPT in delivering services to victims of domestic violence. However, the absence of *Perda* (local regulation) to act as a protocol for service delivery has impaired Semarang's efforts to deliver quality services. This is compounded by poor networks and a lack of funding. An assessment by the Provincial Government in 2013 ranked Semarang in the sixteenth position out of thirty-five service centres in Central Java, which is a modest position remembering that Semarang is the capital city of Central Java.

Chapter Six considers strategies to increase the effectiveness of DV Law and improve services for victims of domestic violence. As the DV Law aims to eradicate domestic violence, amendment of three articles of the Marriage Law is necessary: Article on the status of a wife and a husband; Article on the minimum age for marriage; and Article on polygamy can be objects of abuse if they are used to justify domestic violence. The Marriage Law also needs to impose penalties on those who break its provisions. I argue that the Religious Court (*Pengadilan Agama*) must be given greater jurisdiction to dealing with domestic violence. It needs the capacity to punish perpetrators of domestic violence, so that Muslim women victims do not need to go to two different courts: the Religious Court for settlement of family matters (divorce and custody) and the Public Court (*Pengadilan Negeri*) to resolve the criminal aspects of domestic violence. In addition, the government needs to establish court-mandated counselling to change the attitudes and behaviours of the perpetrators of domestic violence. At the same time, the law enforcers (police, prosecutors, and judges) need adequate training on

DV Law so that they treat victims of domestic violence differently from other forms of violence, to prosecute domestic violence cases under DV Law as a special law, rather than reducing it to the code of the Indonesian Criminal Act (KUHP). This chapter also demonstrates that awareness of DV Law needs to be disseminated, requiring cooperation of both government and grassroots organisations to increase society's awareness that domestic violence is not 'normal' or 'inevitable.'

Chapter Seven concludes the thesis, returning to the aims of the thesis to summarise its findings. It suggests three potential areas for further research: the need to survey the experiences of victims who did not access domestic violence services; the need for better data on domestic violence; and studies to explore the dynamics of domestic violence services administered by particular agencies and ministries. This research can be used by government to formulate more effective policies on domestic violence, and by PPTs seeking to deliver services that better meet victim's needs.

CHAPTER TWO

JAVANESE WOMEN: IN CULTURE, RELIGION AND STATE

Introduction

As feminists argue that knowledge is not neutral,¹ understanding gender and gender relations from a feminist perspective is necessary to understand domestic violence. Sarah Wendt and Lana Zannettino state that discussing gender is essential in the discussions about domestic violence.² The contexts and situations where knowledge is constituted, including the gendered power structures that frame this knowledge have to be demystified. This is because gender and gender relations are socially constructed at all levels of society. This notion is central to feminist scholarship. As a UN report on violence states:

Violence against women is not confined to a specific culture, region or country, or to particular groups of women within a society. The different manifestations of such violence and women's personal experience of it are, however, shaped by many factors, including economic status, race, ethnicity, class, age, sexual orientation, disability, nationality, religion and culture. In order to prevent violence against women, the underlying root causes of such violence and the effects of the intersection of the subordination of women and other forms of social, cultural, economic and political subordination, need to be identified and addressed.³

¹ Cook, Judith A. and Fonow, Margareth, "Knowledge and Women's interest: Issues of Epistemology and Methodology in Feminist Sociological Research," in Nielson, Joyce McCarl (ed.), *Feminist Research Methods, Exemplary Readings in the Social Sciences*, Westview Press, San Francisco, 1990, p. 72-80.

² Wendt, Sarah, and Zannettino, Lana, "Does Gender Still Matter?," *Gender and Diversity*, Edition 2, Spring/Summer, 2014, p. 41

³ United Nations, *In-depth study on all forms of violence against women*, Report of the Secretary General, General Assembly, United Nations, 6 June 2006, p. 27, available online: <http://www.refworld.org/docid/484e58702.html> (viewed: 8 November 2017)

As this research uses a feminist approach to investigating domestic violence and interventions into it in Central Java, this chapter aims to analyse the social construction of women in Java. It explores gender norms generated by Javanese teachings and expressed in the culture and customs of Javanese society to produce the construction of the ‘ideal woman’ in Javanese culture. These teachings are analysed from a feminist perspective so that the gender ideology behind the teachings can be revealed, as this not only affects the lives of women,⁴ but contributes to domestic violence. In addition, as Linda Thomson and Alexis J. Walker suggest, it is important to move beyond gender by examining the structural, cultural, historical, and interpersonal environments that create distinctions, and perpetuate power relations, between women and men.⁵

The social and cultural background of domestic violence and interventions to eliminate it in Central Java need to be understood, in that knowledge is always socially situated.⁶ As Dorothy E. Smith asserts, if sociology cannot avoid context and contextualisation, it should make it the point of critical departure.⁷

This is an effort to avoid essentialism in constructing women’s problems, because:

[e]ssentialist thinking converts differences of degree into differences of kind. Treating differences of degree as differences of kind is also manifest in

⁴ Hadiz, Liza, Eddyono, Sri Wiyanti, *Institutionalisation of the Gender Roles in Indonesian Policies (Pembakuan Peran Gender Dalam Kebijakan-Kebijakan di Indonesia)*, LBH-APIK Jakarta, 2005, p. 25

⁵ Thompson, Linda and Walker, Alexis J., “The Place of Feminism in Family Studies”, *Journal of Marriage and Family*, Vol. 57, No. 4, November 1995, pp. 847-865

⁶ Haraway, Donna, “Situated Knowledges: The Science Question in Feminism and the Privilege of Partial Perspective”, *Feminist Studies*, Vol. 14, No. 3, Autumn, 1988, pp. 575-599

⁷ Smith, Dorothy E., “Women’s Perspective as Radical Critique of Sociology”, in Sandra Harding, *Feminism and Methodology: Social Science Issues*, Indiana University Press, Indianapolis, 1987, p. 91

macro-level concepts employed by many feminist theorists, especially 'patriarchy,' 'exploitation,' and 'oppression.' One rarely reads statements that contain varying levels of these phenomena (e.g. society A is less patriarchal/oppressive/ exploitative than B). They are usually treated as constants, and the emphasis is placed on understanding the particular form of patriarchy/ oppression/ exploitation in a given time, place, and/or within a specific socioeconomic structure (usually capitalism). Yet the empirical literature clearly demonstrates considerable cross-societal variation within those dimensions that can be taken as indicators of the level (not simply form) of gender inequality.⁸

According to Lisa Hajjar,

issues associated with women's rights in the context of family relations constitute the quintessential challenge to the 'universality' of human rights. In many developing countries, critics of international human rights have seized upon the emphasis on individuals as rights-bearing subjects, charging that these are inherently Western values, and thus alien to societies that prioritize collective relations and mutual duties rather than competitive individualized rights claims.⁹

Indonesia has a history of prioritizing the communitarian tradition of citizenship; rights are perceived as belonging to communities rather than to the individual, and often act to disadvantage women who are expected to fulfil various obligations but have few rights as women.¹⁰

Culture refers to the shared meanings, practices, and symbols that constitute the human experience of everyday life, and thus does not present itself neutrally or with one voice. It is always multifocal and over-determined, and both the observer and the observed are always enmeshed within it; that is our situation.¹¹

⁸Chafetz, Janet S., "Feminist theory and sociology: underutilized contributions for mainstream theory", *Annual Review of Sociology*, Vol. 23, 1997, p. 97

⁹ Hajjar, Lisa, "Religion, State Power, and Domestic Violence in Muslim Societies: A Framework for Comparative Analysis", *Law & Social Inquiry*, Vol. 29, No. 1, Winter, 2004, p. 14

¹⁰ Blackburn, Susan, "Women and Citizenship in Indonesia", *Australia Journal of Political Science*, Vol. 34, No. 2, 1999, p. 193.

¹¹ Rabinow, Paul, and Sullivan, William M., *The Interpretive Turn: Emergence of an Approach*, University of California Press, Berkeley, 1979, p. 6.

Women cannot be free from a certain form of gender relations as the spaces where they live have been constructed by determinants such as culture, religion and the state.¹² Gender relations are culturally specific, constructed and preserved by the beliefs and actions that are deemed appropriate or inappropriate for males and females, and these apply to actual people in particular times.¹³

This chapter focuses on the nature of gender relations in marital relationships in Central Java. It explores the construction of the cultural ‘ideal’ of women and wives in Java. In doing so, it provides a way to understand the specific cultural characteristics of domestic violence in Central Java.

Gender Relations and Gender Norms in Constructing Javanese Femininity

Indonesia is the largest archipelago in the world, stretching from east to west over 6400 km, with five main islands and more than 13,000 smaller islands. The total population of 250 million makes it the fourth most populous country in the world after China, India, and the United States. Indonesia is a multiethnic and multicultural nation. The Indonesia population consists of more than 300 ethnic communities and about 250 dialects (with Indonesian Bahasa as the national language). Indonesian religious culture is unique since it lays claim to populations of Muslims, Christians, Buddhists, Hindus and groups who practice Animism.

¹² Blackburn, Susan, *Women and the State in Modern Indonesia*, Cambridge University Press, 2004, p. 5

¹³ Blackburn, *Ibid.*, p. 5

Islam is the declared religion of the majority with 87.18 percent¹⁴ of the Indonesian people identifying as Muslim.¹⁵

Java is one of the main islands of Indonesia, and more than 86 percent of Indonesia's population lives on this island. The capital city of Indonesia, Jakarta, is located in Java. Compared to the other islands, the overall infrastructure in Java is more developed. Java Island is divided into six provinces: The special province of Jakarta, Banten, West Java, Central Java, East Java, and the special province of Yogyakarta. This research focuses on gender relations in Central Java, so Javanese culture is the main area of inquiry here. The experience of women in other parts of Indonesia is culturally specific. For example, the Minangkabau people of West Sumatra are well-known for their traditional matrilineal social system. By contrast, in North Sumatra, the Batak people adhere to a patrilineal system in which women do not inherit land or property, and are dependent on men, and, as a general rule, are not involved in decision making in private matters.¹⁶

Java, according to Niels Mulder, is the political centre of the Indonesian archipelago and the home of several ethnic groups, with the Javanese comprising the largest and most 'sophisticated' among the Indonesian population. Ethnically, the majority of Indonesians are Javanese; however, among Javanese people themselves, there is a diverse range of religious practices. About five to ten

¹⁴ Central Statistics of Indonesia, *Indonesian Population Census of 2010*, Jakarta, 2010.

¹⁵ Hakimi, Mohammad, et al, *Silent for Harmony: Violence against Wives and Women's Health in Central Java Indonesia (Membisu Demi Harmoni: Kekerasan Terhadap Istri dan Kesehatan Perempuan di Jawa Tengah, Indonesia)*, LPKGM-FK-UGM, Yogyakarta, 2001, p. 17

¹⁶ Blackburn, 2004, *Op. Cit.*, p. 16

percent of Javanese people practise Islam in its 'pure' form, but the rest practise Islam in the 'syncretic' form known as 'Javanism' (*Kejawen*)¹⁷, which is a blend of Islam, Hinduism and ancient Javanese traditions.

The Javanese people, according to Kodiran, are people who in their daily lives use the Javanese language with diverse hereditary dialects. The Javanese tribes reside in Central Java and East Java, an area that includes the districts of Banyumas, Kedu, Surakarta, Yogyakarta, Madiun, Malang and Kediri.¹⁸ Surakarta and Yogyakarta, the place of the former kingdom of Mataram in the sixteenth century, are two centres of Javanese culture. The Mataram is the last kingdom that ruled in Java, and the Sultanate of Yogyakarta is one of its legacies alongside the Sultanate of Surakarta. However, unlike the Sultanate of Surakarta, the Sultanate of Yogyakarta has held political power up to the present time. This is because the Sultanate of Yogyakarta, after the Indonesia's independence from the Dutch on 17 August 1945, was granted special status as a province called *Daerah Istimewa Yogyakarta* or the Special Province of Yogyakarta. This makes it the only Sultanate that still has political power in Indonesia. Unlike other sultanates in Indonesia, who only have cultural power, the ruling Sultan of Yogyakarta holds political power as he or she is automatically instated as the Governor of Yogyakarta Province without the need for election. Other governors (the heads of the provinces) are elected through the general election process. This special status is regulated through several laws since Indonesia's independence, of

¹⁷ For more information about Javanism, see: Beatty, Andrew, *Varieties of Javanese Religion: An Anthropological Account*, Cambridge University Press, Cambridge, 1999, p. 158-186.

¹⁸ Kodiran, *Javanese Culture in the People and Culture of Indonesia (Kebudayaan Jawa dalam Manusia dan Kebudayaan di Indonesia)*, Jambatan, Jakarta, 1976, p. 322

which the most recent is the Law of Republic Indonesia No .13, 2012, on the Speciality of the Special Region of Yogyakarta. The law states that that speciality was granted for several reasons; one of these is the Sultanate's significant contribution in the process of the formation of the Republic of Indonesia, especially its involvement in the struggle to regain Indonesia's independence from colonial rule. Article 18 of the Law clearly states that the governor of the Special Province of Yogyakarta is whosoever is crowned as the Sultan of Yogyakarta.¹⁹

Both Sultanates of Yogyakarta and Surakarta have made influential contributions to the construction of Javanese's gender relations. Several books written by Javanese scholars (*Pujangga*) approved by the Sultans outline gender relations that I explore below. As Sultanate of Yogyakarta still rules over its people up to the present day, its teachings on gender relations remain influential in the lives of people who identify as Javanese.

In terms of factors influencing gender relations Lily Zakiah Munir suggests that there are two main factors that produces gender relations in Javanese society: firstly, the local Javanese culture, and secondly, the Islamic teaching as understood by the locals.²⁰ However, there is another factor that is also influential in shaping gender relations, that is, state policy that emerges from the political process in parliament. As local Javanese culture cannot be separated from Islamic

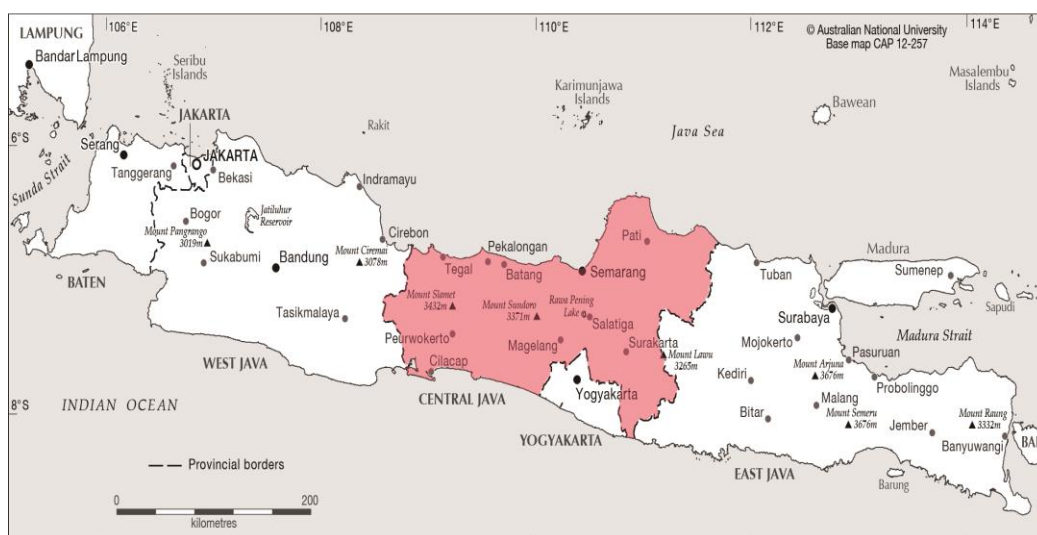
¹⁹ See: Colbron, Cally, "The Sultan of Development", *Inside Indonesia*, 08 February 2016, available online: <http://www.insideindonesia.org/the-sultan-of-development> (last viewed 07 April 2017).

²⁰ Munir, Lily Zakiyah, "'He is your garment and you are his ...': Religious precepts, interpretations, and power relations in marital sexuality among Javanese Muslim women," *SOJOURN: Journal of Social Issues in Southeast Asia*, Vol. 17, No. 2, 2002, p. 191-192

teaching, the section below explores the three factors that produce Javanese gender relations under two sub-headings: Culture and Religion, and State Gender Ideology. First, however, it is necessary to briefly explain where Central Java is located.

Map of Central Java

(The red area marks the territory of the Central Java Province)



(Map reproduced with the permission of CartoGIS, College of Asia and the Pacific, The Australian National University)

Central Java is a province on the island of Java, located between West Java and East Java. From west to east, it spans 263 km, and from north to south, it measures 226 km. Central Java spans an area of 3.25 million hectares, or about 25.04 percent of the island of Java (1.7 percent of Indonesia). Central Java

Province has 35 sub-provincial governments²¹ that comprises 29 districts (*Kabupaten*) and six cities (*Kota*). It has 573 sub-districts (*Kecamatan*) and 8578 villages (*Desa/Kelurahan*).²² The City of Semarang is the capital city of Central Java. The population of Central Java in 2013 was 33.26 million, comprising about 14 percent of the total population of Indonesia.²³ There are slightly more women (16.7 million) than men (16.4 million).²⁴

Culture and Religion

Javanese culture, according to Munir, is patriarchal. This patriarchal ideology exaggerates biological differences between men and women, ensuring that men always assume the dominant role and women, the subordinate one.²⁵ Patriarchal ideology is particularly powerful because through socialisation, men usually obtain the consent of the very women they oppress.

Gender ideology conceals its origins. It is so pervasive that people comply with gender norms in such a way that they appear to consent to their own

²¹ There are two types of sub-provincial government in Indonesia: *Kabupaten* (district) and *Kota* (city). Both have equal positions. The distinction is based on whether the government administration is located in a rural area (district) or an urban area (city). The district is usually bigger than the city in territory and population. The head of the district is called “Bupati” while the head of the city is called “Walikota”. Some districts and cities have the same names such as the District of Semarang and the City of Semarang, the District of Tegal and the City of Tegal, and the District of Magelang and the City of Magelang, which are definitely different in term of administration and territory. There are 29 districts and six cities in Central Java. In this thesis, I use the term “district/city”. For example: “Central Java has 35 service centres at the district/city level”.

²² Central Java Statistics, *Central Java in Figures (Jawa Tengah Dalam Angka) 2014*, Semarang, 2014, p. 23

²³ Central Java Statistics, *Ibid.*, p. 49

²⁴ Central Java Statistics, *Ibid.*, p. 54

²⁵ Munir, 2002, *Op. Cit.*, p. 191

oppression. Gender relations are socially constructed but reinforce the belief that women have to submit to men, thus making domestic violence seem 'normal' and 'acceptable'.²⁶ Institutions such as religion, the family, and education are instrumental in sustaining patriarchy.²⁷ Each of these institutions justifies and reinforces women's subordination to men with the result that most women internalise a sense of inferiority in relation to men. If a woman refuses to comply with the dominant patriarchal ideology, and if she manifests her mistrust by refusing to submit, men use coercion to accomplish what conditioning has failed to achieve. Intimidation and other forms of psychological and physical violence are not unfamiliar tools in the maintenance of patriarchal power.²⁸

With respect to gender relations, Islam, the religion embraced by the vast majority of the Javanese, has certain guidelines with respect to how women and men should behave, including in relation to the household. Religious thought is sometimes rigid and uncompromising in upholding gender roles. Not least because religious thought and teaching are usually the products of interpretation by religious scholars, most of whom were men. In the case of Java, the *pesantren*²⁹ (Islamic boarding school), reinforces ideas about gender and relationships within text books such as the Arabic text, *The Chain of Two Pearls: The Explanation of the Rights of a Couple, (Uqud al-Lujain fi Bayan Huquq al-*

²⁶ Wendt and Zannettino, *Op.Cit.*, p. 43

²⁷ Munir, 2002, *Op.Cit.*, p. 193

²⁸ Munir, 2002, *Ibid.*, p. 193

²⁹ The *pesantren* is an Islamic boarding school. The student who study and stay in the *pesantren* is called *santri*. *Pesantren* mainly teaches Islamic teachings under the supervision of a *Kyai* (the owner/director of the *pesantren*). According to Zamachsjarie Dhofier, an institution can be classified as *pesantren* if it has five basic elements: Dormitory, mosque, students, Islamic teachings, and a *Kyai*, see: Zamaksjarie Dhofier, *Pesantren Tradition (Tradisi Pesantren)*, LP3ES, Jakarta, 1982.

Zawjain). This book is commonly taught in the Islamic boarding schools. Some of its teachings include: If a wife refuses to consummate the marriage, she will be cursed by angels all through the long night until morning comes; and a wife has to accept a husband's request for sex even if she is on the back of a camel. This book was written by an Indonesian scholar, Imam Nawawi al-Bantani, born in 1813. After studying at Mecca, he taught Islamic studies in Mecca and Medina (Saudi Arabia) and wrote books. Al-Bantani was honoured with a title "Imam al-Haramain", or the *imam* (priest) of two *harams* (Mecca and Medina). He died in Mecca in 1898. As Mecca and Medina culture is patriarchal, even until the present time, the books written by al-Bantani including *Uqud al-Lujain fi Bayan Huquq al-Zawjain* offer a highly patriarchal perspective.

Javanese patriarchal gender ideology is also reinforced by custom and religious traditions that developed in Java before and after the coming of Islam in the 13th Century.³⁰ Hinduism, Buddhism, and Christianity also shape Javanese cultural tradition. This is, according to Sri Suhandjati Sukri and Ridin Sofwan, because religion and its teachings were formulated and transmitted by men, so the norms that develop are the norms that most benefit men. Quoting Riffat Hassan, Sukri and Sofwan state that there are three main theological assumptions used to support patriarchal society, especially in the Islamic and Christian tradition. First, the first human female was created from the rib of the first man, so women are secondary, or derive from men. Second, woman was the first being to commit sin by tempting Adam to eat the fruit of the tree of knowledge. Third, woman was not

³⁰Sukri, Sri Suhandjati, and Sofwan, Ridin, *Women and Sexuality in Javanese Tradition (Perempuan dan Seksualitas dalam Tradisi Jawa)*, Gama Media, Yogyakarta, 2001, p. ix-x

only created from man, but was also created *for* man. Therefore, women are not entitled to special status, rights or dignity, except for what is already provided to and by men.³¹ These three assumptions originate from Christian traditions, but came to Islamic tradition through the *Israiliyyat* story, which came from Christians and Jews who converted to Islam. They became Muslims, but still held Christian and Jewish beliefs and legends, which then influenced some Islamic teachings. Among them were Ka'ab al-Ahbar and Wahab ibn Munabbih, who were popular in the era of the Prophet Muhammad and his companions because of the stories they told from their previous religions.

The influence of Islam in Javanese culture is disseminated through the writings of Javanese scholars who studied Islam in *pesantren* (Islamic boarding schools) and wrote books that contains 'syncretic' teachings which combine Islam with ancient Javanese customs to shape gender relations. The coming of Islam into Java Island³² influenced Javanese culture, which intersected with Islamic teaching. Javanese cultures were combined with Islamic teachings by some Javanese literary writers, some of whom were students of *pesantren*, who received an Islamic education. For example, the *pujangga* of the 18th Century of the Surakarta Palace, named Yasadipura II, and Ronggowarsito (1802-1873), are

³¹ Sukri and Sofwan, *Ibid*, p. x

³² There are various theories about the coming of Islam into Java about the preachers, routes, and the time, however, with the establishment of Islamic Javanese kingdom in Java, in Demak (a district in the Central Java Province today), in 16 century, showed that Islam has settled and become the majority religion in Java at that time. See: Sofwan, Ridin, "The Muslim Saints Islamised Java (*Para Wali Mengislamkan Tanah Jawa*)", in *Reformulating the Inter-relation of Islam-Java (Merumuskan Kembali Interelasi Islam-Jawa)*, Gama Media, Yogyakarta, 2004, p. 3.

considered the greatest *pujangga* of Java.³³ Although Islam was easily accepted by the Javanese as a new religion that came in the 13th century, the Javanese did not completely abandon the teachings of their previous religions, Hinduism and Buddhism. They accepted Islam in a syncretic way, so although the Javanese are officially Muslim, they still practice some customs deriving from Hinduism and Buddhism. This type of religiosity is called *Islam-Kejawen*, meaning Javanese-Islam. For example, it can be seen through traditions such as the custom of birthday fasting (*weton*). This involves not only fasting on a birthday every year, but also fasting for the week following their birthday as well as the tradition of offering food and drink to the Gods referred to as *among-among* or *Slametan*³⁴ and *sesajen*³⁵. The Javanese also used certain calculations based on religious-syncretic-based astrology to decide important events like wedding dates or moving to a new house.³⁶ These traits were not only practised by lay people, but also by the nobility and the royal family. For example, the tradition of making *sesajen* (foods for ritual purpose) was performed by the all the Kings of Javanese Islam, and continued until the eve of the 20th century, when the Kingdom of Mataram was divided into Surakarta and Yogyakarta.

³³ Mas'ud, Abdurrahman, "Pesantren dan Walisongo" (Pesantren and Walisongo), in Darori Amin (ed.), *Islam and Javanese Culture (Islam dan Kebudayaan Jawa)*, Gama Media, Yogyakarta, 2000, p. 238.

³⁴ For more information about *slametan*, see: Newberry, Jan, "Rituals of Rule in the Administered Community: The Javanese Slametan Reconsidered", *Modern Asian Studies*, Vol. 41, No. 6, 2007, pp. 1309-1315

³⁵ The *sesajen* is usually put on an cross/intersection way, under big tree, or in some places that are considered sacred. It is like the tradition of Hinduism in Bali.

³⁶ Handayani, Christina S., and Novianto, Ardhan., *The Power of Javanese Women (Kuasa Wanita Jawa)*, LKIS, Yogyakarta, 2004, p. 117

According to Simuh, owing to the special traits of Javanese Islam, the works of the *pujangga* can be identified into two categories: The first is the literature of Javanese-santri (*Pustaka Santri*) which emphasises Islamic teachings rather than Javanese traditions and myths, while the other is the literature of Javanese-non Santri (*Pustaka Kejawen*), which privileges Javanese culture and tradition.³⁷

Islam is the dominant religion among the people of Java. It has penetrated to the core of Javanese culture, particularly because the Sultan, the head of the theocracy of Javanese people, is Muslim.³⁸ Islam has also had a strong influence on the beliefs and rituals of people in Central Java, and forms the foundations of social interaction and everyday life for the Javanese.³⁹ According to Mohammad Hakimi et al, Javanese gender roles may be more influenced by Islamic teachings about the power of men within the family than by Javanese culture itself.⁴⁰

Some literary works of the 18th and 19th centuries that were palace-centred, known as *serat piwulang* (book of teachings), contain teachings relating specifically to women. These define how to be a ‘good’ Javanese woman, both in individual and social life.⁴¹ These teachings include *Serat Wulang Puteri* (*The Book of Teaching for Daughters*), *Serat Wulang Estri* (*The Book of Teaching for*

³⁷ Simuh, *Islamic-Javanism Mysticism of Raden Ngabehi Ranggawarsita (Mistik Islam Kejawen Raden Ngabehi Ranggawarsita)*, Universitas Indonesia Press, Jakarta, 1988, pp. 1-3.

³⁸ The Sultan of Yogyakarta (who is the Governor of Yogyakarta today) up to the present time still has the Arabic-Javanese title, as “*Abdur Rahman Sayidin Panatagama Kalifatullah*” (The servant of God, the Master of religious orders, and the Caliph of Allah).

³⁹ Hakimi, Mohammad, et al, *Silent for Harmony: Violence against Wives and Women’s Health in Central Java Indonesia (Membisu Demi Harmoni: Kekerasan Terhadap Isteri dan Kesehatan Perempuan di Jawa Tengah, Indonesia)*, LPKGM-FK-UGM, Yogyakarta, 200, p. 19

⁴⁰ Hakimi et al, *Ibid.*, p. 19

⁴¹ Sukri and Sofwan, *Op. Cit.*, p. v

Women), *Serat Candrarini (The Book of Women's Essays)*, *Serat Centhini (The Book of a Woman named Chentini)*, *Serat Yadnyasusila (The Book of Woman's Etiquette)*, and *Serat Panitisastra (The Book of Knowledge/Wisdom)*. The discussion of women's issues in these teachings showed that women's issues are one of the most important issues in the kingdom,⁴² as the issues often generated tensions in the house of the king. According to Sukri and Sofwan, these teachings result from political, economic and moral crises that emerged in the kingdom. In addition, the teachings were directed to maintain harmony in the life of palace insiders, as there was disharmony inside the royal family, especially among women, the first lady and other wives of the king and princes. The teachings aimed to ease tension in the royal family caused by issues such as polygamy, but also served to strengthen patriarchy.⁴³

These teachings have had a significant influence among the Javanese community. This is because in Javanese culture, the king is positioned as the highest authority, so that his influence is not limited to territory or wealth, but extends to the personal lives of his people. This is the reason why the Javanese are feudalistic in character⁴⁴. For the majority of Javanese people, their main concern is how the devotion to the king by abiding to their obligations for the kingdom. As the palace is the centre of patriarchy, its patriarchal system is embedded in

⁴² Santri is a student who studies in a *Pesantren* [Islamic Boarding School] see: Dhofier, Zamakhsjarie, *Pesantren Tradition (Tradisi Pesantren)*, LP3ES, Jakarta, 1982.

⁴³ Sukri and Sofwan, *Op. Cit.*, p. vi

⁴⁴ Lubis, Mohtar, *Indonesian Nation: Past, Present, and Future (Bangsa Indonesia: Masa Lampau, Masa Kini dan Masa Depan)*, Idayu, Jakarta, 1978, p. 12

Javanese society. Although these books are hardly known to many contemporary Javanese, the stereotypes they prescribe for women remain strongly held.⁴⁵

The culture of feudalism was exacerbated by the presence of Dutch colonisers, who ruled Java from the 16th century. The colonial governance system was characterised by discrimination by colonial rulers against the indigenous population, based on race, appropriation of land and natural resources, and a rigid social distance between the native and white populations.⁴⁶ In the 18th and 19th centuries, and until the end of colonialism in Indonesia in 1945, the structure of Javanese society was hierarchical; members of the royal government and relatives of the king, the *sentana dalem* and *abdi dalem*, had the highest status; while religious leaders, poets or writers, and state prosecutors were ranked below them. At the bottom were the ordinary people, or *Wong Cilik*.⁴⁷ The power relations developed by the colonial rulers were adopted by the Javanese royal family (*sentana dalem*) and the kingdom's staff (*abdi dalem*). If the Dutch colonists used skin colour as a differentiator or identifier, then the royal family used their bloodlines (*trah*): from 'darah biru' or blue blood to distinguish their superior position from the *Wong Cilik*. Discrimination was also obvious in the language hierarchy used by the Javanese. The royal family uses the dialects of Kromo, while the *Wong Cilik* uses the *ngoko* variant. The use of *Kromo-Ngoko* is political, that is to place the king and the nobles above than the ordinary people. The use of

⁴⁵ Lubis, *Ibid.*, p. 12

⁴⁶ Kansil and Julianto, *History of the Struggle and Movement of Indonesian Nation (Sejarah Perjuangan Pergerakan Kebangsaan Indonesia)*, Erlangga, Jakarta, 1986, pp. 13-14.

⁴⁷ Department of Education and Culture (Departemen Pendidikan dan Kebudayaan), *Indonesia National History (Sejarah Nasional Indonesia)*, Balai Pustaka, Jakarta, 1981, p. 49.

these languages also creates the distinct social status of both groups, as rights are inherent in each variant.⁴⁸ This applies also to marital relationships: a wife will use *kromo* to her husband, and the husband will use *ngoko* to her.⁴⁹ Failure to use the appropriate variant will cause some embarrassment, with incorrect usage considered rude or uncivilised (*ora ngerti tata karma*).

Javanese society is also paternalistic. The power of the father or man is greater than the mother's or woman's. Several concepts defining Javanese femininity spread within society, but these were constructed by men through the teachings in those books discussed above. Because of the blend between Islam and Javanese culture, powerful gender stereotypes of 'ideal' femininity emerged.

In Javanese tradition, a wife is often called *Kanca Wingking* which literally means 'a friend in the background'.⁵⁰ This also marginalises women, as the woman's role was confined to the domestic sphere. There is a saying in Java that women's space is limited to *dapur* (the kitchen), *sumur* (the well or laundry) and *kasur* (the bed). This gender division of labour, according to Sukri and Sofwan, generates the 'task role' of women, which involves *macak* (grooming herself to please her husband), *manak* (giving birth) and *masak* (cooking).⁵¹ Because women's role is to manage the domestic sphere, Javanese parents teach girls from an early age to undertake domestic work. Thus, it is Javanese tradition

⁴⁸ Fanani, Zainuddin, *Re-structuring Javanese Culture (Restrukturisasi Budaya Jawa)*, Muhammadiyah University Press, Surakarta, 2000, p.115.

⁴⁹ The example of the use of *Kromo* and *Ngoko*, is: If the 'upper' status is asking to the 'lower', "Kowe wis mangan durung?" (Have you got some meal?), the 'lower' will use an expression for the same question for the 'upper': "Panjenengan sampun dahar dereng?" The literal meaning is completely the same, however the power is different.

⁵⁰ Munir, 2002, *Op. Cit.*, p. 197

⁵¹ Sukri and Sofwan, *Op. Cit.*, p. 6

for a girl of marriageable age to be taught how to present herself, cook, and serve a man. This tradition in Javanese culture, known as *pingitan* (seclusion), restricts girls to the home.⁵² Although *pingitan* is not always practised in every Javanese family in contemporary society, the assumed woman's role still exists. There is one woman ideal that I still remember from the past. When I was a child, I often heard my grandmother admiring girls who were characterised as *prigel*, which means they were clever and devoted to domestic work. This confirms Judith Butler who states:

[T]o be a woman is to have *become* a woman, to compel the body to conform to a historical idea of 'woman'...to materialize oneself in obedience to an historically delimited possibility, and to do this as a sustained and repeated corporeal project.⁵³

The tradition of a newly married Javanese couple remaining in the parental residence⁵⁴ (usually that of the husband's parents) for months or even years, enables the domestication of the 'wife'. This is a period in which the daughter in law is being 'watched and assessed' by the entire family with respect to her 'performance' of domestic tasks. The practice instils the norm that to be 'a good wife,' a girl who wants to get married must be well prepared for performing domestic tasks. As *kanca wingking*, the place of a woman is behind her husband, following him and obeying his orders. There is a popular saying in Java that a wife must be "*swargo nunut neroko katut*", which means a woman must faithfully follow

⁵² Sukri and Sofwan, *Ibid*, p. 8

⁵³ Butler, Judith, "Performative Acts and Gender Constitution: An Essay in Phenomenology and Feminist Theory," *Theatre Journal*, Vol. 40, No. 4, 1988, p. 522

⁵⁴ Jenna Nobles and Alison Buttenheim, "Marriage and Socioeconomic Change in Contemporary Indonesia", *Journal of Marriage and Family*, Vol. 70, No. 4, November 2008, p. 905

her husband, whether he goes to heaven or to hell.⁵⁵ This concept is taken from Islamic teaching, from the interpretation of the Qur'an, chapter 4, verse 34: "Men are the protectors (*qawwamun*) and maintainers of women, because Allah has given the one more (strength) than the other, and because they support them with their means."

A wife in Java is also called '*garwa*', which is an abbreviation of '*sigaraning nyawa*,' meaning half a soul. This idea offers greater equality than that of *konco wingking*. This is because the husband and wife are considered two persons who become one after they marry.⁵⁶ This concept is taken from the Islamic teaching in the Qur'an, Chapter Al-Baqarah (2), verse 187, "*hunna libaasun lakum wa antum libaasun lahunna*." Translated, this means they are your garment, and you are their garment, so men and women cover and protect each other. However, in Javanese culture, it is reinterpreted to mean that a woman must protect her husband's dignity and honour. She must not expose the bad side of her husband.

The traditional values embraced by the majority of Javanese mean that when a woman marries, she belongs to her husband more than to her parents. Her husband's rights are more important than her parents'. In Java, the bride is advised by her family to carefully conceal any conflict that may arise between the couple. This attitude is known as *Njaga praja*, meaning that the honour of a husband must be protected from people outside the family. After marriage, a

⁵⁵ Hakimi et al, *Op. Cit.*, p. 19

⁵⁶ Handayani, Christina S., and Novianto, Ardhan, *The Power of Javanese Women (Kuasai Wanita Jawa)*, LKIS, Yogyakarta, 2004, p. 120

woman must meet the demands of her role in the community, which has been socially determined: taking care of the home, giving birth, parenting, and serving her husband.⁵⁷ This is one among many reasons why Javanese women tend not to expose or report the domestic violence they experienced.

According to Sukri and Sofwan, dominant Javanese cultural constructions of femininity comprise the following. First, women are weaker in nature compared to men, so it is the duty of men to protect women; second, women's fortunes depend on their husband and the happiness or misery of women depend on their husbands' happiness or misery. Therefore, women must demonstrate a good attitude based in respect for men, by serving the needs of their husbands and keeping them happy. Third, woman was created from the rib of man, as exemplified by the story of Adam and Eve, and regardless of the truth or otherwise of this, it has instilled an attitude that men are superior to women. Based on this story, religious scholars have argued that men must act as mentors and leaders of women. Fourth, women were made to be devoted to men. Women's role is to serve the needs of men, especially their sexual needs. Therefore, women are classified as sexual objects. Historically, women's status as sexual object was naturalised by the king and prince of Java, who had many wives and concubines. Because she is regarded as a sexual object, the ideal Javanese woman is expected to be beautiful, elegant, graceful, friendly, and loyal. In some Javanese teachings, including the *Serat Candrarini*, the signs of an ideal woman are her willingness to

⁵⁷ Hakimi et al, *Op. Cit.*, p. 19

co-wife, being good at cooking, clever at ornamenting herself, and good at serving her husband.⁵⁸

Further, according to Munir, the essence of the Javanese concept of life lies in the concept of the macro-cosmos and the micro-cosmos. The macro-cosmos is the universe, while the micro-cosmos is the human world. The two levels of the cosmos coexist and it is necessary that they interact. All human relations are hierarchical, reflecting the hierarchy of the macro-micro cosmos relations. The family, viewed as a micro-cosmos of society, reflects the hierarchical relations of the cosmological structures of the society. The man and woman enter into marriage as a hierarchical relationship, symbolised by one of the Javanese wedding rituals, called the *miji dadi* (the sowing of seeds). In this ritual, the bride squats while the groom steps his foot on an egg (indicating her fertility) to break it. She will then wash his foot to symbolise her lifetime subservience to him.⁵⁹

Sexual relations within marriage are also a symbol of inequality. The deepest meaning of an interpersonal relationship is contained in sexual reproduction. The hidden truth behind sexual intercourse is revealed in the concept of *manunggaling kawulo gusti* (the union of servant and lord). With analogies of growth and transformation taken from plant life (the tree contained in the seed, and so forth), sex is not only an image of union, but also a fertile union.

⁵⁸ Sukri and Sofwan, *Op. Cit.*, p. 8

⁵⁹ Munir, 2002, *Op. Cit.*, p. 195

Therefore, the Javanese value fertile women more than infertile women.⁶⁰ In the *Serat Panitisastra*, a woman who does not have children is considered worthless, while one who can give birth to a boy is highly valued. This shows that a woman's duty to reproduce male progeny confers greater value, as in the excerpts of *Serat Panitisastra* below indicate:

*Sepining garwa tan darbe/ suta sepi satuhul/...Lamun mungguhing wanudya
yen alaki/ oleha anak lanang/ kang akandel nanging away kadi/
kekendelaning singa susuta/ among sapisan kendele*

A wife with no children is worthless...When she gets married she should give birth to a boy, and have the courage to give birth more than once (translation mine).

This teaching can be traced back to a *Hadith* (saying) of the Prophet: “*tazawwajuu al-waduud al-waluud, fa inni mukathirun bikum al-umam.*” (Narrated by Ahmad, Hadith number 12613). This means that the Prophet prefers his followers to marry women who are full of love (*al-waduud*) and have many children (*al-waluud*). There is a proverb among Javanese people, “*akeh anak akeh rezeki*” (the more children you have the more gain/blessing you get).

This cultural view influences Indonesian Marriage Law, No. 1, 1974, which allows a husband to take a second wife if his wife cannot give birth to a child, which I discuss in Chapter Six.

Javanese Women and Education

Currently more Javanese women are accessing education. Some even achieve higher education. This is a result of government policy. Law No. 20,

⁶⁰ Munir, *Ibid.*, p. 195

2003, on the National Education system has mandated that Indonesian citizens from the age of seven to 15 years must complete nine years basic education. According to statistics on education in Central Java 2014, the average Central Java citizen complete 7.5 years of mandatory schooling, meaning most Central Java citizens have attained grade 8, or junior high school levels of education.⁶¹

In terms of the gender gap in basic to higher education, statistics from 2014 show that women outnumber men in basic education, with 99.64 percent of girls and 99.38 of boys from 7-13 years completing school, while 95.47 percent of girls and 94.26 percent of boys aged 13-15 remain in school. The trend is similar in secondary education, showing that 68.2 percent of girls aged 15-18 are in school, compared to 66.93 percent of boys. However, in higher education (age 19-24) women's participation is decreasing, women are outnumbered by men as 19.68 percent of women participate in tertiary education, compared to 31.33 percent of men.⁶²

The lower participation of women in higher education occurs for three reasons: First, some Javanese parents, especially in remote areas, consider higher education less important for women because women will end up doing domestic duties that do not require higher education. Second, many parents choose to marry off their daughters rather than encourage them to enter higher education. By marrying, the family's responsibility to provide for daughters is transferred to

⁶¹ Central Java Statistics, *Statistics of Education of Central Java 2014*, Semarang, November 2015, p. 37. Available Online: <http://new-indonesia.org/beranda/images/upload/dok/edustat/Statistik-Pendidikan-Jawa-Tengah-2014.pdf> (last viewed 20 July 2017).

⁶² Central Java Statistics, *Ibid.*, p. 37

their sons in law. Moreover, the Marriage Law of 1974 allows women to marry at the age of sixteen.⁶³ Third, economic problems intertwine with patriarchal culture. Some families with limited economic resources prefer their sons to pursue higher education, as boys will be likely to get a job with their qualification, and will have to provide for their families once they marry. This attitude disadvantages girls, who are relegated to domestic work in the house or sent to work as migrant workers to support their parents and siblings.⁶⁴

Some educated Javanese-Muslim women have tried to reformulate and reconstruct gender relations in society. Prominent figures include Sinta Nuriyah Abdurrahman Wahid who is the founder of NGO “PUAN Amal Hayati”⁶⁵ and Siti Ruhaini Dzuhayatin, who is the founder of NGO “Rifka Annisa.” They have used Arabic terms to name their NGOs, as this does not alienate Muslim communities and Islamic Boarding Schools (*pesantren*), who promote the idea of that NGOs spread Western ideology. Wahid and Dzuhayatin are working on new interpretations of Islamic teachings to contest patriarchal interpretations,⁶⁶ and propose an amendment of the Marriage Law 1974 that is regarded as gender biased and patriarchal.

⁶³ Article 7 of the Marriage Law of 1974 states that the minimum age of marriage is nineteen years old for men and sixteen years old for women.

⁶⁴ Some of the favourite countries for Indonesian women to work are: Saudi Arabia, Taiwan and Malaysia.

⁶⁵ Muttaqin, Farid, *Progressive Muslim Feminists in Indonesia From Pioneering to the Next Agendas*, Master of Arts Thesis, Ohio University, 2008 , p. 90, available online: https://etd.ohiolink.edu/pg_10?0::NO:10:P10_ACCESSION_NUM:ohiou1213212021 (viewed: 7 November 2017)

⁶⁶ Muttaqin, *Ibid.*, p. 90

However, their efforts have met with a backlash from conservative Muslim organisations such as the Party of Liberation of Indonesia (*Hizbut Tahrir Indonesia/HTI*), the Islamic Defence Front (*Front Pembela Islam/FPI*), and the Justice and Welfare Party (*Partai Keadilan Sejahtera/PKS*). These groups aim to apply Islamic (*Sharia*) law in Indonesia and support polygamous marriage.⁶⁷ The vast majority of women supporters of these groups are educated women, and many are university students who live in urban areas. They tend to follow a literal interpretation of the Qur'an and the Hadith (the sayings of the Prophet Muhammad). They celebrate polygamy, and award people who support and practice polygamous marriage. The event is supported by Poespawardoyo, the owner of the Restaurant Ayam bakar Wong Solo, who has four wives, and is active in popularising polygamy.⁶⁸ Such groups take advantage of freedom of speech and association resulting from the Reformation Movement (*Gerakan Reformasi*) that replaced the New Order Regime in 1998.⁶⁹ They challenge DV Law and reject proposals for the amendment of the Marriage Law 1974 initiated by Indonesian feminists, which will be explored in Chapter Six.

⁶⁷ Rinaldo, Rachel, "Envisioning the Nation: Women Activists, Religion and the Public Sphere in Indonesia," *Social Forces*, Vol. 86, Iss. 4, 2008, pp.1793-1795

⁶⁸ Liputan 6, *Polygamy Award 2003 is challenged by women activists (Poligami Award 2003 ditentang aktivis perempuan)*, 26 Juli 2003. Available online: <http://news.liputan6.com/read/59131/poligami-award-2003-ditentang-aktivis-perempuan> (last viewed 27 July 2017)

⁶⁹ Muttaqin, *Op. Cit.*, pp. 104-105

State Gender Ideology

Understanding Indonesia's state gender ideology is important as it has a relationship to violence against women. State ideology determines gender relations, including marital relations in Java, alongside cultural and religious practices. According to Susan Blackburn, state gender ideology is shaped by the gender assumptions of the state, and these influence the construction of gender in society. Gender ideology refers to ideas how men and women should act with regard to their gender identity.⁷⁰ The state's assumptions are often obvious in official state documents and policies related to women, in the form of binding regulations or laws.

Haleh Afshar, in *Women, State and Ideology*, states that:

[t]he state and its bureaucracy are increasingly important in the people's daily lives in the Third World. In particular, policies concerning population, the family and household are centred more and more on women, their sexuality and fertility...much of the legislation concerning women has been directed at controlling them, their sexuality and fertility, and endorsing their subordination.⁷¹

According to Liza Hadiz and Sri Wiyanti Eddyono, gender roles in Indonesia prescribe the duties of men and women, positioning men as the heads of families, belonging to the public sphere, while women are constructed as housekeepers and relegated to the domestic sphere. This is not something 'given', but has been naturalised by the state, especially during the New Order Era (1966-1998),

⁷⁰ Blackburn, 2004, *Op. Cit.*, p. 8

⁷¹ Afshar, Haleh, *Women, State and Ideology: Studies from Africa and Asia*, State University of New York Press, Albany, 1987, p. 1.

through policies and laws. This ideology has marginalised women.⁷² Melani Budianta argues that “citizenship in Indonesia is gendered, and it is by default male.”⁷³ Therefore, to achieve gender equality, it is necessary to reconstruct the legal policy framework of the state. As Catherine McKinnon has argued, the law of the state is never neutral, objective, or free of political interests and power. Instead, it functions as an ideology that represents the interests of the dominant group—men—and supports the concepts of gender held by the dominant group. As McKinnon argues “the state is male in the feminist sense. The law sees and treats women the way men see and treat women”.⁷⁴ Hence, examining existing law shows how the state perpetuates male values and perspectives,⁷⁵ and feminist critiques lead to a reformulation of law and policy that account for women’s experience. This is fundamental to improve the condition of women, and to ensure that women as citizens enjoy specific rights and forms of justice. Because “feminism has a theory of power, but no theory of the state”,⁷⁶ the search for a feminist jurisprudence should avoid the trap of the so-called “androcentric standard”, whereby “feminists find they enter into a game whose rules are predetermined by masculine requirements and a positivistic tradition”.⁷⁷

⁷² Hadiz, Liza, and Eddyono, Sri Wiyanti, *Standardisation of Gender Roles in Policies in Indonesia (Pembakuan Peran Gender Dalam Kebijakan-Kebijakan di Indonesia)*, LBH-APIK Jakarta, 2005, p. 4-5

⁷³ Budianta, Melani, “Decentralizing Engagements: Women and the Democratization Process in Indonesia”, *Signs*, Vol. 31, No. 4, Summer 2006, p. 917.

⁷⁴ MacKinnon, Catharine A., “Feminism, Marxism, Method, and the State: Toward Feminist Jurisprudence”, *Signs*, Volume 8, No. 4, 1983, p. 644

⁷⁵ Bender, Leslie, “A Lawyer’s Primer on Feminist Theory and Tort”, *Journal of Legal Education*, Vol 38, Iss.2&3, 1998, pp. 4

⁷⁶ MacKinnon, *Op. Cit.*, p. 641

⁷⁷ Smart, Carol, *Feminism and the Power of Law*, Routledge, London, 1989, p. 67-68

McKinnon's recognition has shaped feminist interventions since its publication in the 1980s, and has influenced feminists in a range of cultural contexts.

Women in Indonesian National Policy

The Indonesian Constitution of 1945 explicitly grants equal rights to men and women, including equality of opportunity to participate in national development. Chapter X, Article 27 states: "Without any exception, all citizens shall have equal position in Law and Government". However, the conditions between men and women are far from what was promised by the law itself, since in reality, most women are still very restricted by their traditional roles as wives and mothers, and their main activities are mostly in the domestic sphere. As a result, most women have little power to make decisions either about family matters or their own lives.

A significant achievement made by Indonesia in the New Order Era was the establishment of the Ministry of Women's Affairs in 1983, with a mission to promote the involvement of Indonesian women in the development process, and the ratification of CEDAW a year later in Law No 7, 1984. However, this did not automatically improve the position of women as citizens, as women were still regarded more as objects rather than active subjects in the New Order era.

According to Saskia Wieringa, the Indonesian New Order state has, for over thirty years, waged a war of sexual imagining, posing the government against 'communist whores' by launching a campaign that depicted the army under General Suharto as the 'virile saviours' of a nation on the brink of destruction.

Their wrath seemed specifically aimed at women who had breached women's moral code (*kodrat wanita*), an ideology that suggested women should be meek, submissive, and politically passive.⁷⁸ The banning of the Indonesian Communist Party (*Partai Komunis Indonesia/ PKI*), and Indonesian Women's Movement (*Gerakan Wanita Indonesia/Gerwani*), the most powerful women's organisation of the time, was a signifier of the birth of the New Order, and later became a myth strongly associated with the birth of the New Indonesia. It was consciously created by General Suharto, and continually recreated in campaigns of indoctrination, in which, amongst others, a film version of the so-called *Pengkhianatan G30S-PKI* (The Betrayal of the PKI) was shown annually.⁷⁹ As a leader of the United Women of the Indonesian Republic (*Persatuan Wanita Republik Indonesia/ Perwari*), quoted by Wieringa, noted:

If I speak about the vision I have about the Indonesian women's movement, if I refer to any goals I might want to achieve, or discuss women's emancipation, I am immediately accused of being a 'person of the Old Order'. This government really educates people to ignorance. People can only be free if they can think, isn't it? Here there is no freedom, there is no way we can say or think what we want.⁸⁰

For 32 years, from 1965 to 1998, Gerwani was represented as the model of a 'bad' women's organisation by the New Order regime⁸¹, its members considered 'bad mothers' and 'whores'. In the film *Pengkhianatan G30S-PKI*,⁸² and the history

⁷⁸ Wieringa, Saskia, "The birth of the new order state in Indonesia: Sexual politics and nationalism," *Journal of Women's History*, Bloomington, Spring, 2003, Vol. 15, Issue 1, p. 70

⁷⁹ Wieringa, Saskia E., *The Politicization of Gender Relations in Indonesia*, 2004, p. 5, available online: <http://www.antenna.nl/wvi/eng/ic/pki/saskiaeng.html> (Last viewed: 18 October 2015)

⁸⁰ Wieringa, *Ibid.*, p. 5

⁸¹ The New Order is a term to characterise the Suharto's order, starting from 1966 to 1998, while Sukarno's order was so-called the Old Order.

⁸² Before 1998, the Film "The Betrayal of PKI" (*Pengkhianatan G30S/PKI*) was displayed on the TVRI (Televisi Republik Indonesia), the government television's channel, every year on

books of the time, Gerwani was constructed as a group of women who were sexually perverted and responsible for the torture and killing of six generals in the PKI coup of 1965, which brought General Suharto to power in 1966.⁸³ Consequently, the resultant gap between the popularly held image of Gerwani in present-day Indonesia and the ideas Gerwani members themselves had about their own organisation differ vastly. Umi Sardjono, the Gerwani Chairperson in 1964, said: “Gerwani works diligently to create cadres, who are courageous, capable, possess culture and who possess the following three good character traits: they can work well, they study well and they have good morals”.⁸⁴ Another consequence of the campaigns was the destruction of what was at the time one of the most powerful women's organisations in the world. Not only was Gerwani banned and destroyed, but the remaining women's organisations were also brought under strict government control.

In a speech on the importance of the improvement of women’s morality, as quoted by an Indonesian newspaper, *Berita Yudha*, on 9 November 1965, Soeharto criticised Gerwani:

They have left our own morality, as they destroyed Indonesian woman’s personality. Women as mothers have specific roles to educate their children. Our younger generations have to be protected from falling into the destructive morality of those contra-revolutionary [women].⁸⁵

September 30, in order to remind and make Indonesian people aware of the “latent-danger of communism” (*bahaya laten komunis*).

⁸³ Wieringa, Saskia E., “Two Indonesian Women’s Organizations: Gerwani and the PKK,” *Bulletin of Concerned Asian Scholars*, 1993, Vol. 25, No. 2, pp. 17-20

⁸⁴ Wieringa, *Ibid*, p. 21

⁸⁵ Yuliawati, Gilang Fauzi, Anggi Kusumadewi, “*The Layer of Lie in the Myth of Gerwani’s Cruelty (Lapisan Dusta di Balik Legenda Kekejaman Gerwani)*,” CNN Indonesia, 30/09/2016,

Families were at the centre of Suharto's development program, and women's role was defined as being loyal wives and educators of children. Women were responsible for the strict obedience of the family as a whole to the patriarchal, authoritarian, national ideology Suharto imposed on the nation. In this project, Wieringa argues women's sexuality had to be controlled and women's organisations now policed women's obedience. Women were required to uphold the *kodrat*: to be meek, submissive, and politically passive.⁸⁶ However, the New Order regime also viewed women as an important group in the development agenda. Women had a role in creating stability, putting into practice the development plan to reduce the birth rate. This marks a shift from the early years of the regime, when Indonesian women were regarded merely as wives and mothers. This gender ideology of the New Order is often referred to as state *ibuism*, a term coined by Julia Suryakusuma.⁸⁷

Under state *ibuism*, the term *kodrat* (nature) was popular among government spokespersons, who warned Indonesian women not to forget their nature, reinforcing the idea that by nature, women are caregivers and educators of their children. State *ibuism* is the core of the New Order gender ideology.⁸⁸ That is, in the norm of the nuclear family, a woman must adjust herself to selflessly serve her husband, family, and her country. Official speeches of the government and government-controlled mass media continuously emphasise the importance of

available online: <http://www.cnnindonesia.com/nasional/20160930103757-20-162339/lapisan-dusta-di-balik-legenda-kekejaman-gerwani/> (last viewed: 10 April 2017)

⁸⁶ Wieringa, 2003, *Op. Cit.*, p. 1

⁸⁷ Suryakusuma, Julia I., "The State and Sexuality in New Order Indonesia," in Sears, Laurie J. (ed), *Fantasizing the Feminine in Indonesia*, Durham: Duke University Press, 1996, pp. 100-101

⁸⁸ Suryakusuma, *Ibid*, p. 100

the ‘ideal’ wife and mother, as women who are aware of their nature keep the traditions of Indonesia, perform their duties in the development plan, and rear children to be good citizens.⁸⁹

Under Suharto, women were channelled into various organisations intended them to carry out tasks suited to their feminine nature, or *kodrat*. One of these was *Dharma Wanita*, comprising the wives of all civil servants, a large contingent in a country where the state plays such a prominent role. The tasks enumerated for these women give some idea of the New Order’s priorities for women as citizens: they were to be companions to their husbands, educators of children, supplementary income-earners, housekeepers, and members of Indonesian society-in that order.⁹⁰

State ibuism culminated in the establishment of *Dharma Wanita*, a national women’s organisation in 1974, headed by the first lady. This organisation supports the activities of Education for Family Welfare (*Pendidikan Kesejahteraan Keluarga/PKK*),⁹¹ a form of community education administered at all levels of government from Central to the level of RT and RW. RT stands for *Rukun Tetangga* (Harmonious Neighbours), and is the lowest level of government. It governs a small neighbourhood consisting of about 20-35 households. RW stands for *Rukun Warga* (Harmonious Citizens), and is the sub-village level of government, consisting of five to eight RTs. The structure of Indonesian government from the lowest level to the top level is: RT, RW, *Desa/Kelurahan* (Village), *Kecamatan* (sub-district), *Kabupaten/Kota* (district/city), *Propinsi* (Province), *Pemerintah Pusat* (Central Government). PKK

⁸⁹ Blackburn, *Ibid.*, p. 25

⁹⁰ Blackburn, 1999, *Op. Cit.*, p. 200

⁹¹ Today the PKK has new abbreviation, that is ‘*Pemberdayaan dan Kesejahteraan Keluarga*’ (Empowerment of Family Welfare).

is a means for the state to organise women to support development. It is, according to Jan Newberry, “the national housewives association”.⁹² It obliges women to carry out development tasks. Further, all women civil servants and the wives of Indonesian civil servants are expected to join *Dharma Wanita*.⁹³ It has five principles that women must adhere to: These are *Panca Dharma Wanita* (the five duties of women) which include: taking care of their husbands, taking care of the household, taking care of and educating children, and being good citizens.

The state gender ideology of the New Order is compatible with or inspired by Javanese tradition. This is because Suharto, known as *Bapak Pembangunan* (the father of development), was Javanese. Javanese culture was embraced by Suharto, influencing the policies of the country. Dzuhayatin states that Javanese culture has played a substantial role in the formation of so-called Indonesian culture,⁹⁴ not only in the Suharto era, but dating back to the Sukarno era. As the founding father of post-Independence Indonesia, and its first President, Sukarno was also Javanese. Thus, despite great diversity in cultural and religious cultures, Indonesia has been influenced by the Javanisation of its culture.

Javanisation that proliferates Islamic values and norms has influenced the Indonesian Marriage Law. The Javanese norm that families ‘must’ have a child has influenced the Marriage Law, No. 1, 1974, that allows a husband to take a

⁹² For more information about women’s activities in the PKK, see: Newberry, *Op. Cit.*, pp. 1296-1300

⁹³ Sunindyo, Saraswati, “Murder, Gender, and the Media: Sexualizing Politics and Violence”, in Sears, Laurie J. (ed), *Fantasizing the Feminine in Indonesia*, The University Press, Durham & London, 1996, p. 124

⁹⁴ Dzuhayatin, Siti Ruhaini, “Role Expectation and the Aspirations of Indonesian Women in Socio-political and Religious Context”, in M. Atho Mudzhar (ed.), *Women in Indonesian Society: Access, Empowerment and Opportunity*, Sunan Kalijaga Press, Yogyakarta, 2002, p. 157

second wife (polygamy) in the case of the first wife being infertile. When a married couple have no children, the wife tends to be blamed for being ‘infertile’, rather than the husband. This is discriminatory for women. This justification for polygamy is institutionalised in the Marriage Law. Article 4 of the law states that “the court gives permission to a husband to have more than one wife if her wife cannot give birth to a child.” Commenting on this marriage law, Cammack, Young and Heaton argue:

The case of the Indonesian government's efforts to regulate Islamic marriage practices illuminates the dynamic interaction between state sponsored legal rules and a local belief and practice grounded in a religious worldview. The Indonesian Marriage Act poses the contest between state power and religious authority in stark terms. But instead of producing clear winners and losers, this conflict of interests and ideologies has spawned a long process of negotiation, in which both sides have been forced to adopt strategies of accommodation. For its part, the government has not abandoned its aim of expropriating family law rules, but has found it expedient to articulate its regulatory efforts in a more Islamic idiom. In its efforts to preserve the religious grounding of Indonesian marriage rules for the Muslim majority, Islamic interests are being pressed to accept novel interpretations of Islamic law, and to recognize a larger role for the Indonesian government in interpreting the Islamic tradition.⁹⁵

The Marriage Law has been an object of criticism by Indonesian feminists. Nursjahbani Katjasungkana argues that as Indonesia has shown its commitment to gender equality through the ratification of the CEDAW and commitments in the Beijing conference of 1995, its laws and policies must meet the covenants in

⁹⁵ Cammack, M., Young, L.A., and Heaton, T., “Legislating Social Change in an Islamic Society-Indonesia’s Marriage Law,” *The American Journal of Comparative Law*, Vol. 44, Iss. 1, 1996, p. 46.

international law. Thus, any law that is discriminatory to women must be amended including the Law No. 1 of 1974 on Marriage.⁹⁶

Hadiz and Eddyono state that through these legal products, the state legitimates gender roles that place women in a subordinate position to men. This is visible in Article 31 of the Law that positions woman, in her status as wife, as a housewife; meanwhile a man, in his status as a husband, is positioned as the head of the household. Through this positioning, the law has disadvantaged women as it limits women's participation in economic, political, social and cultural activities, while supporting unequal gender relations.⁹⁷ It also creates a climate in which violence and abuse can occur within personal gender relations such as those between husband and wife.⁹⁸

The law is ambivalent. On the one hand, it states that the status and position of a husband and a wife is equal in the household and in society. On the other, the law fixes the roles of men as heads of the family, and women as housewives. This is emphasised in Article 34 that obliges men to be breadwinners, while a wife deals with domestic affairs. The law has also led to discrimination in the salary system. Men get higher salaries than women because they get additional income from the family support scheme (*tunjangan keluarga*). Meanwhile, women are regarded as dependent on men, earning incomes that supplement,

⁹⁶ Hukum Online, *The Marriage Law is considered ambivalent and discriminative (UU perkawinan dinilai ambivalen dan diskriminatif)*, available online: <http://www.hukumonline.com/berita/baca/hol1263/uu-perkawinan-dinilai-ambivalen-dan-diskriminatif>, Friday 24 November 2000, (Last viewed: 26 October 2015).

⁹⁷ Hadiz and Eddyono, *Op. Cit.*, p. 4

⁹⁸ Saraswati, Rika, *Women and the Settlement of Domestic Violence (Perempuan dan Penyelesaian Kekerasan Dalam Keluarga)*, Citra Aditya Bakti, Bandung, 2006, p. 3

rather than support, the household. This is in contrast to the fact that many women in Indonesia, and Java especially, are the sole breadwinners for their families, able to support themselves and the entire family.⁹⁹ The rule of law is obviously influenced by culture and religion, which position men higher than women. It arises from an historical patriarchal culture that regards men as powerful protectors of ‘weak’ women.

Article 2 of the law also causes discrimination against women. It states that “a marriage is legitimate, if it has been performed according to the laws of the respective religions and beliefs of the parties concerned.” The norms in Article 2 have generated ‘illegal marriages’ or unregistered relationships since the Office of Marriage Registration refuses to register marriages between people of different religions. If the marriage is not registered, of course the implications disadvantage women and children, since they cannot obtain a birth certificate, and if women experience violence, they cannot take a case to the court because they will be asked for a marriage certificate before the case is processed. Regarding this law, Blackburn writes, “the Marriage Law 1974 failed to eradicate discrimination against women in marriage, leaving them subject to religious codes that, for instance, oblige Muslim women to accept co-wives and make divorce easier for husbands to initiate than wives.”¹⁰⁰

With regard to the relationship between marriage and religion, Indonesia has different legal frameworks for Muslim and non-Muslim populations. Muslims,

⁹⁹ Curnow, Jayne, “Legal Support Structures and the Realisation of Muslim Women’s Rights in Indonesia”, *Asian Studies Review*, Vol. 39, No. 2, 2015, p. 214

¹⁰⁰ Blackburn, 1999, *Op. Cit.*, p. 192

who constitute 87.17% of the Indonesian population, register their marriage in the Office of Religious Affairs (*Kantor Urusan Agama/ KUA*) which is available in every sub-district. If they do divorce, they will proceed to the Religious Court (*Pengadilan Agama*).¹⁰¹ Followers of other religions register marriages in the Office of the Civil Registry (*Kantor Catatan Sipil*), and divorce cases proceed to the Public Court (*Pengadilan Negeri*). The Religious Court applies Islamic law that has been codified, known as the Compilation of Islamic Law (*Kompilasi Hukum Islam/KHI*), enacted through the President's Instruction No.1, 1991.¹⁰² Before 1991, Muslims in the Religious Court were subject to the Marriage Law of 1974, similar to non-Muslims in the Public Court. This means that, as Indonesia is a Muslim majority country, the majority of Indonesians go to the Religious Court¹⁰³ to settle marriage disputes, and their cases are judged in accordance with the KHI. Before the KHI, their marriage disputes were judged in accordance with the Marriage Law of 1971 and thirteen Islamic jurisprudence books recommended

¹⁰¹ This label was also inaccurate, as the word “*agama*” refers to religion generally and not Islam. The name caught on, however, and its Indonesian equivalent, *Pengadilan Agama*, was eventually adopted as the official designation of Islamic courts everywhere in the country except Aceh that uses different term, *Mahkamah Syari'ah*. See: Cammack, ME., Feener, R.M., *The Islamic Legal System in Indonesia*, *Pacific Rim Law & Policy Journal*, Vol. 21, No. 1, January 2012, p. 15.

¹⁰² For more information on KHI, see: Simon, Butt, “Islam, the State and Constitutional Court in Indonesia,” *Pacific Rim Law & Policy Journal*, Vol. 19, No. 2, April 2010, pp. 279-301, Saraswati, Rika, “Justice and the identities of women: The case of Indonesian women victims of domestic violence who have access to Family Court”, *Forum on Public Policy: a journal of the Oxford Round Table*, 2013, pp. 1-21, available online: <http://ro.uow.edu.au/cgi/viewcontent.cgi?article=1748&context=lhapapers> (viewed: 7 November 2017), and Adriaan Bedner & Stijn van Huis, “Plurality of marriage law and marriage registration for Muslims in Indonesia: a plea for pragmatism”, *Utrecht Law Review*, Volume 6, Issue 2, 2010, pp. 175-191.

¹⁰³ The term “Religious Court” is used variously by scholars, for example by Saraswati. However, Bedner and Huis use the term “Islamic Court”, and Syukur and Bagshaw use the term “Sharia Court”. This thesis uses the term “Religious Court” as it is the literal translation of *Pengadilan Agama*, which is the Indonesian name for this court. See: Saraswati, *Ibid.*, Bedner and Huis, *Ibid.*, and Syukur, Fatahillah Abdul, and Bagshaw, Dale Margaret., “When Home Is No Longer “Sweet”: Family Violence and Sharia Court–Annexed Mediation in Indonesia”, *Conflict Resolution Quarterly*, Vol. 30, No. 3, Spring 2013.

by the Bureau of Religious Court through its decree No. B/1/735, 1958.¹⁰⁴ However, there are only minor differences between the KHI and the Marriage Law regarding marriage and the gender relations between husband and wife. The position of husband as the head of family, for instance, can be found in both the Marriage Law (Article 31) and the KHI (Article 79), while the woman's failure to produce a child can be grounds for polygamy in both the law and KHI. The substance of both laws is the same, as the Marriage Law reflects Islamic teachings. Despite the Marriage Law being a product of agreement between Islamist groups, *Adat* groups, and secular group,¹⁰⁵ all these groups and the legislators were dominated by Muslim men. Both laws reinforce the position of husband as the head of the family, so he has the right to 'educate' his wife. Article 31 of the Marriage Law states that the husband is the head of the family and the wife is the housewife and Article 80 of the KHI explicitly states that a husband is a guide (*pembimbing*) for his wife and his household and has an obligation to give religious education to his wife. The concept of 'education' also includes the rights to 'correct' her perceived misbehaviours. This is often used by men as a justification for domestic violence, as violence is considered a means of punishment and a means of 'correction' that is sanctioned by his right to 'educate'

¹⁰⁴ Herawati, Andi, "The Compilation of Islamic Law (KHI) as the Result of *Ijtihad* of Indonesian Islamic Scholars (*Kompilasi Hukum Islam /KHI Sebagai Hasil Ijtihad Ulama Indonesia*), *Hunafa: Jurnal Studia Islamika*, Vol. 8, No.2, December 2011, pp. 303-322

¹⁰⁵ Kusumaningtyas, AD., "Integrating Domestic Violence Law in Marriage Institutions (Mengintegrasikan UU PKDR di Lembaga-Lembaga Perkawinan)," *Rahima*, 18 December 2012, available online: http://www.rahima.or.id/index.php?option=com_content&view=article&id=995:mengintegrasikan-uu-pkdr-di-lembaga-lembaga-pelaksana-perkawinan-&catid=1:berita&Itemid=18 (last viewed: 3 January 2017).

her. As violence is justified as a form of ‘education’ for women,¹⁰⁶ some women accept violence and are reluctant to report it, leading to under-reporting of domestic violence. According to Elli Nur Hayati et al, this attitude creates a “silent culture” or a “conspiracy of silence” among Javanese women.¹⁰⁷ This manifests in cultural norms based on four assumptions: First, domestic violence is a private matter that should be resolved privately between husband and wife. Second, family honour should be protected. As the husband is the head of the family, a wife must protect the good name of her husband.¹⁰⁸ Therefore, reporting a husband’s behaviour is a challenge for a Javanese woman, as it will be interpreted as an offense against the family’s good name. This comes from the Javanese philosophy of “*olo meneng, becik meneng*” (whether good or bad, one should keep quiet), and “*swarga nunut, neroko katut*” (whether to heaven or the hell, a wife should follow her husband).¹⁰⁹ Third, all actions of a husband toward his wife and children derive from his love and responsibility to educate his family, which is legitimised by dominant religious interpretations.¹¹⁰ Fourth, if domestic violence occurs, it must be the woman’s fault. This assumption is reflected in the common expression such as “no smoke without fire” (*tidak ada asap kalau tidak ada api*), which means that it is the wife’s act that triggered the husband’s act of violence. These assumptions have been socialised and internalised, especially by

¹⁰⁶ Nawal H. Ammar, “Wife Battery in Islam : A Comprehensive Understanding of Interpretations”, *Violence Against Women*, Volume 13, No. 5, 2007, p. 519-510.

¹⁰⁷ Hayati, Elli N, et al., “Behind the Silence of Harmony: Risk Actors for Physical and Sexual Violence among Women in Rural Indonesia”, *BMC Women’s Health*, Volume 11, Issue 52, 2011, p. 6, available online: <https://bmcwomenshealth.biomedcentral.com/articles/10.1186/1472-6874-11-52> (viewed: 6 November 2017)

¹⁰⁸ Hakimi et al, *Op. Cit.*, p. 19

¹⁰⁹ Munir, 2002, *Op. Cit.*, 196

¹¹⁰ Hajjar, *Op. Cit.*, p. 10, see also: Ammar, *Op. Cit.*, p. 518.

women, to gradually become ‘truth’ norms. Therefore, for a Javanese woman, reporting her husband to police seems to ‘deviate’ from the social norms that encode the ‘good’ behaviour of women.

These cultures and conspiracies of silence can be viewed as forms of cultural violence.¹¹¹ According to Johan Galtung, there are three types of violence: direct, structural and cultural, which creates a triangle of violence. The three correlate with each other: “direct violence is an *event*; structural violence is a *process* with ups and downs; cultural violence is an *invariant*, a ‘permanence’.”¹¹² He defines cultural violence as “aspects of culture that can be used to justify or legitimise direct or structural violence.”¹¹³ He further argues that people can commit direct or structural violence without feeling guilty, as cultural violence makes it ‘feel right.’ The violence stemming from culture will be considered to be normal, natural and tolerable by society, that, in some cases, the victims of this form of violence do not even realise that they are victims.

Conclusion

The explanations above demonstrate the influence of culture on the law, and the influence of law on women. The intersections between culture and law create certain attitudes among women about how to respond to the domestic violence they experience. Culture shapes women’s perceptions of domestic violence, and choosing how to respond conforms to how women are taught to view themselves

¹¹¹ Galtung, Johan, “Cultural Violence”, *Journal of Peace Research*, Vo. 27, No. 3, 1990, pp. 291-305.

¹¹² Galtung, *Ibid*, p. 294

¹¹³ Galtung, *Ibid*, p. 291

as members of family and society. In addition, the response is also influenced by differences between individualism and communitarian tradition of citizenship, which are cultural differences to which women subscribe. For women who live in individualistic cultures, options to respond to domestic violence may be wider, including the ability to divorce the perpetrator. However, for women who live in a communitarian culture like Java, the range of options is smaller. This is because women bear the responsibility to maintain family harmony, and thus sometimes they feel they must give up their personal or individual rights. This includes the right to report domestic violence. The obstacles for women survivors of domestic violence to gain access to justice are explored in Chapter Three, which consider the policy framework regulating attempts to eliminate domestic violence.

CHAPTER THREE

INDONESIA'S RESPONSE TO DOMESTIC VIOLENCE: CENTRAL GOVERNMENT POLICY

Introduction

The previous chapter demonstrates the ways in which culture creates certain perceptions and attitudes among women about how they should respond to domestic violence. The emphasis is on maintaining family harmony, as circumscribed by Javanese culture, thus women see domestic violence as something private that needs to be hidden. However, in 2004, Indonesia issued an ordinance, Law No. 23, 2004, on the Elimination of Domestic Violence (DV Law), which defined domestic violence as a public not a private act and as such a criminal offence.

This chapter explores Indonesia's central government efforts to protect and provide services for women victims of domestic violence through the implementation of the DV Law. It considers recent figures on domestic violence in Indonesia as recorded by the Women's Commission (*Komnas Perempuan*), and examines the DV Law by exploring its flaws. It also considers the principles and rules of work of the *Pusat Pelayanan Terpadu* (PPT), or the integrated service centre for victims of domestic violence. Nevertheless, despite the endeavours of the Central Government to eradicate domestic violence and deliver services for the victims, problems still exist, both in the DV Law and in its application.

Domestic Violence in Indonesia

Violence against women in Indonesia has increased from year to year. At the national level, violence against women is recorded by the Women's Commission, which publishes annual data on domestic violence. Of all forms of violence against women in Indonesia, the Women's Commission states domestic violence is the most common. Domestic violence, according to the Indonesian Law No. 23 of 2004 on the Elimination of Domestic Violence,

shall be any act against anyone particularly woman, bringing about physical, sexual, psychological misery or suffering, and/or negligence of household including threats to commit violent act, forcing, or seizure of freedom in a manner against the law within the scope of household.

There are four kinds of domestic violence defined in Law No 23, 2004, in Article 5: a. physical violence; b. psychological violence; c. sexual violence; or d. negligence of household. Article 6 states that that "the physical violence referred to in Article 5 clause a "shall be any act bringing about pain, sickness, or serious injury". Article 7 states, "The psychological violence referred to in Article 5 letter b shall be an act bringing about fear, loss of self-confidence, loss of capability to act, hopelessness, and/or serious psychological suffering on someone." Article 8 states, "The sexual violence referred to in Article 5 clause c shall include: a. forcing sexual intercourse carried out against an individual living within the scope of the household; b. forcing sexual intercourse against one of the individuals within the scope of the household for commercial purpose and/or a certain purpose." And Article 9 states, " (1) Anyone shall be prohibited to neglect an individual within the scope of the household, whilst in fact according to the law

prevailing on him/her or on account of acceptance or agreement he/she shall be obliged to provide livelihood, treatment, or care for the individual. (2) The negligence referred to in paragraph (1) shall also apply to anyone bringing about economic dependence by limiting and/or prohibiting an individual to work properly inside or outside the house thereby the victim is placed under the control of the individual.

The annual report of Women's Commission (*Catatan Tahunan*) states that in 2012 there were 216,000 reported cases of violence against women with 203,500 of these classified as occurring in the personal domain (*Ranah Personal*). According to the Women's Commission, the perpetrator of the violence is a person who is a blood relative (father, brother, sister, uncle, grandfather), or has a kinship, marriage or intimate relationships with the victim.¹ I regard the *Ranah Personal* as domestic violence. Similarly, in 2013, there were 279,000 cases reported, of which 263,000 were cases of domestic violence.² In 2014, the Women's Commission reported that 293,000 cases of violence against women occurred in all domains. As the figures show, the trend did not change, as domestic violence was still the most common form of violence, comprising 280,000 cases.³ Physical assault was most common form of violence (39 percent), followed by psychological violence (29 percent), sexual violence (26 percent),

¹ Women's Commission (*Komnas Perempuan*), Annual Report (*Catatan Tahunan*), 2013

² Women's Commission (*Komnas Perempuan*), Annual Report (*Catatan Tahunan*), 2014

³ Women's Commission (*Komnas Perempuan*), Annual Report (*Catatan Tahunan*), 2015

and economic violence (6 percent).⁴ Domestic violence continues to rise in Indonesia a decade after the laws to eliminate it were issued.

Law No. 23, 2004: Making the Private Public

On December 18, 1979, the United Nations General Assembly approved the Convention on the Elimination of Discrimination against Women (CEDAW). Following this, the Government of the Republic of Indonesia, at the World Conference of the United Nations Decade for Women in Copenhagen on July 29, 1980, signed the Convention. This led to the issuance of Law number 7, 1984, on the Ratification of CEDAW. The ratification was based on the consideration that the provisions of the Convention were essentially not contrary to *Pancasila* (the five principles of the state)⁵ and the State Constitution of the Indonesian Republic of 1945, which stipulates that all citizens are equal before the law and government.⁶ Paragraph IV of the Constitution states: "The state protects the entire Indonesian nation and the entire homeland of Indonesia and promotes general welfare, educate the nation and participate in implementing the world order based on independence, abiding peace and social justice." The word 'protect' in the Constitution implies protecting all citizens, men and women, from all forms of violence. In addition, Article 28 of Paragraph 2 of the Constitution states that every person has the right to be free from torture or ill-treatment that

⁴ Women's Commission (*Komnas Perempuan*), 2014, *Op. Cit.*

⁵ *Pancasila* means 'Five Principles' of the state of Indonesia. The principles are: 1) Believe in the one supreme God, 2) Justice and civilised humanity, 3) The unity of Indonesia, 4) The democracy led by understanding wisdom among honourable representatives from the parliament house, 5) Social justice for all the people of Indonesia.

⁶ Indonesian Law, No. 7, 1984, on the Ratification of CEDAW.

degrades human dignity. Thus, the right to be free from violence is guaranteed by Indonesia's constitution.

The ratification of CEDAW has implications as Indonesia has made the Convention a part of its national law. All provisions of the CEDAW document have to be fulfilled by the Indonesian government; at the same time, under CEDAW, Indonesian women can claim their rights against the state. Further, recommendations, declarations and concluding comments from the CEDAW committee can pressure the state to fulfil its obligations for women. There are three principles of the CEDAW: substantive equality, non-discrimination, and state obligations. The principle of substantive equality is to ensure that women have equal opportunity, access, and outcomes. The principle of non-discrimination means that there must be no discrimination against women based on gender with regards to enjoying and exercising their rights. The principle of state obligation means that the state is obliged to provide legal instruments, policies, programs, and institutions, to protect women's rights and to realise gender equality. Indonesia has been working to apply and implement the principles of CEDAW, in particular the principle of state obligation, to provide legal instruments.

In the spirit of CEDAW, Indonesia has demonstrated its commitment to tackling domestic violence by issuing the DV Law. This legal instrument aims to eliminate violence against women in the context of marriage and the family, and to empower women by addressing the problem of domestic violence.

The DV Law is a significant breakthrough in the life of Indonesian women as, due to the influence of culture and religion, they have been required to remain silent and endure their suffering alone when domestic violence occurs. This allows the perpetrators to continue to be violent with impunity. Under this law, Indonesian women can sue the offender, who can be sentenced to up to 20 years in prison and fined up to 500 million IDR (approximately AUD 50,000). The penalties for the perpetrators of domestic violence in the DV Law are as follows:

Article 44: Physical violence carries a maximum penalty of five years in jail or a IDR15 million fine. If the victims suffer severe injury, the penalty is raised to 10 years in jail or a IDR 30 million fine. If the violence causes death, the maximum penalty is 15 years in jail or a IDR 45 million fine. If the violence is committed by a husband against a wife, or vice versa, and does not cause serious wounds, the maximum penalty is four months in jail or a IDR 5 million fine.

Article 45: Psychological violence carries a maximum penalty of three years in jail or a IDR 9 million fine. If the psychological violence is committed by a husband against wife, or vice versa, and does not hamper daily activities, the maximum penalty is four months in jail or a IDR 3 million fine.

Article 46: Sexual violence (including marital rape) carries a maximum penalty of 12 years in jail or a IDR 36 million fine.

Article 47: Someone who drives another member of their household to have sex for commercial purposes faces a minimum penalty of four years in jail or a IDR 12 million fine -- and a maximum penalty of 15 years in jail or a IDR 300 million fine.

Article 48: Sexual violence that causes serious wounds, a mental disorder, or leads to the death of a foetus, or damage to the reproductive organs, carries a minimum penalty of five years in jail or a IDR 25 million fine, and a maximum penalty of 20 million in jail or a IDR 500 million fine.

Article 49: Anyone who ignores the well-being of their charges faces three years in jail or a IDR 15 million fine.

Article 50: Apart from imprisonment or jail, the bill also requires convicts to undergo counselling.

The DV Law shows that there is a shifting perception on domestic violence. Before the issuance of the law, domestic violence was regarded as a private matter

between individuals occurring within the institution of the family, which should not be subject to interference by the state. This perception is very closely related to the culture of the Javanese, who believe that what happens in the household, including acts of violence, must be concealed, and considered private, as to open them up in public brings shame and disgrace. Moreover, as a result of Javanese culture dominating New Order policy, Javanese patriarchal values that require women to be submissive, weak, and good at concealing her husband's 'indiscretions' proliferate in the culture and in the political and legal frameworks.⁷ As a result of the law, domestic violence has now become a state affair, and perpetrators are no longer able to commit domestic violence with impunity. The Law was passed at a session of the House of Representatives on September 14, 2004. It was the result of a long debate between the Indonesian Parliament and the Minister of Women's Empowerment as the designated lead public sector agency of the government. Its initial formulation was facilitated by the Women's Commission and NGOs⁸; LBH APIK, Rifka Annisa, Kalyanamitra, Mitra Perempuan, Fatayat and Muslimat NU, Gembala Baik, Savy Amira, LBH-Jakarta and Derapwarapsari.⁹

According to Lily Zakiah Munir, the issuance of the law is not separate from the downfall of Suharto in 1998. This brought Indonesia into a new era of democratisation, and increased openness, including for women. His toppling was

⁷ Hakimi, Mohammad, et al, *Silent for Harmony: Violence against Wives and Women's Health in Central Java Indonesia (Membisu Demi Harmoni: Kekerasan Terhadap Isteri dan Kesehatan Perempuan di Jawa Tengah, Indonesia)*, LPKGM-FK-UGM, Yogyakarta, 2001, p. 19.

⁸ Munir, Lily Zakiah, "Domestic Violence in Indonesia," *Muslim World Journal of Human Rights*, Volume 2, Issue 1, 2005, p.3

⁹ Munti, Ratna B, *The Voice of APIK: The Birth of Domestic Violence Law (Suara APIK: Lahirnya UU Penghapusan Kekerasan Dalam Rumah Tangga)*, LBH-APIK, Jakarta, 2nd edition, 2005, p. 3

followed by riots and mass rape in Jakarta and the surrounding provinces in May 1998, which has become widely known as the ‘May tragedy’. Mobilised by the tragedy and a new spirit of openness under a new President, many women’s NGOs publicised the lack of prevention programs for violence against women. The spirit for advocating for a Bill on Domestic Violence, which was drafted in 1997 by an NGO coalition of fifteen organisations, heightened. The coalition promoted the draft bill throughout Indonesia to bring attention to its importance to all stakeholders.¹⁰

The Flaws in the DV Law

However, the implementation of this law still has problems, including the lack of dissemination or socialisation of the law, the multiple interpretations of the law’s Articles, and the lack of understanding by law enforcers. In addition, some Articles in the law are difficult to implement, such as Articles on court-mandated counselling for perpetrators, because there is no government-certified institution to implement the counselling.

Law enforcers (police, prosecutors and judges) have different understandings on how domestic violence is proven. Rather than using the DV Law, some members of the judiciary still use Criminal Procedure Law (KUHAP) to prosecute domestic violence cases.¹¹ Article 54 of the DV Law says:

¹⁰ Munir, *Ibid.*, p. 3

¹¹ *The Jakarta Post*, “Decade-old failed domestic abuse victims: *LBH APIK*,” 15 April 2015, available online: <http://www.thejakartapost.com/news/2015/04/15/decade-old-law-failed-domestic-abuse-victims-lbh-apik.html> (viewed: 20 April 2015)

“Investigation, prosecution, and examination in a trial proceeding shall be conducted according to the stipulations of the prevailing Criminal Procedural Law [as general law], unless specified otherwise in this Law [as special law]”. This means that in the case of domestic violence, any legal process governed by DV Law should be prioritised, rather than the Criminal Procedure Law. This is in line with the legal doctrine “*lex specialis derogate legi generali*”, meaning that where two laws govern the same situation, the law governing a specific subject matter (*lex specialis*) overrides a law which only governs general matters (*lex generalis*). Therefore, in cases of domestic violence, Law no. 23, 2004 should be the legal instrument applied in court. However, due to a range of reasons including prosecutors’ fears of losing in the tribunal, DV Law is often neglected. Article 55 of the DV Law states: “As one of the legitimate instruments of proof, the testimony of a victim witness alone shall be adequate to prove that the accused is guilty, if accompanied by another legitimate instrument of proof.”¹² Some prosecutors reject the case if the only witness is the victim. They argue that the testimony of a victim alone is too weak to proceed. Yet, this is one of the instruments of legal proof, although another instrument must accompany it, usually a *visum et repertum* report from hospital that describes the nature and severity of the victim’s injuries. Therefore, the victim must provide at least two or more witnesses, which is hard to fulfil. Some domestic violence cases have been

¹² Article 183 of the Criminal Procedure Law states, “A judge shall not impose a penalty upon a person except when with at least two legal instruments of proof he has come to the conviction that an offense has truly occurred and that it is the accused who is guilty of committing it”. Regarding the instrument of proof, article 184 (item 1) says, “Legal instruments of proof shall be: a. the testimony of a witness, b. the testimony of an expert, c. a document, d. an indication, and e. the testimony of the accused.”

delayed for months or even years, stuck in the litigation process. The terms “*menunggu P21*” (waiting for P21) is the major reason given to victims of domestic violence for the delay by the police officers. P21 is a code for a paper work in Indonesian legal system based on Decree No. 518/A/J.A/11/2001, issued by the Indonesian Supreme Attorney. P21 means that the investigation process is completed, and the case will be given to the prosecutor by the police officers, who will initiate a trial to convict the perpetrator and test the evidence.

Article 55 of the DV Law represents a breakthrough in the Indonesian legal system to protect the rights of women. The spirit of the DV Law is to protect women to enjoy their rights including the right to access justice. Its key strength is that the DV Law regards a victim alone as adequate to bring the case to court, as long as she has another legal instrument of proof. Most domestic violence cases are hidden and occur behind closed doors. A victim may scream or cry, but no one can hear. She is the only witness of the violence. Her physical injuries can be proven through the *visum et repertum* procedure, or medical expert’s testimony if there is no such injury. Therefore, the victim’s testimony and another instrument of proof such as the *visum* report are adequate to prove that a perpetrator is guilty of the offence.

Article 55 of the DV Law has been neglected by the legal apparatus, disadvantaging women. Women are discouraged from bringing their cases to court, as it is difficult for them to provide the two or more witnesses stipulated in the Criminal Procedure Law to prove the violence occurred. Moreover, due to the

lack of socialisation of the law,¹³ many people do not consider domestic violence a criminal act. In addition, people who witness domestic violence may also be reluctant to be witnesses in the court as this means intervening in, or breaching the privacy of, others, which is highly unacceptable in some Javanese communities. Witnesses, as they are usually familiar to the perpetrator, are also at risk of attack by the perpetrator, as provisions for protection for witnesses in Indonesia is limited.¹⁴

Gaining a second instrument of proof, usually a *visum* report, is still an issue for women victims of domestic violence. The lack of information about the *visum* procedure hinders victims from accessing the *visum* service in hospital. Some women ask for the *visum* several days, or even weeks, after the violence occurred, which makes their injuries hard to detect. Moreover, some victims are charged fees for the report, but this is supposed to be free under government regulations¹⁵ as it is simply part of the services provided to victims of domestic violence.

¹³ Hasyim, Nur, and Kurniawan, Aditya P., *Monitoring of the Implementation of the Law on the Eradication of Domestic Violence in Six Provinces (Pemantauan Impelementasi UUPKDRT di Enam Provinsi)*, Rifka Annisa, Yogyakarta, 2009, p. 6.

¹⁴ Indonesia has issued Law No. 13, 2006, on the Protection of Witness and Victims (*Undang-Undang Perlindungan Saksi dan Korban*). Following the Law, the government of Indonesia has issued a regulation no. 44, 2008, on the provision of witness and victims. The Law no. 13, 2006, was amended the Law no. 31, 2014, on the Amendment of the Law no. 13, 2006, on the Protection of Witness and Victim. There are some criticisms regarding the law, see: Supriyadi Widodo Eddyono, *Witness, a Forgotten Figure in the Criminal Justice System: Some Critical Notes on the Draft of the Bill of the Protection of Witness and Victim (Saksi, Sosok Yang Terlupakan Dari Sistem Peradilan Pidana: Beberapa Catatan Kritis Terhadap RUU Perlindungan Saksi Dan Korban)*, Koalisi perlindungan Saksi & Lembaga Studi dan Advokasi Masyarakat, January 2006.

¹⁵ The Minister of MWECP's decree, No. 5, 2010, on the Guidelines of the Establishment and Development of Integrated Services Centre, in the chapter of PPT's Obligations, stated that all services of PPT for the victims of domestic violence are free of charge.

Further, domestic violence does not always leave marks or scars on women's bodies, for example, psychological or emotional violence. However, the damage to women's lives may be greater than physical injuries. There are at least three issues related to this kind of violence: first, unlike physical violence, not every victim realises that she is a victim of psychological violence; secondly, some victims may have problems in providing proof that this form of violence occurred, as a psychological *visum* is not common in the legal system; and third, when they go to court with the necessary proof, prosecutors and judges may have different interpretations of the term 'psychological violence', and whether it constitutes violence at all. In addition, the level of violence, whether it is considered 'light' or 'heavy' is punished differently under DV Law. Article 45 of the law states that a maximum penalty of three years in jail or a IDR 9 million fine can be imposed against perpetrators of psychological violence. If the psychological violence does not hamper daily activities of the victims, the maximum penalty is four months in jail or an IDR 3 million fine.

Research conducted by Rifka Annisa Women's Crisis Centre in six provinces of Indonesia has found that the legal system has no fixed criteria on how to measure psychological violence. Some judges use the appearance of the victims, or the physical condition of the victims, while others assess this form of violence based on whether a psychological *visum* has been produced.¹⁶ The DV Law itself has not set up firm criteria on defining psychological violence. Article 7 of the DV Law states the "psychological violence referred to in Article 5, clause

¹⁶ Hasyim and Kurniawan, *Op. Cit.*, pp. 17-18.

b, shall be an act bringing about fear, loss of self-confidence, loss of capability to act, hopelessness, and/or serious psychological suffering on someone.” By law, prosecutors and judges can ask a psychiatrist to explain the victim’s condition and the level of psychological violence she has endured. Expert testimony is one of the legal instruments of proof required by the court, as stated in Article 184 of the Criminal Procedure Law. In the case of physical violence, the expert testimony needs to be provided by a medical doctor. However, this instrument is rarely used by prosecutors or judges in the court. For example, one judge argued that he did not use expert testimony because the prosecutor did not propose it. Legally, as stated in Article 180 (clause 1) of the Criminal Procedure Law, the judge himself can ask for this kind of testimony.¹⁷

There is also confusion among police, prosecutors and judges about whether domestic violence is a crime, or a crime prosecuted upon complaint.¹⁸ Some law enforcers see domestic violence as crime upon complaint. This is a mistake. In fact, there are only three kinds of offenses that constitute crimes upon complaint in the DV Law, stated in three Articles below:

Article 44 (clause 4): “In case the act referred to in paragraph (1) is committed by a husband against the wife or vice versa not bringing about sickness or obstruction to perform work of the position or to earn daily livelihood or activity, the perpetrator shall be punished with imprisonment of no longer than 4 (four) months or fine of not more than Rp 5,000,000.00 (five million rupiah)”;

Article 45 (clause 2), ““In case the act referred to in paragraph (1) is committed by a husband against the wife or vice versa not bringing about sickness or obstruction to perform work of the position or to earn daily

¹⁷ Hasyim and Kurniawan, *Ibid.*, pp. 24-27.

¹⁸ Fatikhun, M., *The Logic of Law in Psychological Crime (Nalar Hukum Pidana Kekerasan Psikis)*, Ihya Media, Cilacap, 2013, p. 3.

livelihood or activity, the perpetrator shall be punished with imprisonment of no longer than 4 (four) months or fine of not more than Rp 3,000,000.00 (three million rupiah);

Article 46, “Anyone committing a sexual violence act as referred to in Article 8, item a, shall be punished with imprisonment of no longer than 12 (twelve) years or fine of not more than Rp 36,000,000.00 (thirty-six million rupiah).”

The definition in the three Articles above of crime upon complaint, is based on three further Articles of the DV Law:

Article 51, “the physical violence crime referred to in Article 44 paragraph (clause 4) shall constitute offense warranting complaint”;

Article 52, “the psychological violence crime referred to in Article 45 paragraph (clause 2) shall constitute offense warranting complaint”; and

Article 53, “the sexual violence crime referred to in Article 46 committed by a husband on the wife or vice versa shall constitute offense warranting complaint.”

It is not only law enforcers, who are unable to accept, or unaware that domestic violence is a crime, meaning that police have to intervene, whether the case is reported or not. This assumption is rooted in Javanese culture and religion which is so deeply embedded in the lives of the people that domestic violence is considered a personal and private issue.¹⁹ For example, I met with the head of the state court of Batang district and we discussed the question of domestic violence. Of one case she revealed “It made me sad to penalise a person who did not realise that he had committed an offense”.²⁰ Yet, it is a crime and this remains a surprising statement for someone whose job it is to uphold the law and within which ignorance is no defence against prosecution.

²⁰ Interview with the Head of Public Court of Batang, in Batang, 25 April 2012..

Within the present legal framework, it is not only the victim herself who can report the violence, but anyone who witnesses the violence. Article 16 (1) of the DV Law states, “Within a period of 1 x 24 hours with effect from the time of knowing or receiving report on violence in household, the police shall be obliged to immediately provide temporary protection to the victim.” However, laws in and of themselves cannot wholly prevent the reluctance to report domestic violence. Moreover, a hindrance for the implementation of the DV Law is that some victims withdraw their reports or drop charges against their abusers.²¹ The reasons given for women withdrawing their reports, or dropping charges, include that they have forgiven and still love their husband, or have come to an amicable agreement with the perpetrator based in reassurances that he will not commit further violence. However, underlying reasons for victims to withdraw their reports also include economic dependence, fears about the future of children, shame about ending up as a sole parent, or threats by the perpetrator.

There is also a view that domestic violence is a real crime, and that cases should proceed to trial, whether or not the victims withdraw. However, if the action falls under the category of “crime upon complaint” as stated in the DV Law Article 44 (clause 4), Article 45 (clause 2), and Article 46,²² the victim can

²¹ *The Jakarta Post*, 15 April 2015, *Op. Cit.*

²² Physical or psychological violence that does not cause obstacle on victim to run her job or daily activities is an offense upon complaint that criminal proceedings can only be conducted if there is a complaint or report by victims. The prosecution of the offender depends on the consent of the victim. In this complaint-based offense, victim may revoke her report if there is a peace settlement between her and the offender. The revocation of the complaint can be made within three months after the complaint is filed.

withdraw the report²³, and amicable agreement between them is encouraged.²⁴ This is because the spirit of the DV Law, clearly mentioned in Article 4 (clause c), is “to maintain the harmony and welfare of the life of household”. The DV Law is not intended to separate the couple.

In addition to imprisonment and fines, the DV Law allows judges to rule that perpetrators undergo counselling. This is stated in Article 50, clause b, “ruling the perpetrator to undergo a counselling program under the supervision of a certain institution”. According to the Elucidation of Article 50, ‘certain institution’ means an institution that is accredited by the government to provide counselling services to the perpetrator, for example, a hospital, clinic, counsellor, group, or others who have expertise in providing counselling. This ruling is intended to provide the flexibility for judges to deliver a probationary sentence, with the purpose of directing perpetrators to counselling to provide guidance and maintain the household harmony. The problem is that the government has not yet established the ‘certain institution’ to provide this counselling. Therefore, no perpetrator has yet been offered counselling as judges have no idea where to send them. Some perpetrator counselling programs do exist, run by NGOs such as Rifka Annisa Women’s Crisis Centre in Yogyakarta²⁵, and Mitra Perempuan

²³ Article 75 of the Criminal Law states: “The person who files the complaint remains competent to withdraw the complaint during three months after the filing date.”

²⁴ For the advantage of the victim, an amicable agreement should be made on several conditions, such as: the agreement should be made in front of legal apparatus, religious/*adat* figures, and families of the couple; agreement must be clearly written on paper and signed by a lawyer, and must contain articles of potential punishments if the perpetrator repeats the offense.

²⁵ Rifka Annisa, *Men Counselling (Konseling Laki-Laki)*, available online: <http://www.rifka-annisa.org/id/layanan/konseling-laki-laki> (last viewed: 24 March 2016).

Women's Crisis Centre in Jakarta.²⁶ However, these are voluntary programs, rather than court-ordered and obligatory. The absence of court-mandated counselling disadvantages women, as perpetrators are unlikely to change their perspectives or behaviour without such programs. In addition, some women would prefer that their husbands changed their behaviour, rather than go to prison.

Further, as discussed in Chapter Two, the DV Law conflicts with the marriage Law No. 1, 1974. Some women victims of domestic violence who escaped and seek help from shelters have been criminalised for 'neglecting' their children, and the law has legitimated gender roles that reinforce women's subordination. Article 31 of the Marriage Law fixes women, in their status as wives, as housewives; by contrast, men are positioned as heads of households. This is emphasised in Article 34, which obliges a husband to be the breadwinner, while the woman's role is defined as responsibility for domestic affairs. Through this positioning, the law disadvantages women. Not only does it limit women's participation in economic, political, social and cultural activities by relegating women to domestic sphere, but also reifies unequal gender relations.²⁷ In addition, the Article has been used as an argument for perpetrators to sue victims, on the grounds that a woman has 'failed' in her domestic duty as a wife or mother. Under DV Law, women who experience domestic violence, and leave to seek help from their families of origin, or take refuge in shelters, can be blamed for

²⁶ Mitra Perempuan, *Counselling for the Perpetrator of Domestic Violence (Konseling Bagi Pelaku Kekerasan Rumah Tangga)*, available online: <http://perempuan.or.id/2006/11/10/konseling-bagi-pelaku-kekerasan-dalam-rumah-tangga/> (Last viewed: 24 March 2016).

²⁷ Hadiz, Liza, and Eddyono, Sri Wiyanti, *Standardisation of Gender Roles in Policies in Indonesia (Pembakuan Peran Gender Dalam Kebijakan-Kebijakan di Indonesia)*, LBH-APIK Jakarta, 2005, p. 4

‘neglecting’ their children, or not fulfilling their wifely obligations.²⁸ For example, as in the case of Siti Rubaidah, the wife of the Deputy Mayor of Magelang City of Central Java. She reported her husband for domestic violence, but, her husband counter-sued on the grounds that Rubaidah ‘abandoned’ her children. She was charged by the police as a suspect for ‘neglecting’ her children as she was absent from home.²⁹

As already stated, Article 2 of the Marriage Law discriminates against women,³⁰ because the values encoded in Article 2 have generated unregistered or ‘illegal’ marriages, as the Office of Marriage Registration refuses to register the marriages of couples from different religious backgrounds. There are consequences for women if the marriage is not registered, including that women who experience domestic violence cannot take legal action against their de facto husbands, as police will ask for marriage certificates for women who partners. Without a marriage certificate, the case will not be considered as domestic violence.

However, because of Indonesia’s ratification of CEDAW, women, whether individually or collectively, can take legal action against individuals,

²⁸ Hadiz and Eddyono, *Op. Cit.*, p. 71-73

²⁹ Tribun News, “The Wife of the Mayor’s Deputy of Magelang is declared a Suspect (*Isteri wakil walikota Magelang ditetapkan sebagai tersangka*), 09 April 2013, available online: <http://www.tribunnews.com/regional/2013/04/09/istri-wakil-wali-kota-magelang-ditetapkan-jadi-tersangka> (viewed: 23 August 2017). See also: “Mayor’s Deputy of Magelang reports back her wife to Police (*Wakil Walikota magelang Balik laporkan Isterinya ke Polisi*), 29 January 2013, available online: <https://www.merdeka.com/peristiwa/wawali-kota-magelang-balik-laporkan-istrinya-ke-polisi.html> (viewed: 23 August 2017).

³⁰ See Chapter 2. Article 2 (1) of the 1974 Marriage Law provides that “a marriage is legitimate, if it has been performed according to the laws of the respective religions and beliefs of the parties concerned”. Article 2 (2) of the 1974 Marriage Law requires that every marriage must be “registered according to the regulations of the legislation in force.” See: Library of Congress, Indonesia: Inter-Religious Marriage, available online: <https://www.loc.gov/law/help/religious-marriage.php> (last viewed, 18 July 2017).

organisations or even the state, if the state has ratified the Optional Protocol of CEDAW (OPC). An international treaty the complaint and inquiry mechanisms for CEDAW. Although Indonesia was a signatory to the OPC in 2000, it has not yet ratified it. According to Indonesian Law No. 24, 2000, on the International Treaty, for multilateral agreement, a signature is not enough. It needs ratification or accession.³¹ Without ratification of the OPC through the institutional laws, Indonesia is not bound to the OPC. As a consequence, Indonesian women, whether as individuals or collectively, are unable to take a case of violence against women to the CEDAW Committee.³² Women from the Philippines, Indonesia's nearest neighbours, have more advanced rights than Indonesian women, as the Philippines ratified the OPC in November 2003.³³ There is some concern in the Indonesian House of Representatives that ratifying the OPC will pose the potential threat of external intervention in Indonesia's internal affairs.³⁴ This argument is weak, given that ratification of the OPC offers women specific rights, as well as maintaining the image of Indonesia as a state that protects women's rights and abides by the rule of law. Commenting on the potential threat to

³¹ According to Indonesian Law No. 24, 2000, on the International Treaty, for multilateral agreement signature is not enough. It needs ratification or accession. The law stated, in Article 3, that the process of attaching themselves to an international agreement made through the following ways;

- a. signing,
- b. ratification,
- c. document exchange agreement / memorandum of diplomatic,
- d. other means as agreed by the parties under the treaty. The state can be said to be bound by a treaty after ratification in the form of ratification, accession, acceptance, as well as approval.

³² Item 3 of the Optional Protocol of CEDAW

³³ Philippine Commission on Women, *Philippine Participation to CEDAW*, available online: <http://pcw.gov.ph/international-commitments/cedaw/philippine-participation> (Last view: 08 April 2016).

³⁴ Hukum Online, *NGOs impose the ratification of Optional Protocol of CEDAW (LSM Desak Ratifikasi Optional Protocol CEDAW)*, 10 November 2010. Available online: <http://www.hukumonline.com/berita/baca/lt4cdab2b42d892/lsm-desak-ratifikasi-optional-protocol-cedaw> (Last viewed: 12 October 2016).

Indonesian internal affairs posed by ratifying the OPC, Rena Herdiyanti, the Director of Kalyanamitra, an NGO based in Jakarta, said “that is a challenge that we will face together”.³⁵ In addition, she contends that ratification of the OPC does not mean that the CEDAW committee can impose administrative or political sanctions against states considered to breach the CEDAW, as this is not the role of the committee. Rather, the CEDAW Committee investigates reported cases, delivers advice and helps states to implement the CEDAW covenant.³⁶ The CEDAW Committee is the last resort for women to access justice when all other legal instruments have failed. In addition, there is an option for a state to withdraw its ratification or accession of the OPC through an agreement between the head of state and the UN Secretary- General.³⁷

Support and Services for Victims of Domestic Violence

Before the issuance of the DV Law, in October 2002, the Indonesian Government issued a Joint Decree (*Surat Keputusan Bersama*) on integrated services for women and children victims of violence, signed by the Minister of Women’s Empowerment,³⁸ the Minister of Health, the Minister of Social Affairs, and the Head of the National Police. The decree aimed to establish procedures and service standards for victims of violence. It also regulated facilities and infrastructure needed to provide these services. Services were based in the government’s public

³⁵ Hukum Online, *Ibid.*

³⁶ Hukum Online, *Ibid.*

³⁷ Article 19 of the Optional Protocol of CEDAW

³⁸ From 2009 the Ministry of Women’s Empowerment has become the Ministry of Women’s Empowerment and Children protection (MWECP).

hospitals in Jakarta, at the provincial and district levels, and the hospitals of *Bhayangkara* (Police hospitals). At this time, the victims of domestic violence were regarded just like other victims of violence, with the only legal recourse being through Indonesian Criminal Law.

After the issuance of the DV Law in 2004, the definition of violence against women expanded to include not only physical and psychological violence, but also sexual harassment, the first time this had been criminalised in Indonesia. The DV Law accommodated the rights of the victims as a state obligation. Victims' rights are: (a) Protection of victims by police³⁹, judiciary, lawyers⁴⁰ and social institutions⁴¹; (b) access to health services⁴² in accordance with the medical needs of victims; (c) protection of the confidentiality of victims; (d) access to support by social workers;⁴³ legal assistance for the victims at every level of the litigation stage; and (e) counselling services provided by religious counsellor.⁴⁴ The provisions for victims of domestic violence above are adequate to protect victims and provide redress if properly implemented, but principles must be backed by action and practical services. The implementation of the DV Law needs a solid superstructure and infrastructure: this includes the capability of workers providing the services, clear and systematic job descriptions, and adequate resources.

³⁹ Article 17, 18, 19, and 20 of the DV Law

⁴⁰ Article 25 of the DV Law

⁴¹ Article 23 of the DV Law

⁴² Article 21 and 40 of the DV Law

⁴³ Article 22 of the DV Law

⁴⁴ Article 24 of the DV law

Article 13 of the DV Law states that in providing services to the victims, the central and local governments must:

- a. provide a special service room at a police station;
- b. provide officials, health workers, social workers, and spiritual counsellors;
- c. create and develop systems and mechanisms for cooperation to ensure services are easily accessible to the victim; and
- d. provide protection for companions, witnesses, families and friends of victims.

To comply with the provisions above the governments may liaise with NGOs,⁴⁵ both nationally and internationally.⁴⁶

As stated in Article 43 of the DV Law named “Further provisions on the implementation of the recovery efforts and cooperation regulated by Government Regulation”, the Central Government has issued several regulations describing the rights of victims to access government services, including the measures to be taken in fulfilment of its service provision obligations. These regulations are:

1. The Government of the Republic of Indonesia Regulation, No. 4 year 2006, on Implementation and Cooperation for the Recovery of Domestic Violence Victims.
2. Regulation of the Minister of Women’s Empowerment and Child Protection, No. 1 year 2007, on the Coordination Forum for Cooperation on Prevention and Recovery of Domestic Violence Victims.
3. Regulation of the Minister of Women’s Empowerment and Child Protection, No. 22 year 2010, on Standard Operational Procedures for Integrated Services for Witnesses and/or Victims of Trafficking.
4. Regulation of the Minister of Women’s Empowerment and Child Protection, No. 5 year 2010, on Guidelines for Establishment and Development of the Integrated Service Centre.
5. Regulation of the Minister of Women’s Empowerment and Child Protection No. 1 year 2010, on Minimum Service Standards for the Integrated Services for Women and Children Victims of Violence.

⁴⁵ Article 14 of the DV Law

⁴⁶ Article 19 of the Government Regulation, No. 4, 2006 on Implementation and Cooperation for the Recovery of Domestic Violence Victims.

6. Regulation of the Minister of Women's Empowerment and Child Protection, No 19 year 2011, on Guidelines for Empowerment of Women Victims of Violence.

Regulation No. 4, 2006 regulates the implementation of recovery⁴⁷ efforts for the victims of domestic violence. Recovery efforts must be implemented in a coordinated and integrated way, involving multi-governmental sectors, and services must be available at all levels of government: Central, Provincial, and District level.

As this effort takes the form of a cooperative network, coordination is needed. Therefore, a Coordination Forum was formed at the Central, Provincial and District levels. The Ministry of Minister of Women's Empowerment and Child Protection has a duty to form a Coordination Forum at the Central level, while at the local level, responsibility rests with the Governor and District Head. The Minister then issued Ministerial Decree No. 01, 2007, on the establishment of the Coordination Forum for Cooperation, Prevention and Recovery of Victims of Domestic Violence. This forum consists of several ministries, NGOs, and community organisations, and is headed by the Minister.⁴⁸

The Minister of Women's Empowerment and Child Protection issued Decree, No. 5, 2010, on the Guidelines for the Establishment and Development of

⁴⁷ The definition of recovery according to Regulation No. 4 in 2006, as stated in Article 1, is: "The recovery of victims is every effort to strengthen victims of domestic violence to be more empowered, both physically and psychologically".

⁴⁸ The members of the forum are: the Minister of Health, Minister of Social Affairs, Minister of Religious Affairs, Minister of Internal Affairs, and the Head of the National Police. The NGOs and Community Organisation involved are: Muslimat NU Women, Fatayat NU, Aisyiah (of Muhammadiyah), and LBH, Puan Amal Hayati, Women's Commission, Mitra Perempuan, Unity Church of Indonesia, and the Indonesian Ulama Council (*Majelis Ulama Indonesia/MUI*).

Integrated Services Centres. Integrated Service Centres are known as PPT (*Pusat Pelayanan Terpadu*), with obligations to:

1. Provide services as soon as possible and at no cost for victims;
2. organise protection and fulfilment of the rights of victims to medical recovery, social recovery, social reintegration, and legal assistance;
3. liaise with relevant institutions to provide translators and volunteers where needed;
4. network with government and private hospitals for treatment of injuries, and liaise with protection agencies to provide shelters for victims and witnesses;
5. provide convenience, comfort, and safety;
6. maintain confidentiality;
7. provide legal assistance; and
8. where services are delivered through a network, the PPT remains responsible for the entire referral process to services as required by victims.⁴⁹

The Ministerial Decree No. 5, 2010, also mandates the PPT to ensure that, in delivering the services above, the following general and basic principles⁵⁰ apply.

Services must:

- a. be easy, convenient, and ensure the safety of victims;
- b. be effective and efficient;
- c. ensure access to justice for victims;
- d. be sustainable.

The basic principles are that services:

- a. Create a sense of security for the victims, which means convincing providing a safe environment for victims to disclose abuse and violence, and help victims to make plans for their lives;
- b. respect victims' rights and prioritise their interests and choices, ensuring the right to confidentiality, the right to information, the right to protection,

⁴⁹ These seven obligations of the PPT will be the guide for investigating the performance of the PPT The Central Java Province and the PPT of the City of Semarang in the upcoming chapters.

⁵⁰ These principles will be applied in investigating the services of the PPT The Central Java Province and the PPT of the City of Semarang in the upcoming chapters.

children's rights, the right to not be discriminated against, and respect the views and choices of victims;

- c. maintain a non-judgmental attitude in which victims are not blamed, which means PPT officers should not issue queries and statements that make the victims feel guilty or cornered;
- d. empower victims by motivating and strengthening them emotionally;
- e. treat victims with empathy, by putting themselves in the position of victims to understand what they feel, while maintaining a professional distance and actively listening to their complaints; and
- f. ease access to services by shortening the bureaucratic processes to prioritise services.

To ensure PPTs deliver services in line with these guidelines, the Minister of Women's Empowerment and Child Protection issued the Minimum Service Standards (*Standar Pelayanan Minimal/ SPM*) for PPT through the Minister's decree No.1, 2010. Under this decree, local government is obliged to set a target to achieve the Standards. This constitutes a promise by government to victims of domestic violence, and thus, acts as a benchmark to assess the performance of the PPT, as well as a tool for victims to claim their rights. Therefore, the performance of the PPT is regularly monitored and evaluated.⁵¹ The results are reported in accordance with the level of government. Article 9 of the decree states that the Minister is responsible for reporting to the President, the Governor is responsible for reporting to the Minister, as well as sending a copy of the report to the Minister of Internal Affairs, and the District Head or Mayor is responsible for

⁵¹ Regarding monitoring and evaluation of the PPT, Article 8 of the Minister's decree, No. 1, 2010, states:

- (1) The Minister and Ministry/related agencies conduct the monitoring and evaluation of the implementation of SPM.
- (2) Monitoring and evaluation referred to in item 1 are intended to track the progress and obstacles in the implementation of SPM.
- (3) In conducting the monitoring and evaluation of the Minister and Ministry/related agencies collaborate with local government.
- (4) Monitoring and evaluation referred to in item 1 shall be conducted in accordance with the provisions of the regulations.

reporting to the Governor, with copies submitted to the Minister of Women's Empowerment and Child protection and the Minister of Internal Affairs. This applies also in the process of advice and supervision of the PPT.⁵²

By implementing the regulations discussed above, Indonesia has shown a strong commitment to eradicate domestic violence. However, it is not the existence of regulations alone that can protect women from domestic violence, but their implementation, as regulations on domestic violence may represent a token gesture designed only to please women activists, while remaining poorly implemented.⁵³ In addition, ineffective regulation may further victimise women. If services for victims are poor, this results in more severe impacts for women who report perpetrators. "It is [like] trapping women", as Fatkuroji, Director of LRC-KJHAM, put it. "Women dare to report their cases because they are encouraged to do so, but some are left without protection, making them prone to a backlash from perpetrators."⁵⁴

The DV Law and its subsequent regulations form the basis for my investigation of the implementation of local services, in line with the regulatory framework. The PPT of Central Java Province and the PPT of the City of Semarang are discussed in Chapters Four and Five.

⁵² The Article 11 of the Minister's decree No.1, 2010, states that:

1. The Minister shall guide and supervise the implementation of the SPM of the PPT to the provincial government
2. Governor shall guide and supervise the implementation of the SPM of the PPT to the local government of district and city
3. Head of districts and mayors supervise the implementation of the SPM in the PPTs of their own areas

⁵³ Delgado, Julissa, *Law to Nowhere*, COHA Forum, 20 April 2011. Available online: <http://www.coha.org/law-to-nowhere/> (last viewed: 07 June 2017)

⁵⁴ Interview with Fatkuroji, Director of LRC-KJHAM (an NGO based in Semarang), in Semarang, 10 July 2014.

Conclusion

Despite some flaws, Indonesia has made efforts to institute laws and regulations to protect and provide services to victims of domestic violence, suggesting it has a strong commitment to the eradication of domestic violence. However, implementation of the law and regulations can be improved if efforts to socialise the law and regulations are strengthened. Education to represent domestic violence not as an everyday incident, but as a gender-based crime, is required. In addition, to ensure that the state performs its obligations in full, ratification of the Optional Protocol of the CEDAW is needed. In terms of implementation of the law, it is important that services providing support to victims of domestic violence are properly staffed, workers are trained, and adequate resources are provided. All provisions of the DV Law and its regulations should be properly implemented. Without this, poor service quality will result in women who report domestic violence becoming vulnerable and at risk facing possible acts of revenge by the perpetrators.

CHAPTER FOUR

SERVICES FOR VICTIMS OF DOMESTIC VIOLENCE AT PROVINCIAL GOVERNMENT LEVEL: THE PPT OF CENTRAL JAVA

Introduction

The previous chapter demonstrates that the Central Government has shown a commitment to eradicating domestic violence in Indonesia. It has brought in laws and regulations to protect and provide services for victims of domestic violence, established the *Komnas Perempuan* (Women's Commission), and set guidelines and Codes of Conduct for the PPTs at the local government level, in both Provinces and Districts.

This chapter explores efforts of the Central Java Provincial Government to protect and provide services for victims of domestic violence. It examines the dynamics in how the Central Java Government drives services and negotiates with Central Government regulations, and considers how the laws and regulations are implemented in the local context. It answers the following questions: does the Central Java Government follow national regulations? how does it negotiate the regulations? how are the regulations applied in the Central Java context? This requires an understanding of the role of NGOs, and how women civil servants, as pioneers of the services, work to and negotiate the patriarchal culture in establishing and developing the PPT.

This chapter discusses the history of the PPT of Central Java Province and explains the local regulations for services for the victims. Outlining the structure of the PPT of Central Java, it analyses the progress of the PPT of Central Java through service evaluations by stakeholders, and critical analysis of services informed by feminist theory and debate. The PPT of Central Java is regarded as one of the best, if not the best, of services, as it has been awarded the *Anugerah Parahita Ekapraya/APE* (an award for delivering public welfare) for nine consecutive years from 2005 to 2013,¹ and has been endorsed by NGOs such as the Asia Foundation (TAF). However, questions remain about the quality of the service, including the capacity of the staffs, networks, budgets, and the sustainability of the service. To address these, this chapter surveys figures and trends in domestic violence in Central Java, considering its obligations under Central Government law to provide services in relation to wider issues of local autonomy and decentralisation. These form the historical background to the PPT of Central Java. An understanding of how services for victims of domestic violence are regulated, as well as discussing of key milestones in the establishment and development of the PPT, provide the context to analyse the outcomes of PPT services.

¹ Wawasan (Daily newspaper), *Sembilan Tahun Jateng Borong Penghargaan (Nine years the Central Java get the Award)*, 23 December 2013.

Figures of domestic violence in Central Java

Data on the prevalence of domestic violence have been collected from various sources including government agencies and NGOs. From the government agency dealing with domestic violence, data can be obtained from the Commission for Protection of Victims of Gender-Based Violence and Children (*Komisi Perlindungan Korban Kekerasan Berbasis Gender dan Anak /KPK2BGA*), which acts similar to Women's Commission at the Central level. The Commission issues annual reports detailing the number of cases of violence against women and children, based on data received from PPTs in the 35 districts and cities of Central Java. Reports are conducted quarterly. According to KPK2BGA, of all cases of gender-based violence occurring in 2008, 92.6 percent (1422) of victims were women, and 7.4 percent (114) were men. In 2009, the number of cases increased, with women comprising 89.6 percent (2251) of victims, while and 10.4 percent (225) were men. The trend was steady in 2010, with women comprising 88.4 percent of victims (2867) and men 11.6 percent (377).² The data suggest that the vast majority of victims of violence are women. This is inversely proportional to the numbers of perpetrators: for example, in 2010, women comprised 6.1 percent (235) of the perpetrators of violence, while men accounted for 93.9 percent (3020) of perpetrators.³

² Central Java Government, *Annual Report of KPK2BGA (Laporan tahunan KPK2BGA)*, year 2011.

³ Central Java Government, *Ibid.*

Another government agency that issues reports on violence against women is the Body for the Protection and Empowerment of Women and Children (*Badan Perlindungan dan Pemberdayaan Perempuan dan Anak/BP3AKB*). The BP3AKB issues reports on its website, displayed under the title “E-Violence Cases” (*E-Kasus Kekerasan*).⁴ Data about violence is reported and can be accessed electronically through the website, which records data about violence occurring throughout the 35 districts and cities of Central Java. The selection menu contains the period of the report (semester and year), the numbers of victims and perpetrators, the gender of victims and perpetrators, data on social conditions such as the educational levels of victims and perpetrators, and the district or city where the violence occurred. According to BP3AKB, in 2013, there were 569 cases of violence against women throughout the 35 districts of Central Java, with 408 of the cases considered domestic violence. This was an increase of 42 percent from 2012, in which there were 355 cases of domestic violence.⁵

The *Legal Resources Center untuk Keadilan Jender dan Hak Asasi Manusia* (LRC KJHAM), a prominent NGO in Central Java and a service partner of both the PPT of Central Java and of Semarang, also collects data on domestic violence every year. From 1999 to 2009, of 4,500 cases recorded by LRC-KJHAM, 1251 were domestic violence cases, and 1814 people were identified as

⁴ ‘E-violence’ in this case is a term used by the Central Java Government to refer to the data of domestic violence published electronically through its website. The term does not related with the act of violence such as cyber-violence or virtual-violence. To access data from ‘E-violence’, please go to: http://bp3akb.jatengprov.go.id/e_kekerasan_new/report/ (last viewed: 21 April 2016).

⁵Source: E-Violence (*E-Kekerasan*), available online: <http://bp3akb.jatengprov.go.id/> (last viewed: 21 April 2016).

victims.⁶ In addition, LRC-KJHAM reported⁷ that within the period November 2011 to October 2012, 408 cases of violence against women occurred. Of these 408 cases, 147 were domestic violence cases, affecting 130 women victims, while children accounted for the rest. From November 2012 to October 2013, 460 cases of violence against women were recorded, with 354 of them classified as domestic violence.⁸ Also, according to the LRC-KJHAM, in 2010, of the 207 reported cases of domestic violence in Central Java, the City of Semarang had the highest levels of violence against women with 151 domestic violence cases, followed by the District of Pekalongan with eight cases, and the district of Magelang, with six cases. Of these 207 cases, sixteen women died as a result of the violence, and three committed suicide.⁹

There are several reasons why Semarang has the highest incidence of domestic violence cases compared to other districts and cities in Central Java. One of the reasons is that, as the capital city of Central Java, the cases occurring in Semarang are most likely to be publicised by the media, and as a result, the Semarang Government and the LRC-KJHAM provide outreach services to victims of the violence, even if they are not reported in their cases. Another

⁶ LRC-KJHAM, Data of Violence against Women in Central Java: From November 2009 to October 2010 (*Data Kasus Kekerasan Terhadap Perempuan di Jawa Tengah; Periode November 2009-Oktober 2010*), Semarang, 2010.

⁷ LRC-KJHAM, Annual Report of Violence against Women in Central Java 2010 (*Laporan tahunan LRC KJHAM tahun 2010*), Available online: <http://lrckjham.org/laporan-lrc-kjham/1907-laporan-tahunan-kasus-kekerasan-terhadap-perempuan-di-jawa-tengah-tahun-2010> (last viewed 21 September 2015).

⁸ LRC-KJHAM, Annual Report of of Violence against Women in Central Java year 2013 (*Laporan tahunan LRC KJHAM tahun 2013*), Available online: <http://lrckjham.org/laporan-lrc-kjham/1907-laporan-tahunan-kasus-kekerasan-terhadap-perempuan-di-jawa-tengah-tahun-2010> (last viewed 21 September 2015)

⁹ LRC-KJHAM, Data from November 2009 to October 2010, *Op. Cit.*

reason is that LRC-KJHAM is located in Semarang, so more reliable data is available in Semarang compared to other districts and cities. As LRC-KJHAM is the main partner of the PPT of Semarang, it has full access to PPT data about domestic violence. In addition, the existence of PPT Semarang branches in eighteen sub-districts has given wider access to women to report domestic violence. For these reasons, where fewer cases of domestic violence might be recorded in districts such as Blora and Banjarnegara, this does not mean that less domestic violence occurred, but rather that domestic violence is less likely to be reported because women have less access to services.

However, there are shortcomings in both government and NGO data, including the possibility of the duplication or inflation of the data. All the reporting agencies collect data from organisations that provide services to the victims of domestic violence: the police station, religious courts, health centres, shelters, and from the mass media (electronic and printed). Duplication of data can occur if a victim has contact with three of these agencies: for example, the police, a hospital, and a shelter. When a victim comes to report domestic violence or to access a service, a service agency will register her case in its system. If the victim accesses three services, then her case will be registered in three different systems. All data from the services are collected by the PPT of the district, which reports to the BP3AKB quarterly, or gives the information to NGOs who ask for it. The data from all services is counted by BP3AKB and NGOs as cumulative data. In the example discussed above, one victim's case may be counted three times. Duplication of data might also occur because data reported to the BP3AKB

by service providers is data by number, rather than by name. Therefore, actual numbers of victims of domestic violence accessing the services are fewer than the data reported by the government or NGOs.¹ The inflation of the data benefits to the agencies, as they can report that they have provided services to a larger number of victims. As a consequence, they can propose an increase in funding for the next term. By contrast, if they cannot spend the available funds, their funding will be cut in the next term.

However, it is also important to recognise that cases reported to the services are fewer than the actual number of domestic violence incidents shown by the data. This is because the data only represents those incidents of domestic violence where victims reported their cases and sought help from services. Moreover, victims who report their cases are mostly victims of physical abuse.¹⁰ This is because they have relatively fewer problems in proving that the violence occurred to police or PPT staff, as it can be traced or shown through injuries, photos, and later *visum of repertum*. For women who experience psychological and/or economic violence, the problem of proof is different as they face three

¹⁰ The DV Law, No. 23, 2004, states that there are four forms of domestic violence: a. Physical violence; b. Psychological violence; c. sexual violence; or d. negligence of household. Article 6 said that “the physical violence referred to in Article 5 letter a “shall be act bringing about pain, sickness, or serious injury”. Article 7 said, “The psychological violence referred to in Article 5 letter b shall be an act bringing about fear, loss of self-confidence, loss of capability to act, hopelessness, and/or serious psychic suffering on someone.” Article 8 said, “The sexual violence referred to in Article 5 letter c shall include: a. forcing sexual intercourse carried out against an individual living within the scope of the household; b. forcing sexual intercourse against one of the individuals within the scope of the household for commercial purpose and/or a certain purpose.” And the Article 9 said, “ (1) Anyone shall prohibited to neglect an individual within the scope of the household, whilst in fact according to the law prevailing on him/her or on account of acceptance or agreement he/she shall be obliged to provide livelihood, treatment, or care for the individual. (2) The negligence referred to in paragraph (1) shall also apply to anyone bringing about economic dependence by limiting and/or prohibiting an individual to work properly inside or outside the house thereby the victim is placed under the control of the individual”.

problems: reporting the violence is a problem as it contravenes culture and beliefs; being interviewed by police is a problem because most police officials are men; and providing proof of the violence is also a problem as it is not easy to prove psychological and economic violence. Hence, non-reporting of this form of domestic violence tends to be ‘the best’ option, as it avoids these problems. This leads to under-reporting of domestic violence. Therefore, the data from both NGO and government sources is only a tip of the iceberg, as reporting domestic violence remains a challenge for Javanese women. The culture requires a woman to conceal the violence, as it brings embarrassment to her and the entire family, such as in the case of SV-1. She was abused by her husband three times in 2012, and once in 2014. She knew about the PPT and had its phone number. However, she decided not to report her case as it brought shame on her and her family. As she said: “This is something that I have to cover up. I think I can stand it.”¹¹ Similarly, SV-2 reported her husband only because she felt that her life was in danger: “My husband always threatened me; I felt intimidated every day.” She felt that she could be killed at any time: “I thought that if I was killed, who would look after my daughter? I reported my case so someone knew what was going on for me”. She is the mother of a four-year-old daughter.¹² Many women who experience domestic violence find themselves in similar situations before finally reporting domestic violence; they report only when they can no longer stand the violence. Reporting is a strategy of last resort, but it is the existence of services that eventually draws women to report the violence.

¹¹ Interview with SV-1, in Semarang, 27 November 2014.

¹² Interview with SV-2, in Semarang, 29 October 2014.

Luly Altruismaty, Deputy Minister of Women's Empowerment and Child Protection (MWECP), notes that "data on domestic violence [in the MWECP or Central Government] is only the tip of the iceberg, as it is difficult to get a hundred percent data, because some local government agencies did not send their data, partly due to decentralisation."¹³ As a result of decentralisation and policy recognising local autonomy, Provincial Government, as the representative of Central Government in its region, has minimum power to 'force' District Government including to send its data on domestic violence to the Provincial Government, which the Provincial Government then transfers to the Central Government.

In addition, according to M. Sairi Hasbullah, chief of Social Resilience Statistics at the *Badan Pusat Statistik* (Indonesia Central Statistics), the number of incidents of violence against women in Indonesia is not easy to calculate, as most victims tend to conceal the violence. As a result, "due to limitations and methodological differences, the data is not comparable with any international data on violence against women."¹⁴ However, Hasbullah's statement is not quite accurate. When it comes to obtaining data about the actual levels of domestic violence (and violence against women in general), other countries have the same problems as Indonesia. Without wishing to underestimate any efforts to improve the methods, I contend that the under-estimation of domestic violence remains a global problem. In Australia, for instance, "[w]omen appear to be particularly

¹³ Interview with Luly Altruismaty, Deputy Minister of WECP, in Jakarta, 30 September 2014.

¹⁴ The Jakarta Post, 'Culture of Silence' hinders reporting of violence, 09 August 2012, available online: <http://www.thejakartapost.com/news/2012/08/09/culture-silence-hinders-reporting-violence.html> (20 April 2015).

reluctant to report violence by current partners...women seem better able to identify Intimate Partner Sexual Violence (IPSV) by a previous, rather than a current partner. They may feel confused, loyal and forgiving about a current partner”¹⁵. Donna Chung, from the University of Western Australia, argues:

[i]t is important to note that all statistics about MVAW (Male Violence against Women), regardless of their source, will be a conservative or underestimate of the actual extent of the problem. This is because there will always be women who are understandably distressed or embarrassed about having been subjected to such violence, and as such, do not disclose or report it.¹⁶

Indeed, the distress or embarrassment that prevents Australian women from reporting their cases is the same distress that Javanese women (and Indonesian women more generally) face in reporting their experiences of domestic violence. This remains so, despite new legal frameworks to recognise domestic violence as a crime and a wider social issue.

The Obligations of the Central Java Province

As discussed in Chapter Three, the responsibility of Provincial governments to deliver protection and services for victims of domestic violence is framed by Law No. 23, 2004, on the Eradication of Domestic Violence (DV Law) and Central

¹⁵ Parliament of Australia, *Domestic, family and sexual violence in Australia: an overview of the issues*, available online: http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1415/ViolenceAust (last viewed: 14 April 2016)

¹⁶ Chung, Donna, “Understanding the Statistics about Male Violence Against Women,” *White Ribbon Research Series*, Paper No. 5, May 2013, p. 4.

Government regulations.¹⁷ The DV Law, Articles 13 and 14, obligates the local government (*Pemerintah Daerah*)¹⁸, in the provinces and districts to provide a range of services to victims of domestic violence. These include: a special service room in the police station, trained staff, medical personnel, social workers and religious counsellors. Local governments must also ensure the system of service involves relevant support agencies that can be easily accessed by victims, and provide protection for the victim's helpers, witnesses, family or friends.¹⁹ To provide these services, the Provincial government can liaise with community and NGOs,²⁰ but is not obligated to do so.

Other obligations of local governments are governed by national regulations issued by the Central Government. There are five regulations of the Central Government that directly deal with the services for the victims of domestic violence.

First, Government Regulation No. 4, 2006, outlines the Implementation and Cooperation on the Recovery of Domestic Violence Victims. The Regulation

¹⁷ Beside the DV Law of 2004, there are five regulations of the Central Government that directly deal with the services for the victims of domestic violence. They are:

- 1) The Government of the Republic of Indonesia Regulation, No. 4 year 2006, on the Implementation and Cooperation on the Recovery of Domestic Violence Victims.
- 2) The Minister of MWECP's Regulation No. 1, 2007, on the Coordination Forum for Implementation of Prevention and Recovery of the Victims of Domestic Violence
- 3) Regulation of the Minister of Women's Empowerment and Child Protection, No. 5 year 2010, on the Guidelines for Establishment and Development of the Integrated Service Center,
- 4) Regulation of the Minister of Women's Empowerment and Child Protection No. 1 year 2010, on the Minimum Service Standards for the Integrated Services for Women and Children Victims of Violence,
- 5) Regulation of the Minister of Women's Empowerment and Child Protection, No 19 year 2011, on the Guidelines for Empowerment of Women Victims of Violence.

¹⁸ The term '*Pemerintah Daerah*,' literally means 'Local Government,' is referred to the provincial and district governments. It is stated in Article 3 of the Indonesian Law No. 23, 2014, on Local Government.

¹⁹ Article 13 of the DV Law.

²⁰ Article 14 of the DV Law.

mandates that government agencies and local governments at both provincial and district level are responsible for the provision of facilities needed for the recovery of victims.²¹ In addition, according to the regulations, five forms of services must be provided by local governments for the victim's recovery: health services, support (pastoral care) for victims, psychological counselling, spiritual/religious counselling, and resocialisation.²² In delivering these services, the local government may liaise with NGOs both nationally and internationally.²³

The guidelines describe the procedure by which local government should establish service centres:

- a. Formulate local regulations on the establishment and the development of PPT in cooperation with the local House of Representatives;
- b. Provide facilitation for the establishment and development of PPT;
- c. Provide staff required for the PPT;
- d. Provide facilities and equipment;
- e. Provide funding for the operations of the PPT;
- f. Provide guidance to establish and develop the PPT; and
- g. Provide regular reports about the establishment and development of the PPT to the Minister of Internal Affairs, and a copy to the Minister of Women Empowerment and Child Protection.²⁴

Second, the Minister of Women's Empowerment and Child Protection Regulation, No. 5, 2010, establishes Guidelines for the Establishment and Development of the Integrated Service Centre (PPT). According to this Regulation, there are two forms the PPT can take: a one-stop shop or a network.²⁵

²¹ Article 2 (item 1) of the Government Regulation, No. 4, 2006.

²² *Ibid.*, article 4. According to the Article 5 (item 5) of the Government Regulation No. 4, 2006, the aim of resocialisation is that the victim is able to play her social function/roles in the community.

²³ *Ibid.*, article 19.

²⁴ Article 8 of MWECP's Regulation, No. 5, 2010.

²⁵ In MWECP's Regulation, No. 5, 2010, the Chapter II (third paragraph) of the attachment of the regulation states that "the form of PPT can be a one stop service or a network".

The Provincial government may choose a model according to its capacity and preference. Central Java Province has chosen the network model, and, as a consequence, must create a Coordination Forum to deliver the services.²⁶ The Forum consists of several agencies, both governmental and non-governmental, that work together as a network to deliver services for victims of domestic violence. This Coordinator Forum is regulated by a third regulation, which is the Minister of Women Empowerment and Child Protection Regulation No. 1, 2007, on the Coordination Forum for Implementation of Prevention and Recovery of the Victims of Domestic Violence. The main task of the Forum is to fairly distribute services tasks from police to legal assistance, health services, counselling, and access to a domestic violence shelter. The Coordination Forum is required to meet on a regular basis.

Fourth, the Minister of Women Empowerment and Child Protection Regulation, No. 1 year 2010, sets Minimum Service Standards for the Integrated Services for Women and Children Victims of Violence. Through this Regulation, the Central Government obliges the Provincial Government to set targets to achieve minimum standards described in the Regulation. These targets constitute a promise by the government to provide quality services to victims of domestic violence. The standards also act as a benchmark to assess the performance of the

²⁶ In the elucidation of the Government Regulation No 4, 2006, it is stated that: “for the effectiveness of the service coordination forum is needed among stakeholders...the coordination forum is established in the central and local. The minister establishes the forum in the central and the governor establishes in the local.”

PPT, as well as a tool for victims to claim their rights. The performance of the PPT is monitored and evaluated regularly by the MWECP.²⁷

Fifth, the Minister of Women Empowerment and Child Protection Regulation, No. 19 the year 2011, provides Guidelines for Empowerment of Women Victims of Violence. Through this regulation, the Minister has ordered the Provincial Government to establish two programs: The UEP (*Usaha Ekonomi Produktif*, a productive economic venture) and KUBE (*Kelompok Usaha Bersama*, a joint economic venture) to provide financial support to women leaving domestic violence. The programs are part of the Social Rehabilitation (*Rehabilitasi Sosial*) program, which were follow-up programs after the initial physical recovery program. The Regulations stipulate that following physical recovery, victims are entitled to development programs, which have three aims: 1) empowering victim's independence, by increasing their knowledge, capability, and skills in order to ease them into works; 2) providing financial support under the UEP to develop victims' skills in entrepreneurship for those not working in the formal employment sector; and 3) under the KUBE, to establish survivors groups to share their skills and experiences and empower others, in the form of joint economic enterprises, such as running a restaurant or shop.

²⁷ Regarding monitoring and evaluation of the PPT, Article 8 of the MWECP's Regulation, No. 1, 2010, states:

- (1) The Minister and Ministry/related agencies conduct the monitoring and evaluation of the implementation of SPM.
- (2) Monitoring and evaluation referred to in item 1 are intended to track the progress and obstacles in the implementation of SPM.
- (3) In conducting the monitoring and evaluation of the Minister and Ministry/related agencies collaborate with local government.
- (4) Monitoring and evaluation referred to in item 1 shall be conducted in accordance with the provisions of the regulations.

History of the PPT of Central Java and its regulations

To investigate the history of the service, and the processes, actors and other influencing factors behind the formation, and development of the services for victims of domestic violence in Central Java, I interviewed several NGO employees and civil servants from relevant government agencies. Of the NGOs, the *Legal Resources Center untuk Keadilan Jender dan Hak Asasi Manusia* (LRC-KJHAM) has had the most important contribution in establishing of the PPT. From government, two prominent female civil servants, Sri Mulyanah²⁸ and Ema Rachmawati were interviewed.²⁹ All have been involved in the initiation and formation of the PPT of Central Java and the PPTs in surrounding districts. They have also been involved in the formulation of regulations for domestic violence services in Central Java. In addition, to confirm the interviews, I have examined Regulations issued by the Central Java Government to administer the services. As a response to DV Law No. 23, 2004 and other Central Government Regulations, from 2006 to 2014, Central Java issued ten regulations for domestic violence services:

- Governor' Regulation No. 76, 2006, on the establishment of KPPA;

²⁸ Some news from various sources regarding the roles of Sri Mulyanah are available online: <http://www.kalyanamitra.or.id/2012/03/kekerasan-terhadap-perempuan-terus-meningkat/>, <http://www.komnasperempuan.or.id/wp-content/uploads/2013/12/Tatap-10.pdf>, <http://bkd.jatengprov.go.id/berita/225-pns-bisa-jadi-teladan?format=pdf>, (last viewed: 19 April 2016)

²⁹ Unlike Rachmawati that is still serving as a civil servant in the government of Central Java as the Head of the Department of Women Empowerment in the BP3AKB of Central Java, Sri Mulyanah has been retired since 2010.

- Governor's Decree No. 106, 2008, on the Standard of Operation and Working Mechanism of the Integrated Services for Victims of Gender-Based Violence and Children;
- Central Java Regulation No. 3, 2009, on the Implementation of Protection for Victims of Gender-Based Violence and Children;
- Governor's Regulation No. 45, 2009, on the Procedures for Establishment of Integrated Services and Commission for Protection of Victims of Gender-Based Violence and Children;
- Decree of the Head of BP3AKB No. 411, 2009, on the Technical Guidelines of PPT Membership;
- Decree of the Head of BP3AKB No. 463, 2010, on the Technical Guidelines for Selection of Commissioners of KPK2BGA;
- Governor's Decree No. 411/103 A / 2011, on the Establishment of the KPK2BGA;
- Governor's Decree No. 60, 2012, on the Plan for Achievement of the Minimum Service Standards of the PPT (2012-2014);
- Governor's Regulation No. 6, 2014, on the Standards of Services of the PPT in Central Java; and
- Governor Regulation No. 18, 2014, on the Procedures and Requirements for the Establishment of PPT and KPK2BGA, (which replaces Governor's Regulation No. 45, 2009, in response to new regulations issued by the Minister of MWECP No. 10, 2010).

The interviewees and the regulatory documents form the primary sources for my discussion of the history of Central Java's PPT.

According to Mulyanah³⁰, the establishment of a centre in Central Java to provide services to women victims of domestic violence cannot be separated from the establishment of the same type of services at the national level in 2002.³¹ The

³⁰ Interview with Sri Mulyanah (61 years). She is the former head of the Office of Women Empowerment, the former head of BP3AKB, and the former chair person of KPK2BGA, in Semarang, 20 August 2014.

³¹ It began from 2002 when the Government of Indonesia, with encouragement from various elements of civil society, issued a joint decree on integrated services for women and children victims of violence signed by the Minister of Women and Empowerment, Minister of Health, Minister of Social Affairs and the Head of the National Police. The service was based in the government's public hospitals. As a consequence, the central government established three *Pusat Krisis Terpadu* (PKT) or Integrated Service Centre in the Hospital of Cipto Mangun Kusumo (*Rumah Sakit Cipto Mangunkusumo/RSCM*) on June 2002, and followed by the establishment of the *Pusat Pelayan Terpadu* or the Integrated Services Centre (PPT) and *Pusat Pelayanan Medis* or Medical Service Centre at the Bhayangkara (Police) Hospital Kramat Jati Jakarta and the

need for services in Central Java was driven by an increase in domestic violence, as there was no law criminalising it. Change at the national level, and awareness of the increase in domestic violence, inspired local NGOs and female civil servants in the Central Java Government to establish a centre for victims.

The initial centre was established and located at the Tugurejo Hospital³² in May 2003, one year before the issuance of the DV Law. At that time, the service was not yet named a PPT, as there were no regulations about the nomenclature for services provided to victims of domestic violence. It was then called *Pusat Penanganan Kekerasan terhadap Perempuan dan Anak* (PPKPA) or Centre for Handling of Women and Children Victims of Violence, which was the precursor of the PPT in Central Java.³³ Rachmawati states that the PPKPA was an initial project of the MWECP in cooperation with the Ministry of Health. This hospital-based centre delivered services for victims referred from 35 districts around Central Java, as no other centres were operating in the region.

The network service model came out as there were financial issues in applying for a separate one-stop service similar to those in Malaysia.³⁴ As Rachmawati notes:

establishment of the *Ruang Pelayanan Khusus* or Special Service Room for women and children in the police stations.

³² The Tugurejo Hospital is a public hospital owned by the provincial government, located in Semarang.

³³ Interview Ema Rachmawati (46 years), the head of the Office of Women Empowerment, BP3AKB, Central Java, 15 October 2014.

³⁴ The One Stop Service Centre (OSCC) “is a One Stop Crisis Centre set up in almost every hospital of Malaysia. It is a team of four governmental agencies and non-governmental organisations (NGOs) and it is also all out to assist the survivors or victims of crisis **under one roof** to fight against any forms of violence such as domestic violence, rape, sodomy, and child

Actually, we wanted to replicate the centre in Malaysia, a one-stop service centre. However, due to the cost problems, which are very high, we could not afford it. Because [if it was a one-stop service) there must be a police officer stationed in the Tugurejo Hospital as well as other apparatus needed. So we made the Tugurejo Hospital the centre for organisation or operation. If victims need services other than the health service, they are referred by the hospital to the police station for litigation, for example, or to a shelter that belongs to the social department and other [agencies].³⁵

The original service was free of charge, while hospital management claimed reimbursements from the Office of Public Welfare (*Biro Kesejahteraan Rakyat*) of the Provincial Government. The reimbursement scheme operated until April 2006, when a new office was established, namely the Office of Women's Empowerment (*Biro Pemberdayaan Perempuan/BPP*), which administered funding to the hospital-based service.³⁶

According to Mulyanah, the establishment of the BPP was a breakthrough as before its existence, Women's Empowerment was a single division in a range of departments under the Office of Community Empowerment (*Badan Pemberdayaan Masyarakat/BAPERMAS*), with no special funding for domestic violence services. With the establishment of the BPP, the Central Java Government showed its commitment to women's empowerment by creating a specific office for women. Mulyanah was appointed by the Governor to chair the BPP.³⁷ In 2006, after BPP was established, Mulyanah and several NGOs lobbied the Governor of Central Java to form a Commission for the Protection of Women and Children (*Komisi Perlindungan Perempuan dan Anak/ KPPA*). This

abuse". For more information, see OSCC's website: <http://www.osccmy.org/> (last viewed 07 May 2016).

³⁵ Interview with Rachmawati, *Op. Cit.*

³⁶ Interview with Mulyanah, *Op. Cit.*

³⁷ Interview with Mulyanah, *Ibid.*

commission was formed through Governor's Decree No. 76, 2006, and chaired by the Vice-Governor of Central Java. The KPPA Secretary was Mulyanah, who was, at the same time, acting as the Head of the BPP. The members of the KPPA were multi-sectoral, drawn from government agencies, NGOs, and other community-based organisations. The KPPA was similar in structure to the current PPT. After the establishment of the KPPA, service management changed. It was no longer the hospital, but the KPPA who processed reports of domestic violence incidents, referred victims to support services, and undertook financial and administrative tasks. However, the location for domestic violence services remained the Tugurejo Hospital.³⁸

Under the KPPA, and with the full support of the BPP, the service developed significantly. The health service expanded, as treatment of victims was shared by three other hospitals belonging to the Provincial Government: the Hospital of Margono Soekarjo in Purwokerto, the Hospital of Moewardi in Surakarta, and the Psychiatric Hospital of Aminogondho in Semarang.

The development of the PPT cannot be separated from the figure of Mulyanah. The fact that she was acting Head of the BPP, and at the same time, the secretary of the KPPA, eased the process for establishing delivery of PPT services to victims of domestic violence. Although Mulyanah was only Secretary to the KPPA, rather than its Head (who is the Vice-Governor), it is not uncommon in Indonesia for a top-ranking official to be only a figurehead, while the Secretary is the one who takes initiative and leads the process. The Head of the organisation

³⁸ Interview with Mulyanah, *Ibid.*

merely accepts reports of the program and gives feedback. Mulyanah was happy to take up the position of Secretary as she could be “*kudung lulang macan*” (a Javanese proverb, which literally means ‘to wear a tiger skin’). Therefore, as the Secretary of the KPPA, she possesses the power of the Vice-Governor. She could direct her officials on behalf of the Vice Governor to address women’s affairs. She could also cooperate with other government agencies to advocate for women’s issues and rights. She states that the main challenge for her was what she called ‘*ego sektoral*,’ in which government agencies outside the Office of Women’s Empowerment do not accommodate women’s rights programs through their budgets and activities, as they consider these not to be their core business. The reluctance of other agencies might also be a product of patriarchal culture, as women’s issues are considered less important by the Heads of the agencies, who are mostly men.

Based on the government publication titled “The Profile of Central Java Government’s Civil Servants 2016” (*Profil Pegawai Negeri Sipil Pemerintah Provinsi Jawa Tengah Tahun 2016*), the number of women civil servants occupying high level positions in Central Java Government is low.³⁹ The hierarchy of civil servants in government agencies is ranked under the term ‘Echelon’ (*eselon*), from echelon I to echelon IV. Based on its 2016 publication, the highest level position of echelon I is occupied by a man. Echelon I is the

³⁹ Office of Personnel of Central Java Province (*Badan Kepegawaian Daerah Provinsi Jawa Tengah*), *Profile of Central Java Government’s Civil Servants 2016: Based on condition per 31 December 2015 (Profil Pegawai Negeri Sipil Pemerintah Provinsi Jawa Tengah Tahun 2016: Keadaan, 31 Desember 2015)*, Semarang, 2016, p. 53. Available online: <http://bkd.jatengprov.go.id/new/assets/upload/files/PROFIL%20PNS%202016%2031122015.pdf> (last viewed 1 August 2017).

position of Secretary of the Region (*Sekretaris Daerah*), the highest position a civil servant can attain at Provincial level. No woman has ever achieved this position in Central Java. In Echelon II, which is the rank for Heads of offices, there were 13 women at this level (20 percent), of a total of 72 Heads.⁴⁰ In Echelon III, the rank of Secretary of the office or the Head of Division in an office, of a total 449 civil servants employed at this level, women comprised 28 percent.⁴¹ In Echelon IV, the head of a sub-division in an office, women's percentage increased to 35 percent, or 440 of a total of 1,262 civil servants employed at this level.⁴² The data show that the higher the echelon, the lower the number of women employed at this level. This issue relates to concept of 'merit' and patronage in the turnover system, which is intertwined with local politics (the election of the head of local government). This is discussed more fully in the next section, which considers the problem of the sustainability of the PPT of Central Java.

Mulyanah's strategy to use the power of the Vice-Governor in negotiating women's issues with her colleagues is smart, as advocating for women's rights and delivering services for the victims of domestic violence needs the involvement and support from other agencies including the Office of Social Affairs, the Office of Education, and the Office of Religious Affairs, all of which are headed by men. The reason why Mulyanah needs to mask her power is not because she is a woman, as a man in her position would have the same problem. It

⁴⁰ Office of Personnel of Central Java Province, *Ibid.*, p. 54

⁴¹ Office of Personnel of Central Java Province, *Ibid.*, p. 54

⁴² Office of Personnel of Central Java Province, *Ibid.*, p. 55

is not easy to involve the Heads of offices to think about and support programs dealing with women's issues as the top levels of the agencies consist mostly of men. Here, the numbers matter.

There have been new developments in KPPA services. In 2008, the KPPA had a Standard Operating Procedures (SOP), created by Governor's Decree No. 106, 2008.⁴³ The SOP gave clear guidelines to service staff on how to support victims of domestic violence and what services they were entitled to receive. They also set out a clear vision and mission for domestic violence services. According to the Decree, as stated in Article 2, the vision of the service is to provide integrated and comprehensive services in accordance with the victims' needs. The missions of the service were: to provide services by accepting reports of domestic violence incidents, provide referral services, and provide post-recovery services.

The nature of the KPPA service is essentially a 'referral service,' which means that the KPPA provides services to victims referred from 35 districts in Central Java.⁴⁴ Operationally, all cases of violence against women occurring in any of the 35 districts of Central Java must be reported and handled by the service centre of the district where the violence occurred. However, if for some reason, the district is not able to manage the case, it must be referred to the KPPA. According to Rachmawati, the reasons why a case cannot be handled by a district service may include: if the case crosses districts, for example, the perpetrator is

⁴³ The decree has an attachment that is a table of the operational procedures of services. The table contains ten columns with headings, which are (in sequence): 1. No, 2. Kind of service, 3. Service procedure, 4. Time of accomplishment of the service, 5. Cost, 6. Output, 7. Equipment, 8. Staff competency, 9. Staff sanction, and 10. Place of service.

⁴⁴ It was stated in the Article 4 of the Governor's Decree, No. 106, 2008.

from District A, but the victim is from District B; or, if the case involves a public figure or a high-ranking government official, such as the case of domestic violence committed by the Deputy-Mayor of Magelang City.⁴⁵

However, the Office of Women's Empowerment lasted for only two years, because in June 2008, it was renamed the Office of Women's Empowerment, Child Protection and Family Planning (*Badan Pemberdayaan Perempuan, Perlindungan Anak dan Keluarga Berencana/ BP3AKB*). Again, Mulyanah was appointed to lead this new office, which administers services provided to victims of domestic violence.⁴⁶

A major breakthrough in the effort to coordinate services for victims of domestic violence came in 2009, when Central Java issued the *Peraturan Daerah* (*Perda*) or Regional Regulation No. 3, 2009⁴⁷, on the Implementation of Protection for the Victims of Gender-Based Violence and Children. The *Perda* 2009 constitutes a guarantee by Central Java that there will be special funding for the activities of the PPT. *Perda* is the basis of Central Java's Regional Medium Term Development Plan (*Rencana Pembangunan Jangka Menengah Daerah/ RPJMD*), which includes funding and activities for domestic violence services.⁴⁸ Moreover, the *Perda* is an umbrella for all programs, activities, and services provided by government agencies in Central Java.

⁴⁵ Interview with Rachmawati, *Op. Cit.*

⁴⁶ More information about BP3AKB, please visit its website: <http://bp3akb.jatengprov.go.id/> (last visited: 21 April 2016).

⁴⁷ For the rest of this chapter I will use the term '*Perda* 2009' to refer to this regulation. This is the highest level of regulation in Central Java regarding protection and service for the victims of domestic violence.

⁴⁸ Interview with Mulyanah, *Op. Cit.*

According to Mulyanah, who was involved in the formulation of this regulation, it had been planned since 2005, with the intention to translate and implement DV Law and its subsequent regulatory provisions. The Preamble of the Regulation states that “under the Law No. 23, 2004, on the Eradication of Domestic Violence, local governments, hand in hand with the community, are obliged to carry out the tasks of prevention, protection, and recovery of victims of gender-based violence”.

In Article 6, the *Perda* mandates the government of Central Java to establish two institutions: the first is the Integrated Service Centre (*Pusat Pelayanan Terpadu/ PPT*) and the second is the Commission for Protection of Victims of Gender-Based Violence and Children (*Komisi Perlindungan Korban Kekerasan Berbasis Gender dan Anak/ KPK2BGA*). As a consequence of the *Perda*, the Governor of Central Java issued Governor’s Regulation No. 45, 2009, on the Guidelines and Procedure for the Establishment of the PPT and KPK2BGA, dated 7 September 2009. Two months later⁴⁹, the PPT was established and inaugurated by the Governor of Central Java. The term *Pusat Pelayan Terpadu*, has been the official nomenclature of the service centre since then.⁵⁰ As a consequence of the establishment of the PPT, the KPPA was

⁴⁹ Twenty days after the establishment of the PPT, on 31 December 2010, Sri Mulyanah retired from her job as the head of BP3AKB and as a civil servant.

⁵⁰ The second institution that was mandated by the Regulation to be established was the KPK2BGA. It was established on August 2011 through the Governor’s Decree No. 411/103 A/2011. This is an independent commission, which is not included in the Government’s structure. However, it is responsible and to give its report to the Governor. The duty of the KPK2BGA are:

1. Mediating conflict among the providers of service for the victims of gender-based violence and children,
2. Advocating policies and programs for protection of the victims of gender-based violence and children,

discontinued.⁵¹ In addition, the service centre was relocated from the Tugurejo Hospital to the offices of the BP3AKB, where it remains.⁵² For women who experience domestic violence, after registering their case and initial counselling, are referred to agencies such as police, a shelter, or a hospital. Under the network model, coordination is the core of its work. All elements of the PPT are supposed to work together. This is why the service is characterised as *'terpadu,'* which means *'integrated.'* As Mulyanah notes, “Since we chose a network model, coordination is the heart of it.”⁵³

In 2012, the Governor of Central Java issued Regulation No. 60, 2012, a Plan for Achievement of the Minimum Standard of Service (*Standar Pelayanan Minimal / SPM*) for Victims of Domestic Violence and Children 2012-2014, in a response to the Minister’s Decree on the Minimum Service Standards. Article 7 of the Minister’s Decree orders the local government to provide performance indicators and targets to achieve the Standards. The aims of the Regulation are: to provide guidelines for local government in delivering services; and to provide guidelines for local governments in setting up, planning and budgeting for the achievement of Minimum Standards of Service. Plans to achieve the minimum standards are targets of the Central Java government. The plans are included in the Regional Medium Term Development Plan (RPJMD), which is the basis for

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3. Supervising the process of case handling by the PPTs (the PPT of Province and the PPTs of districts and cities),
 4. Monitoring and supervising the implementation of the integrated services (by the PPTs).

⁵¹ However, some doctors/staffs of the Tugurejo Hospital are still using the term PPKPA for the service they provide. I can feel a sense of pride for using that term since that term is the precursor of the PPT.

⁵² It is located in the 3rd floor of the BP3AKB building, the address is: Jl. Pamularsih Raya Semarang.

⁵³ Interview with Sri Mulyanah, *Op. Cit.*

budget planning for government agencies involved in domestic violence services. Central Java is the first regional government to provide a budget and work plan to integrate services for victims of domestic violence in all its departments. Regulation No. 60, 2012, outlines actions to achieve the standards in five service domains: case registration services, health assistance, social rehabilitation services, legal assistance, family reunion services, and social reintegration services.⁵⁴ Social reintegration services prepare the survivor to go back into her community to take up her social role. This service also includes preparing the surrounding community to accept her and change their views toward domestic violence as merely ‘wife’s fault’ or ‘bad mother’ by approaching top figures of the community and religious figures.

Structure of the PPT of Central Java

After the establishment of the PPT on 10 December 2009, the BP3AKB as the leading institution and the umbrella of the PPT issued technical guidelines for membership of the PPT to clarify who is in charge of the PPT services. In the attachment of a Decree issued by the Head of BP3AKB, No: 411/114/2009, Chapter 2, the elements of the PPT comprise government and non-government agencies.

⁵⁴ Social reintegration service is to prepare the survivor to go back into her community and be able to play her social roles. This service also includes preparing the community surrounding to accept her and change their views toward domestic violence as merely ‘wife’s fault’ or ‘bad mother’ by approaching top figures of the community and religious figures. The five domains of the services (described in the Governor Regulation, No.60, 2012, Article 3) was based on the Minister of MWECP’s Decree No. 1, 2010 (Article 5).

Government agencies responsible for delivering service are: the BP3AKB, the Office of Employment, Transmigration, and Population, the Office of Social Affairs, the Office of Education, and the Legal Bureau of the Regional (local) Secretariat. The Tugurejo Hospital of Semarang, the Moewardi Hospital of Surakarta, the Margono Soekarjo Hospital of Purwokerto, and the Amino Gondho Hutomo Psychiatric Hospital of Semarang also have a responsibility to provide services to victims. Legal services are provided by the Head of the Service for Women and Children, Police Department of Central Java, and High Prosecutor of Central Java. Non-government organisations working with the PPT include LRC-KJHAM, LBH Semarang, Aisyiah of Central Java, LEMBKOTA Semarang, Unity Church of Indonesia, the Archdiocese of Semarang, SETARA Semarang, and PERISAI Semarang. Services are provided by professional advocates, psychologists, and health professionals and volunteers (social workers, clergy) who belong to member institutions of PPT.

The various elements of the PPT structure above are in accordance to the *Perda* 2009 and Governor's Regulation No. 45, 2009. The structure of the PPT reflects the expectation that services will be conducted in a holistic and integrative way through collaboration between the government, NGOs, grassroots organisations, and professionals.

Breaking Bureaucrats' Conventional Attitudes: A Discussion of the Development of the PPT of Central Java

The Central Java Government adopted a quick response by establishing its own PPT to mirror the national service formed in Jakarta in 2002. Central Java's progress in managing services for its PPT is demonstrated by the award of the *Anugerah Parahita Ekapraya* (APE) for nine consecutive years from 2005 to 2013. Central Java's establishment of its own PPT and the progress it has made are the result of robust cooperation between government agencies and NGOs. This is driven by committed women civil servants who challenge conventional bureaucratic attitudes, work like NGO activists, and build bridges between government agencies and NGOs.

The role of non-governmental organisations in the establishment of the PPT in Central Java is an influential factor.⁵⁵ This is similar to the establishment of the first PPT at national level in the Cipto Mangunkusumo Hospital, Jakarta, in 2000, where NGOs played a significant role. It can be traced back to the nineties when pro-women NGOs such as Rifka Annisa⁵⁶, Mitra Perempuan, and LBH APIK were proliferating to lobby for women's rights. Simultaneously, centres for Gender and Women's Studies have been established in several universities, and training on gender was held by NGOs, universities and government agencies. With the development of digital media, some NGOs and women's studies centres

⁵⁵ After the New Order, there were some breakthroughs in the rights of women in Indonesia; the establishment of the *Komnas Perempuan* (Women's Commission) in 1999 and followed by the Presiden's (Abdurrahman Wahid) Instruction No. 9, 2000, on Gender Mainstreaming⁵⁵, and the establishment of the first/initial integrated service centre for the victims of gender-based violence and children through a joint decree by the Minister of Women and Empowerment, Minister of Health, Minister of Social Affairs and the Head of the National Police in 2002 in Jakarta. Moreover, the New Order dismissal also marked a liberation era for civil society.

⁵⁶ Rifka Annisa was established in Yogyakarta in 1993.

could easily connect, interact and cooperate with other organisations, including those outside the country, such as with Malaysia's Sisters in Islam (SIS).⁵⁷ Malaysia was the first of the Asian countries to enact Violence against Women (VAW) legislation through its Domestic Violence Act 1994, and it established the first One-Stop Service Centre for victims of domestic violence in the same year, in the Accident and Emergency Department of the General Hospital in Kuala Lumpur. In Indonesia, the idea for an integrated service for victims of domestic violence in Jakarta's Cipto Mangunkusumo Hospital (RSCM) was influenced by Malaysia's service.⁵⁸ As stated earlier, the one-stop shop model was planned for Central Java, but did not happen due to cost problems, so the government established a network model instead.

One of the earliest NGOs involved in the initiation of the PPT, with a prominent role in its establishment and development, is LRC-KJHAM. It played a significant role in the establishment of the PPT, the formulation of regulations, and still today, provides legal assistance for victims of domestic violence. LRC-KJHAM is the most prominent NGO liaising with the Central Java Government to provide services related to domestic violence. It has also had a significant role in developing the 35 PPTs servicing the Central Java region. According to Evarisan, the former director of LRC-KJHAM, Indonesia has ratified CEDAW; therefore, it

⁵⁷ In 2001, I participated in a workshop on 'Gender and Development' in Semarang held by Rifka Annisa and the Centre for Gender Studies of Walisongo Islamic State University. The speakers were some prominent figures such as Siti Ruhaini Dzuhayatin and Mansour Fakih. The committee's training gave the participants some modules (handbooks) including a handbook published by Sister in Islam (SIS) of Malaysia.

⁵⁸ For more information about the development of One Stop Service Centre in Malaysia, see: Colombini et al, "One Stop Crisis Centres: A Policy Analysis of the Malaysian Response to Intimate Partner Violence", *Health Research Policy and Systems*, Vol. 9, No. 25, 2011, pp. 1-8.

must fulfil women's rights and take every measure to realise them, including establishing institutions that provide responses for women whose rights are violated. The state also has to empower women to be able to claim their rights.⁵⁹ In our interview, Fatkuroji, the current director of LRC-KJHAM, said: “Our involvement is to transform the government to fulfil its obligations. Protection and service for the victims of domestic violence are obligations of the states.”⁶⁰ Other NGO that have liaised with the PPT include LBH APIK of Central Java, PERISAI, and LEMBKOTA. However, of these NGOs, LEMBKOTA is relatively more engaged at this time. These NGOs have conducted training for government employees on gender and women’s rights.

In addition to the role of the NGOs, the role of individual women employees in the government agencies has been essential. There are two prominent women in the development of the PPT: Ema Rachmawati and Sri Mulyanah. Ema Rachmawati has been involved at all levels of development of the PPT in all its forms: PPKPA, KPPA, and PPT. She was involved in initiating the centre, coordinated the formulation of the *Perda* 2009, and advocated the scaling up of the PPT throughout all 35 districts and cities. At the time of my interview with her, she was the head of the Office of Women’s Empowerment in the BP3AKB. When asked about her strategy in scaling up the PPT, she said: “I get rid of conventional bureaucrat attitudes. I tried to work equally with NGOs and the community”. When she led the process of formulating *Perda* 2009, she

⁵⁹ Evarisan, “Working with CEDAW (*Bekerja dengan CEDAW*)”, in *10 Years Women Journey in accessing Justice (10 Tahun Perjalanan Perempuan Meretas Keadilan)*, LRC-KJHAM, Semarang, 2009, p. 52.

⁶⁰ Interview with Fatkuroji, Director of LRC-KJHAM, in Semarang, 10 July 2014.

involved NGOs and the community: “That is why the *Perda* took a long time, from 2005 to 2009, because it was participatory.” The development of the *Perda* involved 30 people from various sectors: government, NGO, grassroots organisations, universities, hospitals, police, judges, and prosecutors. This is a key strength of the *Perda*: as it was participatory, it creates a sense of ownership by its formulators. “When someone criticised the *Perda*, [it is] not me and not the government who defended it, but the NGOs, community and all those who were involved in the *Perda*.” Rachmawati also created networks and connections with other government agencies, in particular with the Regional Development Planning Board (*Badan Perencanaan Pembangunan Daerah/ BAPPEDA*). She also created connections and shared her ideas with local parliamentarians to advocate her views to the Governor. “It is not easy for me to tell the Governor directly what we needed, so I contacted some parliamentarians, especially from the parties that supported the Governor in the election, to deliver my ideas, so he would listen to them.” Rachmawati said that when there were meetings between parliamentarians and the Governor to be held, she texted her ideas to her contacts. Rachmawati also said some government units knew when politicians were raising women’s issues in meetings with the Governor, but the issues would originate from Rachmawati. “It is not a problem for me. I know that [at the end of the day] the Governor will pass that duty to me. So my job is smooth [as I follow my own ideas]”.⁶¹

Rachmawati is a bureaucrat who ‘works like an NGO.’ She often works overtime as incidents of domestic violence may happen anytime and works

⁶¹ In Indonesia, based on the Law no, 32, 2004, on the Local Government, the governor and the head/major of the district/city is elected through direct general election by the people.

'outside the box.' She has had some training from NGOs, and created a new 'NGO-bureaucratic culture.' Through her skills in building networks and cooperation, she overcame the '*ego sektoral*' problem, which is when some offices of the governments tend to silo their own programs, making them unwilling to include women's issues in their programs and budgets. She has shared her ideas as a keynote speaker at training workshops at the local and national levels. She is often invited by other provinces and local government bodies to share her ideas on the PPT. The PPT of Central Java has been a model for other provinces, as no other provinces have been awarded as many times as Central Java. Rachmawati has been involved in formulating policies on gender at the national level and works with the Central Government through the Ministry of Women Empowerment and Child Protection. Rachmawati's experience demonstrates that bureaucratic reform may start from the local, or 'street-level'. According to Lipsky, "[t]hese are public service workers who have regular contact with citizens and discretion over important aspects of citizens' lives. Street-Level Bureaucracy represents an important point of view about the relationship between individual constraints and collective decisions."⁶² Mochammad Mustafa, an officer of The Asia Foundation (TAF), who has worked closely with Central Java, has said that, in term of commitment and budgeting, Central Java is considered better than other provinces.⁶³ Rachmawati's leadership has led to her manuals on

⁶² Lipsky, Michael, *Street-Level Bureaucracy: Dilemmas of the Individual in Public Services*, Russell Sage Foundation, New York, 1980.

⁶³ Interview with Mochammad Mustafa including some informal conversations. He is an officer of the Asian Foundation (TAF), and currently a PhD student in the University of Adelaide. I have several conversations with him from the mid of 2014 regarding the PPT of Central Java since he

how to set up budgets that are gender-responsive being adopted at the national level.⁶⁴

Another woman civil servant that has had a significant role in the PPT is Sri Mulyanah. Like Rachmawati, she was involved in the initiation and development of the PPT. She headed two new government agencies established for women, the BPP and BP3AKB. It was under her regime that the PPT was established in 2009. She said that it “needs ‘crazy’ people to work for this issue since it deals with tears, overtime work, threats, and problems [of the victims of domestic violence].” Since women’s issues are often considered trivial, not important, not ‘mainstream’, by other government agencies, there have been difficulties in mainstreaming them into the PPT’s programs. This issue was exacerbated by the problem of ‘*ego sektoral*.’ As a senior civil servant, in her roles as Secretary of the KPPA, the Head of BPP, and later the Head of the BP3AKB, she used her access to the Governor to lobby for PPT’s programs, especially those related to networking with other offices. This is because women’s issues are inter-related with education, religion, social welfare, health, and others. Once she got a ‘Yes’ from the Governor, she used the Governor’s word to require her counterparts (Heads of other offices), to allocate budgets for women’s

told me (after knowing my thesis’s topic) that he was officer in charge of the TAF’s program in Central Java regarding women’s issues.

⁶⁴ The title of the book is “*Petunjuk Pelaksanaan Perencanaan dan Penganggaran yang Responsif Gender untuk Pemerintah Daerah/Operational Guide on Gender Responsive Planning and Budgeting for Local Government*”, joint-written and published by the BAPPENAS (National Development Planning Agency), the Ministry of Finance, the Ministry of Internal Affairs, and the MWECP.

empowerment programs in every office.⁶⁵ With this strategy, she also had power to ask for increased personnel. She asked for Ema Rachmawati, who worked for BAPERMAS, to join her at the office of BPP, and later to join her in the office of BP3AKB. Both Rachmawati and Mulyanah were influential in the development of the PPT of Central Java and the spread of the PPT throughout the province in the districts and cities of Central Java. The development of the PPT of Central Java is influenced by strong partnerships and cooperation between the NGOs and committed civil servants. In addition, the emergence of civil servants with non-conventional bureaucratic attitudes has accelerated the PPT's development. This is one reason why Central Java has been awarded by the *Parahita Ekapraya* Award from 2005 to 2013.

Stakeholders Assessments of the PPT of Central Java

Despite some progress in the PPT, there are some limitations in the provision of services for victims of domestic violence. According to the 2012 annual report of KPK2BGA, the PPT of Central Java still has an institutional problem. Coordination among the various elements of PPT is weak. As a network-based service centre, solid coordination of service providers of the PPT is a core requirement. "Coordination is the heart of the network," as Mulyanah notes. However, there are problems in coordination. Some members do not come to

⁶⁵The governor's lack of knowledge on women's issues, somehow, gave an ease to Mulyanah to influence him to agree with her. Since the issuance of the Law No. 32, 2004, on the Local Government, the head of the local government is elected directly by the people through local election, not by parliamentarians anymore like in the New Order era. Now all people entitled to run as the head of the government regardless their backgrounds (entrepreneurs, politicians, army, movie stars, singers, etc.). Despite some benefits of this system, some figures elected as the heads of the local governments do not have sufficient idea on women issues and some even do not understand the term 'gender.'

regular meetings at the Coordination Forum.⁶⁶ This has influenced the quality of the service.⁶⁷ According to Mulyanah, weak coordination is a result of the ‘*ego sektoral*’ problem of the government offices for Education, Religious Affairs, the religious courts, and the police departments.⁶⁸ As members of the PPT, and service providers for the victims of domestic violence, these offices should have representatives at PPT meetings, and disseminate and apply the agreements and minutes in their offices. This requires them to have an appointed representative to the PPT, who plays a role as a ‘bridge’ between the PPT and their offices. However, some offices tend to send representatives who are not competent, sending anyone who is free, or pick representatives randomly.⁶⁹ Some offices send different people to each meeting, who have no background or connection to previous meetings. This lack of continuity impacts on the quality of services for victims. Some victims are not properly treated, for example being charged fees for the services they received, being treated as a burden by some service providers, and they complain of feeling ‘pingponged’ because they have to go back and forth to the police station, the hospital and other service providers. One survivor of domestic violence complained that she had to wait for a long time in a queue with other patients before being admitted to the hospital, but she was supposed to be

⁶⁶ According to Rachmawati, there are two kinds of meeting held by the PPT; the regular meeting and the accidental one. The regular meeting is held every month, while the accidental is held when there is an extra ordinary case that needs to be addressed by the agreement of all the elements.

⁶⁷ Central Java Government, *Annual Report of KPK2BGA (Laporan Tahunan KPK2BGA)*, 2012.

⁶⁸ Interview with Mulyanah, *Op. Cit.*

⁶⁹ Once I intended to interview a representative from the Semarang City in an Evaluation Meeting of PPTs of all district/cities of Central Java, held by the BP3AKB and located in Semarang (I was allowed to join the meeting as a researcher), when I asked her consent for interview, she refused by saying “I am sorry, I am supposed not to be here, I am just replacing my boss”.

prioritised and receive special treatment, as the service flow chart indicates.⁷⁰

Such problems prevent women from seeking help from the PPT. This is in line with Munir, who argues that:

Complicated and inefficient procedures of reporting violence cases to the police or in the hospital have been another strong reason, in addition to the feeling of shame and fear, which prevents victims from seeking legal or health redress. Victims usually have to go back and forth to the police office and to the hospital for the investigation of the cases they have experienced and reported. Male investigators, often with no sensitivity or empathy to the victims, may boldly inquire for lurid details and even embarrassing examination of the victims. This, in itself, an interrogation about rape or other violence cases, is a punishment to the victims. They would rather stay silent, resulting in the high number of underreported cases.⁷¹

Another problem is the turnover of staff in government offices involved in the PPT, which creates a lack of cohesion in the team. Some civil servants who had received training in gender perspectives have been moved to other positions and offices. This problem is even worst at the district level as a change of regime (a new Head) is often followed by a change in structures in the government offices. Moreover, according to Rachmawati, it is not easy to get new staff, and particularly, to make them confident and proud to be dealing with PPT, as they think that they are being demoted to an office that lacks money, and is full of tears and grievances. Rachmawati said:

We are supposed to be proud as we are really needed here...we are needed by the victims. We help them; it means that we are useful. If it is material gain [that we

⁷⁰ Interview with Evy Nurmilasar, a former commissioner of the KPK2BGA, in Semarang, 29 October 2014.

⁷¹ Munir, Lily Zakiah, "Domestic Violence in Indonesia", *Muslim World Journal of Human Rights*, Vol. 2, Iss. 1, Article 5, 2005, p. 11.

want], of course it is not to be found here, but when people [victims] feel satisfied with our service, that is the *'rezeki'* [blessing, or real gain].⁷²

Staff turnover also results in a lack of qualified staff to work with victims. Training for new staff to provide knowledge, skills, and attitudes on how to work with victims is minimal. However, the minimum standards regulated by the Minister of 2010 stipulate that training for PPT is the responsibility of all Ministries. The Ministry of Health must train medical staff on how to deliver medical treatment from a gender perspective, the Indonesian Police Department has to train police on how to handle the domestic violence case, for example how to treat the victims of domestic violence, and the Ministry of Religious Affairs (MoRA) has to train counsellors to deliver religious/spiritual counselling. These regulations have also set targets for the number of qualified staff in every Ministry and agency involved with the PPT. Currently, according to Rachmawati, there is a lack of clarity about the nature of training, including who should deliver it, what the modules of training are, and who provides certification for trainees. There is no guidance from the Ministry of Women's Empowerment and Child protection on the matter.⁷³ The problem is worsening, as funding for training is limited, or not even allocated in some Ministries.⁷⁴ A doctor in the domestic violence service at Tugurejo Hospital said that there had been training for health staff in 2003 when the PPKPA was newly established. This was the only training that the staff had received. With the high turnover of staff, those who are in charge of the service today have not yet received any training: "I just tell them how to treat a

⁷² Interview with Rachmawati, *Op. Cit.*

⁷³ Interview with Rachmawati, *Op. Cit.*

⁷⁴ Interview with Rachmawati, *Ibid.*

victim of domestic violence [the do's and the don'ts], what is and is not appropriate to ask. I just tell the staff that the woman is the PPKPA's patient, and they understand."⁷⁵ Victims should receive a specified procedure for treatment, unlike other patients. Of course, the absence of training means that there is no standard knowledge, skills, attitude, or perspective of the staff in delivering these services. They serve the victims through personal understandings that they get from word of mouth forms of advice.

In addition, there is confusion about the form and nomenclature of the PPT. This is a result, Rachmawati says, of 'unclear' regulations from the Ministry of Women's Empowerment and Child Protection. Rachmawati raised her concern about the change in name when the service became the PPT. This change was ordained by the Ministry of Women's Empowerment and Child Protection Regulation No. 5, 2010, on the Guidelines for Establishment and Development of the Integrated Service Centre, which was issued a long time after the PPT of Central Java and its districts/branches had been established. It is stated in the regulations that the term PPT is a generic term denoting a range of services. These include Integrated Service Centre for Women's and Children's Empowerment (*Pusat Pelayanan Terpadu Pemberdayaan Perempuan dan Anak/P2TP2A*), Social Shelters for Children (*Rumah Perlindungan Sosial Anak/RPSA*), Trauma Centres (*Rumah Perlindungan Trauma Center/RPTC*), and Shelters for Women (*Rumah*

⁷⁵ Interview with Officer-1, a medical staff in the Tugurejo Hospital. She has been in working in the hospital since 2002, and she knew the establishment of the PPKPA. The hospital is still using the term PPKPA for its service unit, which is the first term for the service centre in Central Java and based in this hospital. As has been described in this chapter on the history of the service in Central Java, this term 'PPKPA' has been replaced by the term 'PPT' for overall service for the victims of domestic violence.

Perlindungan Sosial Wanita/RPSW).⁷⁶ However, according to Rachmawati, this point in the regulations contradicts the over-arching legislation contained in Government Regulation, No. 4, 2006, and the Government Regulation, No. 9, 2008, which clearly names the service as PPT. “It has been known for a long time that our service is called PPT, our institution is named PPT,” said Rachmawati. The change has created tensions between Central Java and the Ministry. The Ministry regards the term PPT as a generic term for all services dealing with women and children victims of domestic violence, while the province uses the term PPT as a final or fixed term for the same services. The root of the problem, according to Rachmawati, is that when the Ministry of Women’s Empowerment and Child Protection issued the regulation, they did not liaise or consult with the provincial government, which is the representative of the Central Government,⁷⁷ but went directly to the districts. The gap has some effect in the districts, as they are sub-national and sub-provincial levels of government that have to follow the national government. To navigate the problem, some districts use both terms and have established two services: the PPT and the P2TP2A. The first only deals with domestic violence, and the second deals with general issues faced by women and children. This is a strategy to ease funding issues, as the districts get funding from both the Central and the Provincial Governments.

Another critique comes from Fatkuroji of LRC-KJHAM. According to Fatkuroji, another problem the PPT faces is limited funding and budget

⁷⁶ It is stated in the Chapter II (second paragraph) of the MWECP’s Regulation, No. 5, 2010 on the Guidelines for Establishment and Development of the Integrated Service Center.

⁷⁷ The Provincial Government is the Representative of the Central Government. It is stated in the Indonesian Law, No. 32, 2004, and its revision: Indonesian Law, No. 23, 2014.

transparency: “We are not involved in the budgeting.”⁷⁸ He also asserts that the PPT does not involve survivors and NGOs in budgeting. Research conducted by LRC-KJHAM on funding for domestic violence services from 2013-2015 in both Central Java and Yogyakarta, found that Central Java tends to make policies for women without adequate budgetary support. The budget for domestic violence comprised only 0.01 percent of the total Regional Revenues and Expenditure Budget (*Anggaran Pendapatan dan Belanja Daerah/APBD*) in 2013, 2014, and 2015.⁷⁹ However, Fatkuroji also pointed out that “compared to some other provinces that I have also assessed, regarding services for victims of domestic violence, Central Java is still better.”⁸⁰

The problems of continuity and sustainability of the PPT are problems to do with the ‘regeneration’ of the commitment and skills of the staff and service providers. How to duplicate the character of Rachmawati, with her unconventional bureaucratic attitude and her passion on dealing with women’s issues is still a key question. I asked her, “Do any of the staff here follow your way?” She replied, “It is not easy, but I have been trying.” Even to have staff willing to work on the PPT services or as an officer in the Office of Women’s Empowerment remains a challenge, as they prefer to be placed in other offices that are more ‘*basah*’ (liquid). Moreover, unlike in other offices, officers dealing

⁷⁸ Interview with Fatkuroji, *Op. Cit.*

⁷⁹ LRC-KJHAM, “Policy with minimum budget: Report of Research on the Trend of Expenditure for Case Handling of Violence against Women in Local Government (*Kewajiban Minus Anggaran: Laporan Kajian Tren Anggaran Belanja Penanganan Kasus Kekerasan Terhadap Perempuan di Daerah*),” 7 September 2015, Semarang, available online: <http://lrckjham.org/uncategorized/3446-kewajiban-minus-konsekuensi-anggaran-laporan-kajian-mengenai-tren-anggaran-belanja-penanganan-kasus-kekerasan-terhadap-perempuan-di-daerah> (last viewed: 22 September 2015).

⁸⁰ Interview with Fatkuroji, *Op. Cit.*

with the PPT are likely to have more pressure and surveillance from NGOs, which is not comfortable for some civil servants.

Rachmawati is using the same strategies as Mulyanah did when she proposed Rachmawati to join her in the office. She identifies and trains officers who have a passion for women's issues and then proposes them transfer to her office through the rollover scheme. This is possible as the rollover scheme is based on evaluations. One of these is a peer evaluation beside an evaluation by the Head. Rachmawati mentioned two names of civil servants who have potential to deal with women's issues and the PPT. Indeed, the existence of people with passion and expertise on women's issues in the Office of Women's Empowerment is pivotal to maintain PPT services. Otherwise, the Office of Women's Empowerment will be part of the problem faced by PPT services like the City of Semarang's, which is discussed in Chapter Five.

As a civil servant, Rachmawati may be replaced or moved to another office due to the rollover scheme, and may no longer deal directly with the issues of violence against women. This will have some impact on the operations of the office.⁸¹ Rollover normally occurs for officers every five years; however, in some circumstances, it may be shorter or longer. The rollover scheme is based on Law No. 5, 2014, on State Civil Servants. The law states that a civil servant is subject to rollover and may be allocated to the Central or Local Government, or even stationed overseas as country representatives. Rollover of civil servants should be

⁸¹ One of the oath declared to become civil servants is that they are ready to be stationed anywhere.

based on an evaluation of their performance. The evaluation should be objective, accountable, participatory and transparent, which means that the rollover should be based on the merit system, so the goal of “the right person in the right place” can be achieved. However, some rollovers happen based merely on the seniority or Echelon. For example, people in Echelon II can be Heads of office in any office regardless of their expertise. An Echelon II may be the Head of the provincial library, and later become Head of the provincial Office of Employment or the Head of BP3AKB, as long as the position is fit for Echelon II. Expertise in the area is not required. In addition, some rollovers happen due to personnel’s closeness to the Head of government. The elections of new Heads of local government are followed by rollovers in the government offices. Some civil servants gain positions in the office because of their support for a candidate in the election. This is a system of patronage, which Edward Aspinall argues is characteristic of Indonesian elections.⁸² Some candidates running in the election were top civil servants, such as Soemarmo Hadi Saputro, who was the Secretary of the Region of the City of Semarang (Echelon I), and later became the Mayor of Semarang for the period of 2010-2015 (terminated in 2012 due to corruption charges). Although this is illegal, some civil servants covertly become part of the campaign team, usually called ‘success teams’ (*tim sukses*).⁸³ If the candidates win the election, the ‘success teams’ will be rewarded. Rewards vary from cash⁸⁴ to good positions in the offices. The election of the new Head of the local

⁸² Aspinall, Edward, “Indonesia’s 2014 Elections: Parliament and Patronage,” *Journal of Democracy*, Vol. 25, Number 4, October 2014, p. 102

⁸³ Aspinall, *Ibid*, p. 102

⁸⁴ Aspinall, *Ibid*.

government is often followed by change in office structures, such as in the district of Cirebon, where 243 civil servants were relocated from their position by the Head of the District.⁸⁵ Under this system, a person appointed as Head of the BP3AKB or Office of Women's Empowerment could be someone with no background, expertise, or passion for dealing with women's issues and victims of domestic violence.

LRC-KJHAM has argued in its Policy Brief 2012 that protection and services for victims of domestic violence in Central Java have to be transformed, so that they are not reliant on the personal commitment of civil servants⁸⁶ such as Rachmawati and Mulyanah, but a collective commitment. Protection and services should not depend on personnel figures, but on the system. This can be achieved through adequate training, funding, and vigorous cooperation between allied service providers with support from the Head of local government and Parliament.

Conclusion

As protection and services for victims of domestic violence is an obligation of the state, it must make efforts and employ strategies to meet its obligations. The case of the PPT shows that the biggest challenges come from the government itself as a

⁸⁵ Kabar Cirebon (Daily News), "The Rollover in the District of Cirebon is Full of Shocks" (*Mutasi di Pemkab Cirebon Penuh Kejutan*), 31 December 2016. Available online: <http://www.kabar-cirebon.com/2016/12/mutasi-di-pemkab-cirebon-penuh-kejutan> (last viewed 2 August 2017).

⁸⁶ LRC-KJHAM, "The backward effort to protect women victims of violence in Central Java (*Mundurunya Upaya Perlindungan Perempuan Korban di Jawa Tengah*)", Policy Brief, No. 05/Advokasi/LRC-KJHAM/IX/2012, p. 6, available online: <http://lrc-kjham.blogspot.com.au/2012/09/mundurunya-upaya-perlindungan-perempuan.html> (viewed: 9 November 2017)

result of '*ego sektoral*' problem and a patriarchal culture in government offices. The effort needs 'crazy' civil servants or 'street-bureaucrats' who have the capacity to negotiate the culture of bureaucracy, to work with NGOs and communities. Indeed, cooperation between NGOs and committed civil servants has been instrumental in the establishment and development of the PPT of Central Java. The case of the Central Java PPT shows that the service has grown and developed as its needs were clear and firmly advocated from its inception as PPKPA, and its development to KPPA and in its current form as a PPT. Service regulations have led to gradual improvement through the revision of the Minimum Standards of Service.

Although Central Java is regarded as one of the best, if not the best, domestic violence service, there are obstacles that prevent women from accessing and using its services. These include lack of communication and coordination between allied service providers, poor data management, lack of funding, decreased quality of staff due to high turnover and lack of training, and the vulnerability of the centre due to its reliance on the personal commitment of bureaucrats like Rachmawati and Mulayanah. A strong institutional commitment is needed to ensure the long-term sustainability of domestic violence services for women and children.

CHAPTER FIVE

SERVICES FOR VICTIMS OF DOMESTIC VIOLENCE AT THE DISTRICT GOVERNMENT LEVEL: THE PPT OF THE CITY OF SEMARANG**Introduction**

The City of Semarang (*Kota Semarang*) is one of thirty-five sub-provincial governments (districts and cities) in the Central Java Province. It differs from the District of Semarang (*Kabupaten Semarang*), which is also located in the same province.¹ Compared to other cities and districts, the City of Semarang² is distinctive, as it is the capital city of Central Java Province, and the offices of the Central Java government are located close to the offices of the city's government. Therefore, policy and funding information on women's issues from Semarang tends to be more comprehensive compared to other cities and districts. Similarly, information in Jakarta (the capital city of Indonesia) is more robust compared to other provinces in Indonesia. The PPT of Semarang was the first to be established in Central Java before other cities and districts came online. The PPT of Semarang

¹ There are two types of sub-provincial government in Indonesia: *Kota* (city) and *Kabupaten* (district). Both have equal position. However, the city is usually smaller than the district in terms of territory and population (as due to the urbanisation process some cities may be more populated than districts). The mayor of the city is called "Walikota" and the head of the district is called "Bupati". Some cities and districts have the same names such as Semarang and the District of Semarang, the City of Tegal and the District of Tegal, and the City of Magelang and the District of Magelang, which are different in terms of administration and territory.

² I will use the term Semarang instead of The City of Semarang in this chapter.

uses provincial referral infrastructure such as hospitals and shelters³ more than other cities and districts due to its location. This is important to note, as being a capital city of a province delivers advantages due to the intensity of communication, information, and funding opportunities.

This chapter explores how Semarang negotiates Central and Provincial government regulations to understand how these regulations are implemented in the local context of Semarang to deliver services to victims of domestic violence. This is because not all local districts and cities in Central Java have established PPTs sincerely, or based solely on goodwill. The fact that some districts have allocated annual funding for PPTs comprising only 10 million Rupiah (equivalent to approximately \$AU 1000), indicates that domestic violence is regarded as a trivial issue by those districts and cities.⁴ The establishment of PPTs in these areas could be a form of tokenism, or merely a symbolic gesture, designed simply to fulfil the conditions by which District government can claim a budget-share from the Central and Provincial governments.

This chapter also explores the dynamics of the PPT of Semarang, to examine how it negotiates with other government agencies to gain support for its services. Further, this chapter considers the relationship between the PPT and

³ There are two public hospitals belonging to the Government of Central Java Province that are located in Semarang: The Tugurejo Hospital and Aminogondho Hospital.

⁴ The Annual Report of the KPK2BGA of 2012 states that the District of Batang allocated only IDR 10,000,000 (\$AU 1000) for services for victims of domestic violence for the year 2012. The budget is too small to cover the population of Batang which was 715,115 in 2012 according to the Statistics Office of the District of Batang (available online on: <https://batangkab.bps.go.id/linkTabelStatis/view/id/89>, (viewed 04 August 2016).

NGOs, and examines the dynamics of the relationship between the PPT and victims. It discusses how PPT staff perceive their roles and the services they provide for victims of domestic violence, as well as how victims perceive their experience in accessing PPT services.

It is important to survey the extent and nature of domestic violence in Semarang to understand how the city meets its obligations assigned to it by the Central and Provincial Government in providing services to victims of domestic violence. It examines the local regulations that structure Semarang's delivery of services to victims of domestic violence, by providing a history of the PPT, to analyse the dynamics in the relationship between the PPT and other government agencies, NGOs, and grassroots organisations.

The City of Semarang: A Snapshot

The City of Semarang is one of 35 cities and districts in Central Java Province. The Western border is the District of Kendal, the Eastern border is the District of Demak, the Southern border is the District of Semarang, and the Northern border is the Java Ocean. Administratively, the City of Semarang comprises 16 sub-districts (*kecamatan*) and 177 suburbs (*kelurahan*). Semarang comprises an area of 373 km², with a total population of 1,648,279 in November 2016.⁵

⁵ Statistics Report from the Office of Population and Civil Registry (*Dinas Kependudukan dan pencatatan Sipil*) of Semarang, available online:

Map of Semarang

(The red area marks the territory of the City of Semarang)



(Map reproduced with the permission of CartoGIS, College of Asia and the Pacific, The Australian National University)

Domestic Violence in Semarang

Data on the extent of domestic violence in Semarang was obtained from three government institutions: The PPT of Semarang, the BP3AKB website of the Central Java province, and the Office of Statistics of Semarang. Based on data displayed in the office of the PPT of Semarang, there were 88 cases of domestic

<http://dispendukcapil.semarangkota.go.id/statistik/jumlah-penduduk-kota-semarang/2016-11-15>
(last viewed: 18 August 2017)

violence in 2012. This figure increased in 2013 to 90 cases of domestic violence.⁶ The data indicates that number of the incidents of domestic violence in Semarang is low. However, this does not mean that the domestic violence rate in Semarang is actually low, as victims may not report their cases or seek help from the PPT, but rather from NGOs. This is evident from data about domestic violence collected by NGOs, which shows a higher rate of domestic violence than the PPT data.

The second government office where data about domestic violence is available is the BP3AKB of Central Java. The BP3AKB has a website that provides data on violence against women throughout the 35 cities and districts of Central Java, displayed under the title “E-Violence” (*E-Kekerasan*). This data is available for download in Excel format. According to BP3AKB, there were 55 cases of domestic violence in Semarang in 2012. That number increased to 64 in 2013.⁷

The third government agency where data about domestic violence can be accessed is the Office of Statistics of Semarang. The Office provides an annual statistics report on domestic violence located under the heading “Highest Rates of Criminal Cases in Semarang”⁸ (*Peringkat Tindak Pidana Terbesar di Kota*

⁶ The data was obtained on 29 October 2014. It was two sheets of paper displayed on the wall of the office of the PPT of Semarang (SERUNI). I captured the papers with my mobile phone with consent from the PPT staff.

⁷ The data was downloaded on 8 August 2014.

⁸ Semarang Statistics, *Semarang Municipality in Figures 2012 (Semarang Dalam Angka 2012)*, p. 374, available online: https://semarangkota.bps.go.id/website/pdf_publicasi/Kota-Semarang-Dalam-Angka-2012.pdf (last viewed: 09 October 2017)

Semarang) in its annual statistics report, “Semarang in Figures” (*Kota Semarang Dalam Angka*). The Office ranks domestic violence eighth in its rating of crime in Semarang, in both 2012 and 2013. However, unlike the data from the PPT and BP3AKB, the Office suggests that domestic violence is decreasing, from 155 cases in 2012, to 108 in 2013.

The discrepancy in the three institutions’ figures is problematic, suggesting inaccuracy in data collection and reporting of domestic violence. The BP3AKB of Central Java should have the same figures as the PPT of Semarang, because BP3AKB receives its figures from the PPT, in quarterly reports. The root of the problem is poor coordination between the PPT and its superior agency, which is the Office of Community Empowerment, Women’s Empowerment and Child Protection (BAPERMAS PP & PA).⁹ Reports are not sent directly to the BP3AKB from the PPT, but rather through BAPERMAS. PS-1, a PPT staff member points out regarding the difference in figures between the PPT and BAPERMAS, “I do not know where their data comes from.”¹⁰

The three different figures indicate a problem in the data management of domestic violence. This likely occurs because of a lack of coordination among government institutions dealing with domestic violence and violence against women in general. Secondly, the discrepancy can be interpreted as due to the *‘ego*

⁹ BAPERMAS PP & PA is an office that is dealing with women’s issues at the district government level. It is equivalent to the Office of Women’s Empowerment (BP3AKB) in the provincial level and to the Ministry of Women’s Empowerment and Child Protection at the Central Government level. For convenience, in this thesis, I will shorten the term to BAPERMAS.

¹⁰ Interview with PS-1, Coordinator of the case handling of SERUNI, in Semarang, 29 October 2014.

sektoral', a term used by Mulyanah¹¹ to describe the reluctance of government agency to cooperate with others as discussed in Chapter Four, which result in a lack of consultation with other agencies when calculating the incidence of domestic violence. Regarding the three sources of data, the PPT data is likely to be the most valid compared to the other two institutions, as it deals directly with domestic violence victims. The consequence of poor data management is that it creates disadvantages for women victims of domestic violence. The absence of accurate information on domestic violence affects policy and funding for initiatives to eradicate domestic violence, including services for victims of domestic violence themselves.

The extent of domestic violence is likely higher than the data from the three government agencies suggests. The data indicates 'active' cases registered to the PPT, or to figures obtained from government agencies such as the police department or public courts. Accurate figures on the number of cases of domestic violence in Semarang remain unclear, as many women are reluctant to report domestic violence due to cultural factors, or do not access the PPT because they do not know it exists. Some women obtain support, especially legal assistance, from LRC-KJHAM. Therefore, data about domestic violence can also be obtained from LRC-KHJAM, which publishes annual domestic violence data. Data from LRC-KJHAM offers an alternative means to calculate the extent of domestic violence in Semarang, and indicates that domestic violence is increasing.

¹¹ Interview with Sri Mulyanah (61 years). in Semarang, 20 August 2014.

According to the LRC-KJHAM, from 2012 to 2013, Semarang had the highest number of domestic violence cases in Central Java Province, with 136 cases in 2012, and 144 cases in 2013.¹²

Despite the differences in the data from the four different agencies, in general, the data show that domestic violence in Semarang is increasing. The increase in domestic violence cases suggests two conclusions: First, despite the enactment of DV law, there has been no change in attitudes to domestic violence. Second, that there is more access to services provided by government and NGOs for women victims of domestic violence, and this has led to an increase in reporting.

Cultural Violence: The Cause of Domestic Violence

Based on my interviews with victims, domestic violence has its roots in cultural factors. Many of the women I interviewed were aware of this, despite differences in their educational and socio-economic status. Some victims are well educated, and economically independent, such as SV-1, who is a university lecturer and holds a Master's degree. She occupies a high social status in Indonesia. Yet SV-1, a mother of two children and the breadwinner of her family, was abused by her

¹² LRC-KJHAM, Annual Report of Violence against Women in Central Java in 2013 (*Laporan Tahunan Kasus Kekerasan Terhadap Perempuan di Jawa Tengah Tahun 2013*), available online: <http://www.lrcckjham.com/laporan-tahunan-kasus-kekerasan-terhadap-perempuan-di-jawa-tengah-tahun-2013/> (viewed: 31 October 2017).

husband three times in 2012 and once in 2014. She said that her husband holds a degree in Religious Studies. Whenever they were in dispute, and she expressed her agency that she has an ability to live independently without financial support from him, her husband often responded that she is not a ‘good’ wife, as she ‘disobeys’ him. He cited verses from the *Qur’an* to justify his attitudes about her roles. SV-1 states:

I tried to argue with him that the teachings should be interpreted contextually. However, he came back with a multitude of verses and other references, which, of course, I cannot compete with, as I am not an expert in religious knowledge.¹³

SV-1 never reported her experience of domestic violence “[because] sometimes I am worried that I was what he said, I am a seditious wife.”¹⁴ Her case illustrates the findings of Aisyah and Parker in ‘Problematic Conjugations: Women’s Agency, Marriage and Domestic Violence in Indonesia’ that women’s expression of agency is a trigger for domestic violence within marriage.¹⁵ This is because women’s assertion of agency challenges cultural and legal norms such as those enshrined in the Marriage Law 1974, which assigns men the role of head of the family.

Another victim, SV-3, a housewife with five children, has a hearing impairment due to the violence she experienced. Her ears still sometimes bleed,

¹³ Interview with SV-1 (36 years), in Semarang, 27 November 2014.

¹⁴ Interview with SV-1, *Ibid.*

¹⁵ Aisyah, Siti, and Parker, Lyn, ‘Problematic Conjugations: Women’s Agency, Marriage, and Domestic Violence in Indonesia’, *Asian Studies Review*, Vol. 38, No. 2, 2014, p. 1

long after the incident in which “he banged my head against the wall.”¹⁶ She only reported her husband to the police after she found a religious justification to sue him. This case is similar to SV-1, who also did not report her husband because she felt her husband might be justified in his view that she is not a ‘good’ wife.

Both SV1’s and SV-3’s cases show that religious teachings are influential in women’s lives, and in the decisions they make in responding to domestic violence. The gender-biased interpretation of religious teachings may create “benevolent sexism.” This kind of sexism characterises women “as pure creatures who ought to be protected, supported, and adored, and whose love is necessary to make a man complete.”¹⁷ Although this kind of sexism may be positively perceived by male perpetrators of domestic violence, it serves to disadvantage women as it implies that women are weaker than men, and that their place is in the domestic sphere where they need the protection of a man due to their inability to protect and support themselves. This form of benevolent sexism can also be found in interpretations of religious teachings such as Catholicism,¹⁸ and is not unique to Islam. For Javanese women, benevolent sexism leads to what Hayati et al refers to as a “silent culture” or a “conspiracy of silence.”¹⁹ Women tend to

¹⁶ Interview with SV-3 (56 years), in Semarang, 08 October 2014.

¹⁷ Maltby, et al, “Religion and Sexism: The Moderating Role of Participant Gender”, *Sex Roles*, Vol. 62, Iss. 9-10, 2010, p. 615

¹⁸ Maltby et al, *Ibid.*, p. 616

¹⁹ Hayati, Elli N, et al., “Behind the Silence of Harmony: Risk Actors for Physical and Sexual Violence among Women in Rural Indonesia”, *BMC Women’s Health*, Volume 11, Issue 52, 2011, p. 6, available online: <https://bmcmwomenshealth.biomedcentral.com/articles/10.1186/1472-6874-11-52> (viewed: 6 November 2017)

conceal the violence they experience because they worry about facing community judgment that may position them as ‘disobedient wives’.

This culture of silence affecting victims of domestic violence can be considered a form of “cultural violence,” according to Johan Galtung’s theory. Galtung, an expert in Peace and Conflict Studies, suggests that some aspects of culture legitimise violence, and that this constitutes cultural violence, which he defines as:

[t]hose aspects of culture—exemplified by religion and ideology, language and art, empirical science, and formal science (logic, mathematics)—that can be used to justify or legitimize direct or structural violence.²⁰

Galtung identifies six cultural domains that generate cultural violence: religion, ideology, language, arts, empirical, and formal science. His notion of cultural violence builds on his earlier conception of ‘direct’ and ‘structural violence’. Galtung sees violence as a triangle with direct, structural and cultural domains in each corner. The three correlate to each other: “direct violence is an *event*; structural violence is a *process* with ups and downs; cultural violence is an *invariant*, a ‘permanence.’²¹ The occurrence of the violence in the triangle is not sequential, as Galtung argues that “violence can start at any corner in the direct-structural-cultural violence triangle and is easily transmitted to the other corners,” forming a vicious circle.²² Through cultural violence, people can commit direct or structural violence without feeling guilty. They even “feel right.” The violence

²⁰ Johan Galtung, “Cultural Violence”, *Journal of Peace Research*, Vol. 27, No. 3, 1990, p. 291

²¹ Galtung, *Ibid.*, p. 294

²² Galtung, *Ibid.*, p. 302

stemming from the culture will be seen as normal, natural and tolerable by society, even, in some cases, resulting in victims of this form of violence not realising that they *are* victims. All three types of violence operate in the context of gendered violence. Women have been killed for gender-based reasons (direct violence), marginalised in the social structure and law (structural violence), and considered as irrational (cultural violence).²³

Cultural violence structures the problems that women face both in Semarang specifically, and Central Java generally. This is in line with LRC-KJHAM's attribution of the causes of domestic violence in Central Java to unequal power relations between husbands and wives, and between men and women more broadly. Women are commonly regarded as the 'property' of their husbands.²⁴ This view is also supported by KPK2BGA, the commission that works to protect women from gender-based violence in Central Java. In its annual report of 2012, the Commission states that the dominant factor producing domestic violence is cultural norms, specifically the view that women are subordinate to men.²⁵ Women's subordination is justified by the state through laws such as the Marriage Law, religious interpretation, and social perceptions in the form of dominant cultural myths of male superiority. Mansour Fakih, an Indonesian feminist, argues that domestic violence stems from an unequal power

²³ Galtung, *Ibid.*, p. 302

²⁴ Evarisan, "Working with CEDAW (*Bekerja Dengan CEDAW*)", in Widanti, Agnes, et al., *Ten Years Women Accessing Justice (10 Tahun Perjalanan Perempuan Meretas Keadilan)*, LRC-KJHAM, Semarang, 2009, p. 18

²⁵ Central Java Government, *Annual Report of KPK2BGA*, 2011, p. 11.

relation between husband and wife. A husband's violent act is viewed as 'normal,' as he is merely using his authority as the head of his family.²⁶ According to Nawal H. Ammar, most of the socio-legal discussion on wife beating in Islamic communities revolves around the verse 34, Chapter An-Nisa of the Qur'an.²⁷ It says,

As to those women on whose part ye fear disloyalty and ill conduct (*nushuz*), admonish them, refuse to share their beds, and beat them.

Ammar classifies interpretations on the verse 34 of An Nisa into four schools of interpretations:

The first is an interpretation that sees wife beating as permissible if a wife does not obey her husband. The second interpretation understands Islam as permitting wife beating, but with conditions of consideration for her safety. The third interpretation is to address exceptions when wife beating is allowed because it is generally unacceptable. The fourth and last interpretation uses linguistic rules to show that the verse has been misinterpreted and does not even refer to beating when using the Arabic word *idribuhunna*.²⁸

Of these four interpretations, the dominant interpretation among the Javanese regarding verse 34 of Chapter An-Nisa is the first, which constructs wife beating as permissible.

²⁶ Mansour Fakih, *Gender Analysis and Social Transformation (Analisis Gender dan Transformasi Sosial)*, Pustaka Pelajar, Yogyakarta, 2003, p. 8

²⁷ Ammar, Nawal H., "Wife Battery in Islam : A Comprehensive Understanding of Interpretations", *Violence Against Women*, Vol. 13, Number 5, 2007, p. 517

²⁸ Ammar, *Ibid.*, p. 518

Obligation of the City of Semarang to Deliver Services for the Victims of Domestic Violence

The City of Semarang has certain obligations through its administrative relationship with the Central and Provincial Government. Semarang's obligation to the Central Government to deliver services for victims of domestic violence is the same as the obligation of the Provincial Government, as both are considered local government.²⁹ These obligations include the implementation of DV Law and six regulations ordained by the Central Government, as described in Chapter Four. The only difference is Semarang has to send a regular report to the Provincial Government as well as to receive guidance and evaluation from it.

SERUNI: The PPT of the City of Semarang

The City of Semarang established its PPT in 2005, based on the Decree of Semarang's Mayor, No. 463.05/112.³⁰ Semarang chose SERUNI as the name for its PTT: the acronym stands for "*Semarang Terpadu Rumah Perlindungan Untuk Membangun Nurani dan Cinta Kasih Insani*" (Semarang Integrated Shelter for

²⁹ The term "*Pemerintah Daerah*", literally means "Local Government", is referred to provincial and district governments. It is stated in Article 3 of the Indonesian Law No. 23, 2014, on Local Government.

³⁰ The Mayor's Decree of 2005 has been renewed by the Mayor's Decree, No. 463/A. 023, dated 12 February 2009. The decree was renewed again for the second time by the Mayor's Decree, No. 463/05/2011, dated 6 January 2011. The mayor's decree of 2011 is the applicable decree up to the present time. The address of SERUNI is in "Gedung PKK Kota Semarang", Jl. Sutomo No 19A Semarang. Source: SERUNI Report, Second Quarterly Report, April-June 2011, p.1

Human Conscience and Love Building).³¹ SERUNI was inaugurated by the Mayor on 20 May 2005, the same day as the Day of Indonesia's National Awakening. The Decree for the establishment of SERUNI was followed by another Mayor's Decree, No. 10, 2011, on the Standards of Operational Procedures and Work Mechanisms of the PPT (SOP). According to the SOP, SERUNI must provide five services for victims of domestic violence: case-registration services; medical assistance; legal advocacy; social rehabilitation; and social re-integration services. Social rehabilitation services aim to help victims of domestic violence to recover their psychological, social and spiritual wellbeing so that they can perform their social functions. Social re-integration services help to equip victims of domestic violence with skills so that they can survive in their community independently, and at the same time, prepare the family and the community where they live to accept and support them by avoiding stereotypes that they are 'bad' wives or mothers.

The establishment of SERUNI is not separate from the wider context of both the Central and Provincial Government. At the central level, the establishment of SERUNI is closely related to the commitment of the Indonesian government to eradicate domestic violence. As discussed in Chapter Three, Indonesia has made significant efforts through its ratification of CEDAW, the creation of the *Komnas Perempuan* (Women's Commission), the establishment of a service centre in RSCM Hospital in 2002, and, most importantly, the enactment

³¹ The word "Seruni" is an Indonesian word for chrysanthemum flower. This flower is considered to be a symbol of life and sympathy.

of the DV Law in 2004. At the provincial level, the most prominent factor for the establishment of SERUNI was ongoing advocacy by women civil servants from the Central Java Provincial Government, which at that time, had already made significant progress in delivering services for victims of domestic violence through the establishment of the PPKPA in 2003. SERUNI was established before the Ministry of Women's Empowerment and Child Protection legislated establishment of a PPT for victims of domestic violence. The Ministry's regulations came years after the creation of SERUNI. These include Regulation No. 1, 2007, on the Coordination Forum for Implementation of Prevention and Recovery Services for Victims of Domestic Violence, and the Minister's Regulation No. 5, 2010, on the Guidelines for Establishment and Development of the PPT. An important factor in the establishment of SERUNI was the significant influence and progress of the Central Java Provincial Government in delivering services for victims of domestic violence. The central point here is that the Central Java Provincial Government, through women civil servants such as Rachmawati and Mulyanah, played a significant role in the establishment of SERUNI, as discussed in Chapter Four.

The Referral System of SERUNI

Based on the Mayor's Decree on the establishment of SERUNI, the operational model of the service is referral-based or network-based. This means that SERUNI acts only as a centre for service coordination. When victims report their cases,

SERUNI registers them, provides initial counselling, assesses victims' needs and then refers them to governmental and non-governmental agencies, such as the local hospital for medical treatment, LRC-KJHAM for legal assistance, and LEMBKOTA for spiritual counselling.³² As Semarang has established service centres throughout its sixteen sub-cities (*PPT kecamatan*), these centres refer victims of domestic violence to SERUNI. The referral service SERUNI provides is regulated by the Coordination Forum that was established through the Mayor's Decree No. 463/05/2011. The Decree states that in delivering its services, SERUNI can liaise with both the governmental and non-governmental sector, which includes NGOs, grassroots organisations, and professionals.

The Coordination Forum of SERUNI consists of thirty-two agencies which are grouped into three divisions: The first is the Division of Service and Shelter, which delivers medical treatment by referring victims to public hospitals or public health centres; provides counselling services through face to face meetings, or by phone, mail or other means; and delivers post-medical treatment services. Second, the Advocacy Division that delivers legal assistance by connecting victims to legal aid agencies, and provides protection for victims and witnesses who report violence, threats and intimidation. Lastly, the Division of

³² The referral service or a network-based service is different from a one-stop service which is all the service provided by the centre in the same place. According to Chapter II (third paragraph) of the attachment of the MWECP's Regulation, No. 5, 2010, on the Guidelines of the Establishment and Development of PPT, "the form of PPT can be a one stop service or a network". The local government may choose one from both according to its preference and capability. For local governments that choose a network-based service, they have an obligation to set up a coordination forum. This obligation was regulated in advance, through the MWECP's Regulation No. 1, 2007, on the Coordination Forum for Implementation of Prevention and Recovery of the Victims of Domestic Violence.

Communication, Information and Education manages programs for victim empowerment, disseminates information on violence prevention through printed and digital media and builds networks with agencies working in the domestic violence sector.³³ To run these programs, SERUNI has a secretariat that employs four full-time officers, located at Jl. Dr. Sutomo 19a Semarang.

In enhancing outreach services for victims of domestic violence, Semarang established a service centre in each of its sixteen sub-districts (*kecamatan*), which cover 177 suburbs (*kelurahan*). Sub-district service centres are called PPTK, which stands for Integrated Service Centre of the Sub-District (*Pusat Pelayanan Terpadu Kecamatan*). Every PPTK employs one full-time officer, so there are sixteen full-time officers in total for all PPTKs in Semarang. Three of the sixteen officers at the PPTK are survivors of domestic violence who have received services from SERUNI. For example, SV-6 was abused by her husband and received services from SERUNI from 2004 to 2006. SV-6 calls herself a ‘survivor’. She describes a survivor as someone who has already settled her case, and because of her experience, can now help other victims of domestic violence.³⁴ The appointment of survivors of domestic violence to PPTK offices is intentional. There are two reasons, according to SO-1, the head of Women’s Empowerment in the BAPERMAS of Semarang: Firstly, to provide work for survivors, and

³³ Second Quarterly Report of SERUNI, 2011, *Op. Cit.*, pp. 3-5

³⁴ SV-6’s fore speech in FGD, in Semarang, 12 December 2014.

secondly because their experience in receiving services from SERUNI is an advantage when delivering services for the victims.³⁵

However, the appointment of survivors as counsellors for victims can be problematic. On one hand, the appointment of survivors is positive, as working with victims of domestic violence requires sensitivity, empathy, and knowledge about the nature of the service and the needs of victims. However, it may disadvantage victims of domestic violence if SERUNI staff are not equipped with formal knowledge and training to deliver services. This is evident in the case of SV-3, who was appointed as a PPTK officer, but her employment was terminated before the end of her term. The reason for the termination, she said, was due to 'emotional instability' in delivering assistance and counselling for the victims.³⁶ She was drawn into the victim's problems. Such problems are also confirmed by a judge in the Public Court of Semarang, who said that in adjudicating a case where the SERUNI counsellor had encouraged a victim of domestic violence to divorce the perpetrator, he had "discovered that she [the counsellor] is a survivor and formerly had the same problem as her client."³⁷ This is problematic, as the judge considered this a form of bias, which posed difficulties at the legal level. However, another possible reading is that the judge simply used this to discount the victim's desire for divorce by suggesting she had been coached by untrained

³⁵ Interview with SO-1, in Semarang, 19 November 2014.

³⁶ Interview with SV-3, *Op. Cit.*

³⁷ Interview with PS-2 (52 years), a judge in the Public Court of Semarang, in Semarang, 11 December 2014.

employee or presuming that has no agency. There is a tendency among law enforcers, including judges and police to avoid divorce between the perpetrator and his wife. One police officer in charge of domestic violence in the Unit for Protection of Women and Children (*Unit Perlindungan Perempuan dan Anak/UPPA*) of Semarang, when asked about the meaning of ‘success’ in her occupation, responded “when I can unite the couple after domestic violence has happened.”³⁸ This view is supported by PS-1, who contends that she is not working towards divorce between the perpetrator and the victim, but rather towards the initiatives the victim chooses. “We only explain that if you take legal action, you need to do this, and our support for you is this, and if you want us to do counselling for your husband, we can do that.”³⁹ In the case of the judge’s perception of bias on the part of the survivor-employee, the request by the victim to divorce the perpetrator might have come from the victim herself after counselling. However, as in the case of SV3, the survivor-employee might not be well-trained, and so was drawn into the victim’s problem. Hence, the appointment of survivors of domestic violence to PPT roles as counsellors for victims must be supported by adequate training to build their professional knowledge, skills, and attitudes on how to deliver services to victims properly and professionally. Similar training must also apply to law enforcers.

³⁸ Interview with PS-3, the head of UPPA of the Central Java Police Department, in Semarang, 14 October 2014.

³⁹ Interview with PS-1, *Op. Cit.*

The PPTK is a front-line service, especially in its outreach role to receive and register reports of incidents of domestic violence in the surrounding suburbs. It provides the first point of contact for victims of domestic violence, as there is a police station in every sub-district, and also a public health centre (*Pusat Kesehatan Masyarakat/PUSKESMAS*) to give initial treatment.⁴⁰ If the case is settled in the PPTK, it does not need to be referred to SERUNI. However, if the PPTK cannot resolve the case, then it is referred to SERUNI. In such cases, SERUNI refers victims to allied service agencies, such as LRC LRC-KJHAM for legal assistance, and LEMBKOTA for spiritual counselling. The referral system works in the same way as the referral system of the PPT of Central Java Province, as SERUNI took this as its model.⁴¹

The referral system of SERUNI is likely effective in delivering services for victims of domestic violence. However, as it involves several agencies with

⁴⁰ PUSKESMAS is a Centre for public health located in every sub-district. The MWECP's Decree, No. 1, 2010, on the Standard of Minimum Service (SPM) has ordained every district to have at least two PUSKESMAS that are trained to deliver medical assistance to the victims of domestic violence.

⁴¹ The PPT of Central Java (formerly KPPA, established in 2003), which belongs to the provincial government, is a referral service. It provides services for victims of domestic violence who are referred from 35 districts/cities in Central Java, as stated in Article 4 of the Governor's Decree, No. 106, 2008. Operationally, any case of violence against women that happens in the 35 districts/cities of Central Java has to be reported and handled by the PPT of the district/city where the case happened. However, if the district/city cannot handle the case, for example, because the perpetrator is from district A and the victim is from district B, or if the case involves a public figure or a high ranked government official, it should be referred to the PPT of the province. Despite the referral system above, the system does not always work. The City of Semarang, as the Capital City of Central Java Province, has the most benefits from the system: because the PPT of Central Java and its facilities including hospitals are located in Semarang, some victims of domestic violence went directly to the Province's hospital (Tugurejo Hospital), rather than to the City Hospital. This trend was strong due to poor services by Semarang Hospital for victims of domestic violence. At the same time, it gives financial advantages for Semarang, as it spends less on medical assistance for the victims of domestic violence.

various backgrounds, solid coordination of all elements of the service is required. According to Sri Mulyanah, the former head of the BP3AKB who had a significant role in the establishment of SERUNI, the core of the network-based system is coordination. Poor coordination will make the system fail, with negative results for victims of domestic violence.

Problems in Service Delivery

There are several problems in delivery of services for victims of domestic violence in Semarang. The problems can be categorised into two strands. The first is organisational, that is, internal problems of SERUNI in delivering its services. Internal problems include issues of regulation, staffing, infrastructure, funding, and networking. The second set of problems is personal, which refers to individual problems faced by victims of domestic violence, who are the main targets of SERUNI services.

As mandated by the Central and the Provincial Governments, Semarang is obligated to create policies and deliver services for victims of domestic violence. Adequate funding, trained staff, and adequate resources must be provided to ensure these services are effective. Semarang PPT has had problems in implementing its domestic violence services. An analysis of the DV Law, and the Central and Provincial governments' regulations demonstrates low commitment by the Semarang government, resulting in limited capacity of PPT staff, the absence of targets, and poor networking among service agencies.

A. Organisational Problems:

1) Low Commitment: The absence of Local Regulations (*Perda*) in Semarang for the Eradication of Domestic Violence

Indonesia has made decentralisation a strategy for development. As a result, local government may issue its own regulations and policies, including regulations on the elimination of domestic violence and the delivery of services to victims of domestic violence.⁴² The Central Java Provincial Government, which is also a local government, has issued Regional Regulations (*Peraturan Daerah/Perda*) No. 3, 2009, on the Implementation of Protection for the Victims of Gender-Based Violence. The *Perda* acts as a ‘legal umbrella’ for all programs and activities to eradicate domestic violence and deliver services for victims of domestic violence. The issuance of such *Perda* is sanctioned by the Regulation of Ministry of Women’s Empowerment and Child Protection, No. 5, 2010, on the Guidelines for the Establishment and Development of the PPT. This states that the district and city government should formulate regulations for the establishment and development of PPT in cooperation with the Local House of Representatives (*Dewan Perwakilan Rakyat Daerah/DPRD*). However, up to December 2014, Semarang has not issued any *Perda* related to domestic violence and services for victims of domestic violence, nor any *Perda* regulating establishment of

⁴² This entitlement for enacting a local regulation is guaranteed by the Law No. 23, 2014, on Local Government.

SERUNI.⁴³ The establishment of SERUNI was based merely on the Decree of the Mayor of Semarang, which is legally and politically weaker than the *Perda*, since it cannot force government agencies (*Satuan Kerja Perangkat Daerah/SKPD*) to implement services or provide sufficient funding to deliver services to victims of domestic violence. Without *Perda*, support for SERUNI's operations comes from only one office, BAPERMAS.

As Semarang had the highest number of domestic violence cases in Central Java in 2012, it needs *Perda* to strengthen its commitment to protect women and to deliver domestic violence services. *Perda* is at least as important as the ratification of CEDAW by the Central Government of Indonesia through Law No. 7, 1984 and the enactment of DV Law No. 23, 2004, as well as to the promulgation of the Central Java Regulation No. 6, 2009. Moreover, through issuing *Perda*, the City of Semarang may ordain specific or distinctive legal clauses in accordance with its local context and culture. With *Perda* in place, Semarang can also decide what sort of interventions should be made for perpetrators and victims of domestic violence based on its local facilities. It can force other government agencies that are considered to not directly deal with women's issues, such as the Education and Employment offices, to include domestic violence in their programs and allocate sufficient funding for them. Through *Perda*, efforts to protect women from domestic violence and deliver

⁴³ Unlike Semarang, the Government of Central Java Province, which is also a local government the same as the City of Semarang, has enacted a local regulation on the service for the victims of domestic violence that is the Central Java Regulation, No. 3, 2009.

services for victims will be integrated, and the negative influence from other government offices can be diminished. This is the very idea from which the term ‘integrated service centre’ or PPT, is derived.

The absence of *Perda* indicates a lack of commitment by Semarang in its efforts to eradicate domestic violence, despite this being a campaign of the Central Government, strongly supported by the Central Java Government. According to LRC KHJAM, this lack of commitment suggests that domestic violence is regarded as a trivial issue by the City of Semarang, and this may be an answer to the question of why Semarang has the highest incidence of domestic violence in Central Java.⁴⁴

Moreover, the absence of *Perda* disadvantages women as they are not only vulnerable to domestic violence, but also to mistreatment in SERUNI and its allied agencies. For example, some victims of domestic violence have faced difficulties in accessing the free medical service in Semarang Public Hospital.⁴⁵ This is because SERUNI could not force the hospital to provide free services for them. Fatkuroji states that the situation ignores the rights of victims of domestic violence who are guaranteed free access to medical treatment under national DV Law. As a consequence, most victims from Semarang went to Tugurejo Hospital, a provincial public hospital located in Semarang, which is the referral hospital for all cities and districts in the Central Java province. Ema Rachmawati, the head of

⁴⁴ Interview with Fatkuroji, Director of LRC-KJHAM, in Semarang, 10 July 2014.

⁴⁵ Interview with Fatkuroji, *Ibid.*

the Women's Empowerment Office of the BP3AKB of Central Java Province, argues that :

Most referrals from the districts came from SERUNI. They should pressure the [city's] public hospital to accept the victims. They should create a network with BAPERMAS as the driver. It is impossible that [management of] the Semarang hospital will offer to treat the victims of its own accord. The BAPERMAS needs to be active.⁴⁶

In the interview, PS-1 said that “in this year [2014], Semarang public hospital has allocated a budget for [DV] victims.” She adds, with a laugh, “so far, we enjoy benefits from the existence of the Tugurejo Hospital.”⁴⁷

Semarang Public Hospital has been reluctant to deliver free services to victims, because there is no *Perda* that covers the budget. Management will think twice about providing free services since they are accountable for budget spending, which must be spent in accordance with a work plan that has been set out in advance. If there is no *Perda*, there is no work plan, and as a consequence, there is no funding allocation. If they provide domestic violence services outside the work plan and spend money on these, it will be regarded as financial misappropriation by the financial management system. Consequently, every service that uses government funding must have regulations to underwrite budget spending.

⁴⁶ Interview with Ema Rachmawati, the head of the Women Empowerment Office of the BP3AKB of Central Java, in Semarang, 15 October 2014.

⁴⁷ Interview with PS-1, Coordinator of the case handling of SERUNI, in Semarang, 29 October 2014.

2) The Limited Budget of SERUNI

One of the reasons I chose the City of Semarang as the case study for this research is that it was reported to have the biggest budget in Central Java for delivering domestic violence services, IDR 500 million (or \$AUD 50,000) in 2013. The funding was stated in the report of the Central Java Commission for Protection of Victims of Gender-Based Violence and Children (*Komisi Perlindungan Korban Kekerasan Berbasis Gender dan Anak/KPK2BGA*).⁴⁸ This amount is considered generous, compared to other local government-allocated spending for the same services, which were as low as IDR 10 million (\$AUD 1000) a year, for example, in the District of Batang.⁴⁹ However, through my fieldwork, I have found that funding of IDR 500 million is not strictly to fund domestic violence services provided by SERUNI; rather, these monies fund the work of Women's Empowerment Office of the BAPERMAS of Semarang. The BAPERMAS is an office that deals with the issues of women at the district government level. It is equivalent to the Office of Women's Empowerment (BP3AKB) at the provincial level, and the Ministry of Women's Empowerment and Child Protection at the Central Government level. BAPERMAS administers the operations, budget, and the appointment of SERUNI staff. The budget for case management and services for victims of domestic violence allocated by BAPERMAS was only IDR 75.000.000 (\$AUD 7500) or 15 percent of total funding in 2013. My analysis of the budget documents obtained from the BAPERMAS office shows that the

⁴⁸ Central Java Government, Annual Report of KPK2BGA , 2013.

⁴⁹ Central Java Government, *Ibid*.

majority of the funding covers the salaries of the civil servants in the BAPERMAS office, while direct service delivery provided by SERUNI is left significantly underfunded.

Regarding the budget, PS-1, the coordinator of case management in SERUNI,⁵⁰ complains that “it is too small.” She asked the head of SERUNI, the wife of the Mayor of Semarang, to raise this issue. Finally, BAPERMAS increased SERUNI’s budget by IDR 63.000.000 (\$AUD 6,300). As PS-1 said, “It is not like previous funding arrangements, when we got a block grant, and we could create programs that we need accordingly.” She also complained about BAPERMAS’s huge expenditure on ‘women’s issues’ that it manages without involving SERUNI: “there is a budget for socialisation [about domestic violence], but I do not know where the money has gone.”

Moreover, PS-1 is not satisfied with her wage, or the wages paid to other full-time staff,⁵¹ which is only IDR 750.000 (\$AUD 75) before tax per month. This is lower than the legal Minimum Wage of Semarang (*Upah Minimum Kota/UMK*), which, in 2013, was IDR 1.209.100 (\$AUD 102), stipulated by the Decree of the Governor of Central Java No. 561.4/58, 2012.⁵² She reasons that “when we

⁵⁰ Interview with PS-1, *Op. Cit.*

⁵¹ In total, there are 20 full-timers (four people in the office of SERUNI, and the rest are stationed in sixteen PPTKs, one full-timer for each PPTK)

⁵² The City of Semarang has the highest UMK compared to other districts in Central Java with IDR 1.209.100 (AUD 102) wage per month. This is based on the Decree of the Governor of Central Java No. 561.4/58, 2012, on the Minimum Wage of District/City in 2013. The lowest UMK belongs to the District of Cilacap with IDR 816.000 (AUD 81.60) per month. Source: Solopos (Daily Newspaper), “Governor of Central Java Decreed UMK 2013 (*Gubernur Jawa Tengah Tetapkan UMK 2013*),” Tuesday, 13 November 2013, available online:

pay the staff properly, we can ask for higher work quality.” According to PS-1, the wage is too low compared to the wage of full-time staff at the Provincial PPT, which is also located in Semarang, about ten kilometres from SERUNI. PS-1 said, “These [Provincial PPT’s] staff are paid properly in accordance with the minimum wage regulation. I cannot understand why the BAPERMAS of Semarang pays SERUNI’s full-time employees less than the UMK.”

The issue raised by PS-1 may also represent other staff’s views SERUNI wages, as it is not easy to manage life with \$AUD 75 a month in a city like Semarang, the capital city of Central Java, where prices are higher than in other districts. However, women (and all SERUNI staff are women), have few employment options, as Semarang had a 10 percent unemployment rate in 2012.⁵³ Moreover, employment is regarded as ‘men’s domain,’ as men are considered the main breadwinners in Javanese society. Therefore, many women may think that even though it is only a little, it is always better than to earn nothing.

The limited funding for SERUNI services illustrates that BAPERMAS officials demonstrate a low commitment to domestic violence issues and gender perspectives. The problem is partly a result of turnover in the system, so existing knowledge and gender perspectives are lost when government officials change

<http://www.solopos.com/2012/11/13/gubernur-jateng-tetapkan-umk-2013-347201> (last viewed: 09 September 2016)

⁵³ This figure is better than the previous year with 10, 23 percent. Source: Antara Jateng, “Unemployment Rate in Semarang is steadily Decreasing (*Angka Pengangguran di Semarang Terus Berkurang*),” 23 April 2014. Available online: <http://www.antarajateng.com/detail/angka-pengangguran-di-semarang-terus-berkurang.html> (last viewed 18/05/2017).

jobs. The Head of BAPERMAS is always a senior high-ranked officer, regardless of his or her knowledge and gender sensitivity. According to PS-1, BAPERMAS is at the heart of SERUNI's problems in delivering services to victims of domestic violence. When I asked her what her dream was to improve the services for victims of domestic violence, she replied, "I wish to change the BAPERMAS system."

Inadequate funding for SERUNI disadvantages victims of domestic violence, as it reduces their opportunity to access proper services. According to Fatkuroji, some victims neglected by SERUNI⁵⁴ reported their domestic violence cases to LRC-KJHAM to access assistance. According to Fatkuroji, "it is due to the poor service of the government that they come to us for help. The service is a state responsibility, not ours. As a civil society [organisation], our role is to assist the government." Indeed, the obligation to protect and provide services for victims of domestic violence, according to CEDAW and the DV Law, is the responsibility of government⁵⁵ which can liaise with other agencies such as NGOs. Fatkuroji's concern is that the task of the NGO is to assist the government, but "they tend to rely on us."⁵⁶

⁵⁴ Interview with Fatkuroji, *Op. Cit.*

⁵⁵ LRC-KJHAM, "The backward effort to protect women victims of violence in Central Java (*Mundurunya Upaya Perlindungan Perempuan Korban di Jawa Tengah*)", Policy Brief, No. 05/Advokasi/LRC-KJHAM/IX/2012, available online: <http://lrc-kjham.blogspot.com.au/2012/09/mundurunya-upaya-perlindungan-perempuan.html> (viewed: 9 November 2017).

⁵⁶ Interview with Fatkuroji, *Op. Cit.*

3) The Absence of Service Targets

The City of Semarang has not created a plan to achieve the targets of the Minimum Service Standards (SPM). Local government is obliged to create a plan for attaining the SPM, as described in the Ministry of Women's Empowerment and Child Protection Regulation No. 1, 2010. The plan should be regulated by mayoral or head of district Decree,⁵⁷ and should be described in the documents of the city's Regional Medium Term Development Plan (*Rencana Pembangunan Jangka Menengah Daerah/RPJMD*). This RPJMD forms the basis for the work plans of all Offices (SKPD) of the city's government.

The existence of a plan to achieve minimum service standards in delivering services for victims of domestic violence is crucial. It constitutes a promise by the government to provide quality services for victims of domestic violence. It provides a yardstick to measure the performance of the PPT, as well as a tool for victims to claim their rights. Moreover, it forms the basis for funding allocation for the implementation of services.⁵⁸

According to the SPM enacted by Minister's Regulation No 1, 2010, all local government areas including Semarang should have two public health centres (*Pusat Kesehatan Masyarakat/ PUSKESMAS*) by 2014 that provide professional

⁵⁷ Unlike Semarang Government, Central Java Provincial Government has set up a plan for achieving the target of SPM through the Governor's Decree No. 60, 2012, on the Plan of Achievement of the Minimum Service Standards of the PPT (2012-2014).

⁵⁸ Article 2 (item b), the Governor Decree No. 60, 2012, on the Plan of Achievement of the Minimum Service Standards of the PPT (2012-2014).

services for victims of domestic violence.⁵⁹ The regulation also states that, by 2014, all medical staff in charge of the service and seventy-five percent of spiritual counsellors should be trained. In 2014, all police officers stationed in the UPPA should have been trained to deliver services for victims of domestic violence.

As there is no plan for achievement of SPM targets, the progress of SERUNI is not easy to measure. Whether two health centres exist for this purpose is unclear, and so too is the number of trained medical staff, spiritual counsellors, and police officers.⁶⁰ This means that victims of domestic violence do not enjoy the rights to quality service prescribed by government. There have been complaints about police handling of domestic violence cases due to the lack of gender sensitivity by the officers in charge. One survivor of domestic violence, SV-4, a 25-year woman and a mother of a baby, had been subject to ill-treatment by police. She and her baby had been abandoned by her husband for more than six months without financial support. She reported her case to the police station at her sub-district. However, she felt that police delayed investigating her case. “It has been three years, but it is not yet settled.”⁶¹ When she asked about the delay, a police officer said that her paperwork was missing.

⁵⁹ PUSKESMAS is a Centre for public health located in every sub-district.

⁶⁰ Interview with PS-1, *Op. Cit.*

⁶¹ Interview with SV-4 (25 years), in Semarang, 19 October 2014.

Even when the case was ready for P21 [to proceed in the court],⁶² I still had to wait for another three months for the signature of the chief of the police station. Every time I asked about it, they said that the chief is out of the office. Why did it take so long just for a signature?

Finally, SV-4 gave the police IDR 200.000 (\$AUD 20): “They did not ask for it, but I was concerned about further delays in my case if I did not give them some cash.” She was tired and desperate with the delay in her case, as it took time and money to commute from her house to the police station. Moreover, she also had to look after her baby. She experienced embarrassing questions and comments from male investigators: “Initially, I was interviewed by a female officer, but later [during the three year process], they changed to male investigators.”

In SV-4’s case, there was no gender sensitivity by police in charge of her case. The police treated SV-4 as merely a ‘common complainant’, such as a car accident complainant, or a complainant reporting a stolen motorbike. Sensitivity about domestic violence was absent. They might never have read the DV Law. Police are required to recognise that the applicant is a victim of domestic violence, distinct from other complainants. They also need to realise that the victim is the mother of a baby who receives no financial support from her ex-husband, who has had to go back and forth to the police station for three years seeking help. “I feel exhausted,” said SV-4. However, she also stated that she has to fight for her rights and the rights of her baby to get financial support from her husband. As Munir

⁶² P21 is a code for a form/paperwork in the criminal administration based on the decree issued by the Indonesian Supreme Attorney No. 518/A/J.A/11/2001. P21 means the investigation process is completed, and then the case will be given by the police to the prosecutor along with the perpetrator and instruments of proof to be processed in the court.

and Saraswati point out, the complicated and inefficient procedure of reporting domestic violence cases to the police, along with feelings of shame and fear, have been key factors that prevent victims from seeking legal redress: “They would rather stay silent, resulting in the high number of underreported cases.”⁶³

4) Poor Networking

Semarang has adopted a network model rather than a one-stop model to deliver services to victims of domestic violence. As a consequence, it has to set up a coordination forum to provide the services, as mandated by the Minister of Women’s Empowerment and Child Protection Regulation, No. 1, 2007. Semarang established its coordination forum through Decree, No. 463/05, dated 6 January 2011. The Forum consists of 32 representatives from government and non-government agencies. However, this network does not function efficiently. Coordination is weak, as conceded by PS-1, the coordinator for case management in the PPT. PS-1 argues that poor coordination is due to inactivity by NGO elements in the Forum, which, according to PS-1, occurs “because of their internal problems.”⁶⁴ She argues that some NGOs, such as LBH APIK and SETARA, who are members of the coordination forum, are reliant on donors to fund their activities. LBH APIK in Semarang is inactive, and even SETARA broke up. Only

⁶³ Munir, Lily Zakiah, “Domestic Violence in Indonesia”, *Muslim World Journal of Human Rights*, Volume 2, Issue 1, Article 5, 2005, p. 11.

⁶⁴ Interview with PS-1, *Op. Cit.*

one NGO remains in the forum, the LRC KJHAM.⁶⁵ Therefore, according to PS-1, the system is now changing from a referral system into what she calls a ‘direct system’: “It is not referral anymore, but a direct service.” Responding to the situation, BAPERMAS set up a new coordination forum in January 2014, based on the Decree of the Head of BAPERMAS, No. 061.1/282, dated 24 January 2014. This coordination forum is called the Permanent Secretariat (*Sekretariat Tetap*), and consists of only 15 representatives, a decline of more than 50 percent from the previous forum comprising 32 representatives.

However, PS-1’s view about the inactivity of NGOs has been challenged by Fatkuroji. He argues that inactivity is due to SERUNI’s internal problems, including corruption.⁶⁶ The corruption was admitted to by PS-1 in the interview. She said that an officer of SERUNI had been discharged for making fraudulent claims for reimbursement from NGOs for her benefit.⁶⁷ In addition, according to Fatkuroji, SERUNI went head to head against an allied NGO in court, taking the side of the perpetrator, while the NGO took the side of the victim. These are some reasons for NGOs resigning from the SERUNI network.⁶⁸ Rachmawati also confirms these issues, but argues, “SERUNI is getting better now.”⁶⁹ Despite the claim that SERUNI has moved to a direct service delivery model, the fact that LRC-KJHAM is still involved in assisting SERUNI, especially in providing legal

⁶⁵ Interview with PS-1, *Ibid.*

⁶⁶ Interview with Fatkuroji, *Op. Cit.*

⁶⁷ Interview with PS-1, *Op. Cit.*

⁶⁸ Interview with Fatkuroji, *Op. Cit.*

⁶⁹ Interview with Ema Rachmawati, *Op. Cit.*

assistance service for victims, suggests that the service is still referral-based. However, the number of NGOs involved with SERUNI has decreased significantly from 2011.

B. Personal Problems

Although SERUNI provides services for victims of domestic violence, however, there are some individual problems faced by the victims of domestic violence to access SERUNI services.

1) Problems of access to services provided by SERUNI

Despite an increase in women reporting domestic violence year on year, as shown by SERUNI's reports, some women victims continue to face obstacles in accessing its services, especially in reporting their cases. These obstacles include cultural barriers, religious beliefs, and limited information about government services. As victims are the main stakeholders of SERUNI, their voices should be heard, and their problems need to be addressed. Moreover, cultural barriers limit women's capacity to report the violence, as Javanese culture in Semarang requires women to conceal their problems in the home. As discussed in Chapter Two, making domestic issues public causes embarrassment for her and the entire family, as she is considered to be revealing her shame (*mbuka wadine dewe*). This culture hindered SV-1 from reporting her case. She knew about SERUNI and had its phone number. However, she decided not to report her case as it would bring

shame on her and her family. “This is something that I have to cover. I think I can stand it”, she said.⁷⁰ She negotiated the situation by threatening to report her husband to the police if he abused her again. “If you abuse me, I will report it to the police,” she threatened. “For me, it has worked so far.” Moreover, SV-1 fears divorce will result if she reports the violence: “I have not even told my mother [the only parent she has] as I am afraid that I will end up like my sister, having a divorce.” For her, as a lecturer, a middle class woman with high educational status, divorce figures as an embarrassment, as people may see her as incapable of managing her household.

In many cases, according to PS-1, the prosecution of perpetrators of domestic violence leads to divorce. Therefore, some women do not go to the courts or seek help from a PPT. The reason is not because they do not know about the service, but that they are afraid of divorce or losing their agency during the PPT process.⁷¹ They even think that the PPT and the courts will only make things worse. This issue has been raised by Venning, who argues in *Marrying Contested Approaches* that despite the focus of legal empowerment programmes on increasing women’s autonomy and finding creative solutions to legal problems, there is increasing pressure on women victims of violence to use the state criminal

⁷⁰ Interview with SV-1, *Op. Cit.*

⁷¹ Venning, Philippa, “Marrying Contested Approaches: Empowerment and the Imposition of International Principles: Domestic Violence Case Resolution in Indonesia”, *Journal of Development Studies*, Vol. 46, No. 3, March 2010, pp. 399. See also: Hajar, Lisa, “Religion, State Power, and Domestic Violence in Muslim Societies: A Framework for Comparative Analysis”, *Law & Social Inquiry*, Vol. 29, No. 1, 2004, pp. 1-38. According to Hajar, one of critical issues dealing with policy making in the criminal justice system in the case of domestic violence is to take into account the cultural, economic and political realities of the victims’ countries (p. 9).

justice system to resolve domestic violence. Fears for the future, of their children having to live without their fathers, of losing family income, and fear of the embarrassment of being a single parent result in some women not reporting domestic violence. Moreover, some women withdraw their cases after reporting, and rely on other strategies to deal with the situation. Some negotiate with the perpetrators, using what Hayati et al. call the “elastic band strategy,” a strategy where women act kindly to their abusive husbands, but avoid legal action, while, at the same time, seeking internal and external support.⁷²

Such approaches challenge the presumption that the only option for women with abusive partners is to leave the relationship or to get a divorce. This view not only ignores the agency of the victims of domestic violence in deciding what is best for them, but also denies the potential religious, legal, and cultural challenges that they would face if they were to divorce.⁷³ It is important not to assume that victims’ decisions not to engage with PPT or take legal action is always because they are unable to do so, or have no personal power to engage.

⁷² Hayati, Elli N, et al., “Behind the Silence of Harmony: Risk Factors for Physical and Sexual Violence among Women in Rural Indonesia”, *BMC Women ’ s Health*, Volume 11, Issue 52, 2011, p. 6, available online: <https://bmcwomenshealth.biomedcentral.com/articles/10.1186/1472-6874-11-52> (viewed: 6 November 2017)

⁷³ Sullivan, Cris M, and Bybee, Deborah I., “Reducing Violence Using Community-Based Advocacy for Women with Abusive Partners”, *Journal of Consulting and Clinical Psychology*, Vol. 67, No. 1, 1999, p. 43

Their decision may represent resistance, agency, and the will to deal with their situations in their own ways,⁷⁴ as is evident in the case of SV-1.

As highlighted by the case of SV-1, SERUNI needs to disseminate adequate information about the rights of victims, and the benefits of accessing support. In addition, any action taken by or on behalf of victims should be based on their will and informed consent. SERUNI also needs to provide clear information about the consequences that victims may face when choosing to engage or not in legal proceedings such as divorce, and must protect victims from being criminalised by perpetrators by delivering adequate legal assistance. Women victims of domestic violence are prone to be criminalised by their abusive husbands, such as in the case of Siti Rubaidah and Riana Anitasari. Rubaidah is the wife of the Deputy Mayor of Magelang City of Central Java. She reported her husband for domestic violence, but he counter-sued on the grounds she ‘abandoned’ her children and ‘defamed’ him. Rubaidah was charged by the police as a suspect for ‘neglecting’ her children as she was absent from home (for seeking help in her family house).⁷⁵ Another case is the case of Riana Anitasari from the City of Semarang. She was secretly married as the second wife of a high-

⁷⁴ Lombard, Nancy and McMillan, Lesley, *Violence Against Women; Current Theory and Practice in Domestic Abuse, Sexual Violence and Exploitation*, Jessica Kingsley Publishers, London and Philadelphia, 2013, p. 239

⁷⁵ Tribun News, “The Wife of the Mayor’s Deputy of Magelang is declared a Suspect (*Isteri wakil walikota Magelang ditetapkan sebagai tersangka*), 09 April 2013, available online: <http://www.tribunnews.com/regional/2013/04/09/istri-wakil-wali-kota-magelang-ditetapkan-jadi-terseangka> (viewed: 23 August 2017). See also: “Mayor’s Deputy of Magelang reports back her wife to Police (*Wakil Walikota magelang Balik laporkan Isterinya ke Polisi*), 29 January 2013, available online: <https://www.merdeka.com/peristiwa/wawali-kota-magelang-balik-laporkan-istrinya-ke-polisi.html> (viewed: 23 August 2017).

ranking official of the Central Java Government. After six years and two children, her husband neglected her and the children. She reported her case by intervening on a meeting between local parliaments with the Governor, which made big news. She was sued by her husband on the grounds that she defamed him and told a lie about her case.⁷⁶

2) Religious barrier

Religious beliefs also pose a barrier for women wanting to report domestic violence. SV-3 experienced this obstacle. She is a 56 year old woman, a graduate of Secondary Islamic School, and a teacher of *Qur'anic* recitation (*guru ngaji*) in her neighbourhood. Her husband often abused her. Once he banged her head against the wall, causing damage to her left ear. "He often hit me. Once, he was asking me to find a key, but I could not find it. Then he hit me, but the key was actually in his pocket."⁷⁷ Her religious beliefs kept her from revealing the abuse for a long time. Finally, based in her religious belief, she decided to report her case. She said:

I was afraid that [by reporting my case] I would reveal the 'aib' (disgrace) of my husband which must be kept secret. However, I could not stand anymore. I tried to find some information: is it a sin to report my husband? [The answer is] No, it is not. I found in the *Qur'an*, chapter *an-Nisa*, verse 148, that Allah does not like anyone who talks about someone's evil deeds unless she is being abused by him, and I am being abused by my husband. Allah

⁷⁶ Suara Merdeka (Daily News), "Riana considered as a suspect (*Riana ditetapkan sebagai tersangka*)", 21 December 2011, available online: <http://www.suaramerdeka.com/v1/index.php/read/cetak/2011/12/21/170747/Riana-Ditetapkan-sebagai-Tersangka-> (viewed: 23 August 2017)

⁷⁷ Interview with SV-3, *Op. Cit.*

knows and hears most. That is why I dared to report my case [to SERUNI] and do this interview.⁷⁸

There is a lesson to be learnt from the case of SV-3. While some *Qur'anic* verses have been used to justify domestic violence, others may be used to prevent and resist domestic violence. Hence, SERUNI needs to work on disseminating 'women-friendly' religious interpretations, which Indonesian Muslim feminists such as Siti Musdah Mulia, Siti Ruhaini Dzuhayatin, and Sinta Nuriyah Abdurrahman Wahid have long campaigned for. SERUNI also needs to collaborate with grassroots organisations such as Muhammadiyah and Nahdlatul Ulama (NU) that already hold women-friendly views on domestic violence. Moreover, SERUNI may offer counselling and training for perpetrators of domestic violence similar to the programs offered by Rifka Annisa in Yogyakarta, because the fight against domestic violence needs men to educate men.

3) Information barriers

Limited information about the services provided by government is another barrier that prevents victims from accessing help, as the case of SV-5 illustrates. A victim of domestic violence, she is 39 years and has no children. Her husband often abused her. Once, he threw a helmet at her, and in another incident, he hit her, which caused an injury to her left ear. She escaped from her husband and

⁷⁸ The Quran, Chapter An-Nisa, verse: 148, says: "Allah loveth not that evil should be noised abroad in public speech, except where injustice hath been done; for Allah is He who heareth and knoweth all things."

lived in a rented unit. “I did not want to stay there [with her husband]. It was like [living] in a tiger’s cage”. One and a half years after she left, she requested a divorce from the Religious Court (*Pengadilan Agama*). It was in the court that she was told by her lawyer to get help from the government and from SERUNI. “I only found out then that as a victim of domestic violence, I am entitled to get help from the state.”⁷⁹

The case of SV-5 is not unique. Some women have no idea where to get help for domestic violence, due to low access to information. The case of SV-5 is proof of how the issue of domestic violence and the services available for victims must be widely disseminated: lawyers, police, prosecutors, judges, NGOs, government agencies, grassroots organisations, and communities all have a role to play. People need to be familiar with the issue so that they can respond effectively to incidents of domestic violence. The case of SV-5 would have been different if the lawyer and the judge in the Religious Court were not aware of the existence of SERUNI. SV-5 would remain unrecognised by SERUNI. Further, as SERUNI is a network-based service provider, which involves both the government and non-government sector, coordination has to be solid, so that they can cohesively support each other in delivering services to victims of domestic violence.

In its assessment of the Quality of Service of PPTs, the Central Java KPK2BGA ranked SERUNI sixteenth of thirty-five districts in 2013. SERUNI

⁷⁹ Interview with SV-5 (39 years), in Semarang, 22 October 2014.

lags significantly behind the first-ranked PPT in Cilacap, a district located about 200 kilometres from Semarang. As SERUNI is located in Semarang, the capital of Central Java, its low ranking suggests the need for improvement.

Conclusion

As Semarang is the capital of Central Java, it is considered to have better access to information and facilities for services to the victims of domestic violence. Moreover, SERUNI was the first PPT to be established. However, the network model in which SERUNI acts as a referral service does not work efficiently, as inter-agency cooperation between government agencies and NGOs is declining. The absence of *Perda* to regulate services for victims of domestic violence shows a lack of commitment in the goal of delivering quality services. The absence of *Perda* has not resulted in a plan for funding, and poor coordination by service providers is the consequence of this. The absence of local regulation also impacts on services that should be provided by government agencies such as the Public Hospital of Semarang, which does not provide appropriate funding for treatment of victims of domestic violence. The absence of *Perda*, solid inter-agency cooperation, and adequate funding are some reasons why Semarang was not able to set targets for the achievement of Minimum Service Standards mandated by the Ministry of Women's Empowerment and Child Protection.

In addition, the BAPERMAS of Semarang, as the overarching body of SERUNI, needs reform, especially regarding the capability of officials in charge

of women's issues. They need knowledge, skills and training in gender perspectives and domestic violence to advocate for victims' rights. In addition, the quality of services provided by SERUNI need to be improved, including an increase in full-time staff salaries, which are below the minimum wage. BAPERMAS needs to consider these three aspects, as failure to address BAPERMAS's issues impacts the quality of SERUNI's services.

SERUNI also needs to overcome the cultural and religious problems that prevent women from accessing its services. This can be achieved through cooperation with religious-based organisations to disseminate women-friendly interpretations of religious teachings. Furthermore, SERUNI needs to raise awareness of its services, and provide information regarding victims' rights and issues of agency. This requires the efforts of lawyers, police, prosecutors, judges, NGOs, government agencies, and grassroots organisations. They all need to understand and commit to adequate domestic violence services in order to act when domestic violence occurs.

Being ranked sixteenth of 35 PPTs in other districts shows that SERUNI needs reform to increase its quality of service. Its proximity to the Provincial PPT and the Office of Women's Empowerment in Central Java offers opportunities for SERUNI to access information, and to learn from a role model in how to improve services to victims of domestic violence.

CHAPTER SIX

**IDEAS FOR THE FUTURE: RESOLVING CONTRADICTION IN THE
LAW AND IMPROVING SERVICES FOR VICTIMS OF DOMESTIC
VIOLENCE****Introduction**

The enactment of DV Law aims to change perceptions of domestic violence in Indonesian society. Its penal articles aim to deter domestic violence at a theoretical level, while prosecution of perpetrators aims to give a deterrent effect at the practical level. Deterrence not only helps to create social order, but also aims to fulfill human rights, including women's rights, which is the ultimate goal of every law. Moreover, the DV Law regulates service provision for victims of domestic violence, aiming to restore victims' rights and to ensure that they enjoy equal rights as citizens of Indonesia.

As discussed in previous chapters, despite government policy and legal penalties, the number of incidents of domestic violence reported continues to increase every year, and victims are mostly women. Therefore, the DV Law is failing to protect women.¹ Similarly, the implementation of services for victims of domestic violence has several drawbacks that prevent victims from enjoying their rights. Some victims of domestic violence are not treated appropriately by the

¹ The Jakarta Post, *Decade-old law failed domestic abuse victims: LBH APIK*, Wednesday, 15 April 2015, available online: <http://www.thejakartapost.com/news/2015/04/15/decade-old-law-failed-domestic-abuse-victims-lbh-apik.html> (viewed: 20 April 2015)

PPT. This leads to the question of how to improve the effectiveness of the DV law to deliver effective services to the victims of domestic violence.

As outlined in Chapter One, this thesis uses Interpretive Evaluation Research to engage with the study of policy in the provision of services for victims of domestic violence. According to Denzin, this approach can provide policymakers with pragmatic, action-oriented recommendations to alleviate the policy problem,² and can also provide the basis for practical proposals such as the improvement or removal of certain programs.³ Furthermore, this thesis employs a feminist perspective, so that it is not only *about* women, but also *for* women, and the betterment of women's lives. With this in mind, some reforms are necessary at both central and local government level to enhance the effectiveness of the DV Law to protect women and to deliver effective services to victims of domestic violence.

At the national level, there is a need for reform of the justice system, to amend contradictory legal frameworks that affect the lives of women. On the one hand, the DV Law advocates protection against domestic violence and regulates services for victims of domestic violence, aiming to benefit women. On the other hand, however, the Marriage Law that governs relationships between men and women may be the root of domestic violence, which disadvantages women. The government and the House of Representatives need to revise the Marriage Law of 1974, which contains articles that are not women- friendly and implicitly support

²Denzin, Norman K., *Interpretive Interactionism*, Sage Publication, California, 1989, p. 18

³Denzin, *Ibid.*, p. 23

gender bias⁴ which may lead to domestic violence. At the local level, the PPT needs to improve the quality of personnel involved in service provision in both the government and non-government sectors. The local government also needs to establish court-annexed counselling for perpetrators of domestic violence. Moreover, there is a need to raise social awareness of the DV Law through collaboration with grassroots organisations.

This chapter considers the need for revision of Articles on the status of a wife and a husband, the minimum age for marriage, and polygamy, as well as the need for new provisions on penalties for lawbreakers. However, amendments to the Marriage Law have been met with challenges by *Hizbut Tahrir Indonesia* (HTI), an Islamic organisation. These are also examined. In addition, to increasing the efficiency of the DV law, changes to the Marriage Law should be followed by a reform of the Religious Court, as, according to Rika Saraswati, it is the last resort for women victims of domestic violence in accessing justice.⁵ Moreover, as any law will be ineffective without law enforcement by qualified law enforcers (police officers, prosecutors, and judges),⁶ the need to reform the attitudes of law

⁴ Gender bias has for component parts: 1) Attitudes or behaviour which reflect stereotypes about the roles and true nature of men and women; 2) the perceived relative worth of men and women; 3) myths and misconception about the realities experienced by men and women during lives; and 4) a distinction, whether intentional or not, which has the effect of imposing burdens, obligations or disadvantages on one group over another. As a result of this systemic form of discrimination, one group usually bears a disproportionate and unfair burden. See: The Gender Bias Committee, “Gender Equality in the Justice System”, *The Law Society of British Columbia*, Vol. 1, Chapter 1, 1992, p. 1-2

⁵ Saraswati, Rika, “Justice and the identities of women: The case of Indonesian women victims of domestic violence who have access to Family Court”, *Forum on Public Policy: a Journal of the Oxford Round Table*, 2013, p. 1, available online: <http://ro.uow.edu.au/cgi/viewcontent.cgi?article=1748&context=lhapapers> (viewed: 7 November 2017)

⁶ Delgado, Julissa, “Law to Nowhere”, *COHA Forum*, 20 April 2011. Available online: <http://www.coha.org/law-to-nowhere/> (last viewed: 07 June 2017)

enforcement is also explained in this chapter. Further, it considers the need to establish court-annexed counselling ordered by the DV Law, because the effective implementation of the Law relies on this provision. Finally, the issue of awareness-raising and the role of grassroots organisations in such campaigns are discussed in the last section of this chapter.

Amendment of the Family Law

As stated in Chapter Three, in case of marital disputes, Indonesia differentiates between Muslims and non-Muslims in accessing justice. Muslims go to the Religious Court (*Pengadilan Agama*) and are judged in accordance with the Compilation of Islamic Law (*Kompilasi Hukum Islam/ KHI*), stipulated by Presidential Decree in 1991.⁷ Non-Muslims go to the Public Court (*Pengadilan Negeri*), and their cases are judged under Marriage Law No. 1, 1974. There are minor differences between the KHI and the Marriage Law regarding relations between husbands and wives. The notion that the husband is the head of the family and the breadwinner, who has the right to divorce his wife (and not vice versa) is found in both the Marriage Law and KHI. As the KHI was instituted later, it adopts most articles of the Marriage Law. Therefore, articles of the Marriage Law also apply to the KHI. Moreover, the Marriage Law also applied to Muslims before 1991, which is the year the KHI was officially implemented in the

⁷ For more information on KHI, see: Simon, Butt, "Islam, the State and Constitutional Court in Indonesia," *Pacific Rim Law & Policy Journal*, Vol. 19, No. 2, 2010, p. 279-301, and Adrian Bedner & Stijn van Huis, "Plurality of marriage law and marriage registration for Muslims in Indonesia: a plea for pragmatism", *Utrecht Law Review*, Vol. 6, Issue 2, 2010, p. 175.

Religious Court after it was issued in 1989. One of the main differences between the KHI and the Marriage Law is the notion of neglect as a ground for divorce. Neglect is not mentioned as grounds for divorce in the Marriage Law, but it is clearly stated in the KHI as part of husband's vows (*taklik-talak*) in front of the bride and witnesses during a wedding ceremony. If a man violates *taklik-talak*, his wife can use it as grounds for divorce.⁸

According to Kusumaningtyas, a woman activist of *Rahima*, the Marriage Law, which she regards as a result of political consensus, manages to ease tensions between the Islamist, the *Adat* (traditional) group, and secular groups.⁹ In addition, Cammack, Young and Heaton, argue:

The case of the Indonesian government's efforts to regulate Islamic marriage practices illuminates the dynamic interaction between state sponsored legal rules and a local belief and practice grounded in a religious worldview. The Indonesian Marriage Act poses the contest between state power and religious authority in stark terms. But instead of producing clear winners and losers, this conflict of interests and ideologies has spawned a long process of negotiation, in which both sides have been forced to adopt strategies of accommodation. For its part the government has not abandoned its aim of

⁸ The standard formula of *taklik talak* is: Having signed the marriage contract (*akad nikah*), I... (name) *bin.* (name) promise sincerely that I will fulfil my obligation as a husband and will live amicably with my wife, ... (name) *binti*... (name) according to the teaching of the law of Islam. Furthermore I hereby pronounce the *taklik* formula (*sighat taklik*) with regard to my wife as follows: If ever I (1) leave my wife for six month consecutively, unless I am performing a state responsibility, (2) or I do not give her obligatory support (*nafkah*) for three months, (3) or I maltreat my wife physically, (4) or I neglect my wife for six month consecutively; then, should I violate one of these promises, and my wife refuses to acquiesce and so charges before the *Pengadilan Agama* (Religious Court) competent to deal with this accusation, and the accusation is upheld and accepted by the court or other instance, and my wife pays IDR... as an *iwadl* (giving or present) my first *talak* falls upon my wife..." See: Saraswati, *Op. Cit.*, p. 5, including footnote number 12.

⁹ Kusumaningtyas, AD., "Integrating Domestic Violence Law in Marriage Institutions (Mengintegrasikan UU PKDR di Lembaga-Lembaga Perkawinan)," *Rahima*, 18 December 2012, available online: http://www.rahima.or.id/index.php?option=com_content&view=article&id=995:mengintegrasikan-uu-pkdr-di-lembaga-lembaga-pelaksana-perkawinan-&catid=1:berita&Itemid=18 (last viewed: 3 January 2017).

expropriating family law rules, but has found it expedient to articulate its regulatory efforts in a more Islamic idiom. In its efforts to preserve the religious grounding of Indonesian marriage rules for the Muslim majority, Islamic interests are being pressed to accept novel interpretations of Islamic law, and to recognize a larger role for the Indonesian government in interpreting the Islamic tradition.¹⁰

Kusumaningtyas suggests that the Marriage Law might have been fit for its time. However, it is not an ideal law for today. Moreover, it was enacted a decade before the ratification of CEDAW by the Indonesian government.¹¹

Indonesia has agreed to work towards gender equality through its ratification of CEDAW and as signatory to the Beijing conference 1995. As a consequence, according to Nursjahbani Katjasungkana, a woman activist, all laws and policies must meet the covenant of international law. Any law that is discriminatory to women must be amended, including the Marriage Law.¹² In addition, Maria Farida Indrati, a judge in Indonesia's Constitutional Court, argues that the Marriage Law needs to be revised as it is forty-one years old.¹³ Moreover, a decree of the Consultative Assembly of the Republic of Indonesia (MPR), No: IV/MPR/1999, states that the government will reform any "laws inherited from the colonial era and national legislation that are discriminatory, including those

¹⁰ Cammack, M., Young, L.A., and Heaton, T., "Legislating Social Change in an Islamic Society-Indonesia's Marriage Law", *The American Journal of Comparative Law*, Vol. 44, Issue 1, 1996, p. 46.

¹¹ Kusumaningtyas, *Op. Cit.*, p. 2

¹² Hukum Online, "The Marriage Law is considered ambivalent and discriminatory (*UU perkawinan dinilai ambivalen dan diskriminatif*)," available online: <http://www.hukumonline.com/berita/baca/hol1263/uu-perkawinan-dinilai-ambivalen-dan-diskriminatif>, Friday 24 November 2000, (viewed: 26 October 2015).

¹³ Constitutional Court (*Mahkamah Konstitusi*), "The Marriage Law Should be Revised, it is 41 years old (*UU Perkawinan Harus Direvisi UU Perkawinan sudah berusia 41 tahun*)," *Constitutional Court's News*, 22 June 2015, available online: <http://www.mahkamahkonstitusi.go.id/index.php?page=web.Berita&id=11181#.WHNjnfB95PY> (viewed: 9 January 2017).

that discriminate based on gender and those conflicting with reforms demand, through a legislation program.”¹⁴

As discussed in Chapter Three of this thesis, the Marriage Law is discriminatory to women because it legitimates gender relations that place women in a subordinate position to men. It defines the husband as the head of the household and breadwinner of the family, while the wife is constructed as a housewife whose role is to deal with domestic affairs. This is one reason why men have greater participation in the public sphere than women. Moreover, the Marriage Law makes it easier for men to divorce their wives, but no corresponding provision exists for women. It is therefore unequal. The law has also been used as a basis of legal argument by perpetrators of domestic violence to blame women for not performing their prescribed duties as wives and mothers. Accordingly, women victims of domestic violence may be victimised twice, first by being subjected to domestic violence, and then being sued by the perpetrators for not ‘obeying’ them or not performing their obligations to the household. In addition, the law has generated unregistered or ‘illegal marriages’ that disadvantage women. The reasons for unregistered marriages include that the partners are of different religions, or the marriage is a form of secret polygamy. There are consequences for unregistered marriages. If the marriage is not recorded by the Office of Religious Affairs (*Kantor Urusan Agama/ KUA*) or the Office of Civil Registration (*Kantor Catatan Sipil*), no legal action can be taken regarding the marriage. A woman cannot file any case related to her position as ‘wife’, for

¹⁴ The Decree of Indonesian Consultative Assembly, No: IV/MPR/1999.

example to claim a property settlement after divorce, or to prosecute her husband for domestic violence, as she cannot provide a legal marriage registration document to the court.

Articles in the Marriage Law need amendment, including articles defining the status of wife and husband in marriage, the minimum age for marriage, and polygamy. These three articles lay the ground for domestic violence to occur in the first place, and for it to be normalised by the law.

The Status of Wife and Husband in Marriage

According to Erna Ratnaningsih, a woman activist from LBH APIK, the status of the husband as the head of the household, as defined in Article 31 of the Marriage Law, is discriminatory to women. It ignores the fact that some families have women heads of households, as they are the breadwinners of their families,¹⁵ such as SV-1. As discussed in Chapter Five, the case of SV-1 shows that, despite being the main breadwinner for her family, a woman can be subject to coercion and abuse by her husband due to his predefined position in the law and culture.

According to the Central Bureau of Statistics of Indonesia (*Badan Pusat Statistik/BPS*), the head of the household is the main breadwinner, or someone

¹⁵ Hukum Online, “Five Crucial Issues in the Marriage Law (*Lima Hal Krusial dalam Revisi UU Perkawinan*)” 27 February 2015, available online: <http://www.hukumonline.com/berita/baca/lt54efe7a624603/lima-hal-krusial-dalam-revisi-uu-perkawinan> (last viewed: 9 January 2017)

who is regarded as the head of the household.¹⁶ From this definition, the head of the household can be either male or female. PEKKA¹⁷ defines female heads of households as women who have the principal financial role and responsibility as breadwinners, but they also act as managers of the household, guard the continuity of family life, and are the main decision-makers in the family.¹⁸

The prescription of the husband as the head of the family within the law is far from the reality of life in Indonesian society.¹⁹ A survey by the Central Statistics Office of Indonesia in 2010 shows that women head approximately 9 million households (13.9 percent), due to the absence or incapacity of a male family member. In ‘Legal Support Structures and the Realisation of Muslim Women’s Rights in Indonesia’, Curnow proposes that despite this figure being statistically significant in itself, it is widely understood that it is still a gross underestimation of the actual number of women-headed households.²⁰

The defined role of men in the Marriage Law and the KHI has resulted in the term ‘head of the household’ being confined to men. The privileging of this term to describe men is illustrated in government regulations, as well as in official

¹⁶ Indonesia Central Statistics, “The Concept of the Head of Household (*Konsep Kepala Rumah tangga*),” available online: <https://www.bps.go.id/Subjek/view/id/29> (last viewed: 23 May 2017).

¹⁷ PEKKA is an initiative for supporting women household. It was established through the support of Indonesian Women’s Commission. For more information visit: <http://www.pekka.or.id/index.php/id/tentang-kami/276-pemberdayaan-perempuan-kepala-keluarga-pekka.html>

¹⁸ PEKKA, “Empowerment of Women Heads of Household (*Pemberdayaan Perempuan Kepala Keluarga*),” available online: <http://www.pekka.or.id/index.php/id/tentang-kami/276-pemberdayaan-perempuan-kepala-keluarga-pekka.html> (viewed: 5 February 2017).

¹⁹ Mulia, Siti Musdah, “KHI is very conservative (*Kompilasi Hukum Islam Sangat Konservatif*),” *Jaringan Islam Liberal*, 1 October 2003, available online: <http://islamlib.com/kajian/fikih/siti-musdah-mulia-kompilasi-hukum-islam-sangat-konservatif/> (viewed: 11 January 2017).

²⁰ Curnow, Jayne, “Legal Support Structures and the Realisation of Muslim Women’s Rights in Indonesia”, *Asian Studies Review*, Vol. 39, No. 2, 2015, p. 214.

oral and written communications. For example, the Citizenship Law, Article 61, states that a Family Card identifies the head of the household and members of the household.²¹ However, the Office of Citizenship and Civil Registration (*Kantor Kependudukan dan Pencatatan Sipil*), which issues the Family Card, assigns the husband automatically to the role of the head of the household without consulting the family.²² The appointment of the man as the head of the household, and the woman as a housewife, under Marriage Law contradicts the principle of equality in marriage, which is defined in Article 2 of the Marriage Law. It states that the rights and status of a wife are equal to the rights and status of the husband, both in the domestic and public sphere.²³ The assumption that the husband is head of the family as prescribed in the Marriage Law and KHI derives from religious interpretations. Islamic jurisprudence (*fiqh*) is followed by the majority of Indonesians, and shapes the tenor of the laws. The definition of men as heads of the family is related to interpretation of the Qur'an, chapter 4 (*An-Nisa*): 34, which says: "Men are the *qawwamun* (protectors) and maintainers of women, because Allah has given the one more (strength) than the other, and because they support them with their means." Some Muslim scholars interpret the word "*qawwamun*" to mean leaders, educators, and protectors. However, dominant

²¹ Law No. 23, 2006 on the Citizenship Administration,

²² Lubis, Zulkarnain, "An analysis of the Term the Head of the Household and the Housewife in the Marriage Law and KHI (*Analisa Terhadap Istilah Kepala Keluarga Dan Ibu Rumah Tangga Di Dalam UUP Dan KHI*)," Publication of Badilag, 8 September 2015, available online: <http://badilag.mahkamahagung.go.id/artikel/publikasi/artikel/analisa-terhadap-istilah-kepala-keluarga-dan-ibu-rumah-tangga-di-dalam-uup-dan-khi-oleh-drs-zulkarnain-lubis-mh-8-9> (viewed: 2 January 2016)

²³ Lubis, *Ibid.*

interpretations regarding this verse tend to normalise men's positioning as superior to women's.²⁴

Both the Marriage Law and the KHI adopt interpretations from thirteen Arabic books of *fiqh*, written entirely by men, and endorsed as the basis for judgment by Decree of the Office of Religious Courts, No. B/1/735, 1958. The Religious Court was newly established when this Decree was issued.²⁵ These jurisprudence texts provide interpretations of the verses of the *Qur'an* and the sayings of the Prophet Muhammad (*Hadith*), which were transcribed by Muslim scholars in the ninth century. These interpretations were structured within the dominant society of men and written by men. According to Nasaruddin Umar, a Professor in Gender and Islam of the State Islamic University of Jakarta, texts such as this may give birth to an Islamic jurisprudence nuanced by patriarchy.²⁶

Therefore, some contemporary Muslim thinkers, including Fazlur Rahman, Mohammed Arkoun, Hassan Hanafi, Fatima Mernissi and Amina Wadud, have criticised the paradigm of traditional *fiqh*. According to Wadud, *fiqh* is not separate to interpretations of the text of the *Qur'an*. She suggests that there are three categories of interpretation of women's roles in the *Qur'an*. The first is traditional interpretation. In this form of interpretation, all interpreters are men,

²⁴ Hajjar, Lisa, "Religion, State Power, and Domestic Violence in Muslim Societies: A Framework for Comparative Analysis", *Law & Social Inquiry*, Vol. 29, No. 1, 2004, pp. 10

²⁵ The titles of these books are: *Al-Bajuri, Fathu al-Mu'in, Asy-Syarkawui 'ala at-Tahrir, Al-Qalyubi/al-Mahalli, Fathu al-Wahhab wa Syarhuh, At-Tuhfah, Al-Qawanin asy-Syar'iyah li Sayyid bin Yahya, Al-Qawanin asy-Syar'iyah li Sayyid Shadaqah Dachlan, Asy-Syamsuri fi al-Fara'id, Bughyah al-Mustarsyidin, Al-Fiqh 'ala al-Madzahib al-Arba'ah, Targhib al-Musytaq, and Al-Mughni al-Muhtaj.*

²⁶ Umar, Nasarudin, *Arguments for Gender Equity in the Qur'an (Argumen Kesetaraan Gender Dalam al-Qur'an)*, PARAMADINA, Jakarta, 1999, p. xvii-xviii.

and it is men's experiences that nuance the interpretation, while women and their experiences are omitted or interpreted in accordance with the perspectives or the needs of men. Second is reactive interpretation, which is interpretation conducted by modern scholars concerned about the construction of women that use some methods drawn from feminist thought. Third, holistic interpretation, which reconsiders all previous methods of interpretation of *Qur'anic* texts, with a focus on social, moral, economic, and political issues, including women's issues. Of the three approaches, Wadud suggests that the third is more appropriate in defending women's rights.²⁷ Such approaches inform my analysis of the legal principles articulated in the Marriage Law.

Article 31 of the Marriage Law, which reinforces the position of husband and wife, is followed by Article 34 on the Rights and Duties of the Husband and Wife. The Articles states that:

- 1) The husband shall protect his wife and provide every necessity of home life according to his ability;
- 2) The wife shall manage the affairs of the household as well as possible;
- 3) If the husband or wife respectively conduct malpractice, he/she can file a lawsuit to the court.

The first two clauses not only indicate the standardisation of the gender relations between men and women, but reinforce the domestication of women. As there may be some conditions in a family where a husband cannot perform his tasks stipulated by the law, there needs to be an affirmation in the law that a woman

²⁷ Wadud, Amina, *Quran and Woman: Rereading the Sacred Text from a Woman's Perspective*, Oxford University Press, 1999, p. 21-22

could be the head of the family. Moreover, according to Edriana Noerdin et al., in *The Portraits of Women Poverty (Potret Kemiskinan Perempuan)*, there are some programs and government projects²⁸ such as micro-credit schemes for small business that require only the head of household to sign and be responsible for the contract.²⁹ This means women lose the opportunity to access such development projects, which disadvantages them. Therefore, the Marriage Law and the KHI need amendment to better reflect the government's commitment to achieving gender equality, as legislation occurs in a political and legal context shaped by Islamic norms and values which may be skewed by patriarchal interpretation.

Minimum Age for Marriage

The National Census of 2012 conducted by the Central Statistics Office in collaboration with UNICEF shows that one in four Indonesian girls were married before the age of eighteen.³⁰ Article 7 of the Marriage Law states that the minimum age of marriage is nineteen years for men and sixteen years for women. Thus, marriage at the age of sixteen is legal, according to Marriage Law. In the District of Pamekasan, in Madura Island, East Java Province, there was a

²⁸ Noerdin, Edriana et al, *The Portraits of Women Poverty (Potret Kemiskinan Perempuan)*, Women Research Institute, Jakarta, 2006, p. vii-viii

²⁹ Marzani, Anwar, Women as the Head of Household (*Perempuan sebagai Kepala Rumah Tangga*), 06 June 2013, available online: <https://marzani-anwar.wordpress.com/2013/06/06/perempuan-menjadi-kepala-keluarga-what-next-oleh-prof-dr-marzani-anwar/> (viewed: 5 February 2017).

³⁰ Indonesia Central Statistics and UNICEF, Progress that delayed: Analysis of the Data of Child Marriage in Indonesia (*Kemajuan yang tertunda: Analisis Data Perkawinan usia Anak di Indoensia*), Based on census 2008-2012, 2012, available online: https://www.unicef.org/indonesia/id/Laporan_Perkawinan_Usia_Anak.pdf (Las viewed: 08 February 2017)

proposition before the Local House of Representatives to legalise marriage for women under sixteen years old.³¹ They argued that it is their tradition (*adat*) to marry their daughters at an early age, even before they turn fifteen. There are two reasons for this practice: first is the fear that a girl who is not married will become a spinster (*perawan tua*) and remains economically dependent, and second is an economic issue, as girls are no longer the financial responsibility of their parents after they marry.³² The minimum marrying age of sixteen years for women has been challenged by women activists and NGOs. The Foundation for Child Rights Monitoring (*Yayasan Pemantau Hak Anak/YPHA*) and the Women's Health Foundation (*Yayasan Kesehatan Perempuan*) have proposed an increase to the minimum age and filed for a judicial review of the Marriage Law in the Constitutional Court (*Mahkamah Konstitusi*).³³

After hearing the views of different religious organisations (Islam, Christian, Hindu, Buddhist, and Confucian) and other experts, the Constitutional Court decided on June 26, 2015, to maintain the age of sixteen as the minimum marrying age for women. The Court decided that the minimum age of sixteen did not contradict the Indonesian Constitution of 1945.³⁴

³¹ Koran Sindo (*Daily Newspaper*), "Pamekasan Asks early marriage to be legalised (*Pamekasan Minta Nikah Dini Dilegalkan*)," 03 August 2016, available online: <http://www.koran-sindo.com/news.php?r=0&n=7&date=2016-08-03> (Last viewed: 07 February 2017).

³² Munawara, Yasak, et al, "Tradition of Early Marriage and Gender Equity in Madura (*Budaya Pernikahan Dini Terhadap Kesetaraan Gender Masyarakat Madura*)", *Journal of Social and Political Sciences (JISIP: Jurnal Ilmu Sosial dan Ilmu Politik)*, Vol. 4, No. 3, 2015, p. 427

³³ Constitutional Court (*Mahkamah Konstitusi*), "The minimum Age of 16 for Women to Marry Does Not Break the Constitution (*Usia Minimal 16 Tahun Bagi Perempuan untuk Menikah Tidak Langgar Konstitusim*)," 18 June 2015, available online: <http://www.mahkamahkonstitusi.go.id/index.php?page=web.Berita&id=11150#.WJoGqYF95PY> (last viewed: 08 February 2017)

³⁴ Constitutional Court's Decision number 74 / PUUXII / 2015

There was heated debate in the court among religious organisations. Support to maintain sixteen as the minimum age for women to marry came from the Indonesian Muslim Scholars Council (*Majelis Ulama Indonesia/MUI*) consisting of a group of Muslim organisations. They argued that the age of sixteen was in line with the Islamic teaching on the concept of maturity (*baligh*) for women.³⁵ Hindu groups challenged this idea in court with reference to their teachings, including the book *Marriage According to Hindu Law (Perkawinan Menurut Hukum Hindu)*, proposing to increase the marrying age to eighteen years for women and twenty-one for men. They also argued that nineteen years should be the marrying age for women, as it is the same age prescribed in Article 7 of the Marriage Law for men.³⁶

It was not only religious groups that had different opinions on the minimum age for marriage, but also judges in the Constitutional Court. There was a dissenting opinion from Maria Farida Indrati, the only female judge in the court. She stated that there should be an increase in the minimum age for women to marry from sixteen to eighteen, which is close to nineteen as the age to marry for men.³⁷ In addition, Indrati argued that the development of human rights in the world meant Indonesia today is vastly different from the time when its Marriage

³⁵ Hukum Online, "Religious figures have different views on the age limit for marriage (*Tokoh Agama Beda Pandangan tentang Batas Usia Nikah*)," 02 December 2014, available Online: <http://www.hukumonline.com/berita/baca/lt547d77764e036/tokoh-agama-beda-pandangan-tentang-batas-usia-nikah> (viewed: 08 February 2017).

³⁶ Hukum Online, *Ibid.*

³⁷ Constitutional Court (*Mahkamah Konstitusi*), "The Marriage Law Should be Revised, it is 41 years old (*UU Perkawinan Harus Direvisi UU Perkawinan sudah berusia 41 tahun*)," *Constitutional Court's News*, 22 June 2015, available online: <http://www.mahkamahkonstitusi.go.id/index.php?page=web.Berita&id=11181#.WHNjnfB95PY> (viewed: 9 January 2017)

Law was formulated and enacted. Marriage Law is no longer relevant to the conditions of the present day. In fact, nominating sixteen as the minimum age for women to marry is contradictory to other Indonesian laws that define children of sixteen years as minors, and eighteen years as the point at which they are no longer children. Laws that define people under eighteen as children include: Law No. 39, 1999 (on Human Rights), Law No. 2, 2002 (on Child Protection), Law No. 44, 2004 (on Pornography), Law No. 13, 2003 (on Labour), and Law No. 21, 2007 (on Human Trafficking). Thus, marrying under eighteen would be considered child marriage,³⁸ except under Marriage Law.

As Indrati has argued, "the age of sixteen [for girls to marry] does not fit the times...it places the child in a situation prone to violence and discrimination."³⁹ Child marriage places girls at risk, either physically or mentally. According to WHO, child marriage is a violation of the rights of girls. It effectively ends their education, blocks opportunities to gain vocational and life skills, exposes girls to the risks of early pregnancy, childbearing and motherhood before they are physically and psychologically ready, and increases their risk of intimate partner sexual violence and HIV infection.⁴⁰ Girls who marry before the age of eighteen have a greater risk of experiencing domestic violence than those who marry later. This is particularly the case when the age gap between the girl

³⁸ Child marriage is generally understood to mean marriages that take place before age 18. See: International Women's Health Coalition, *The Facts of Child Marriage*, New York, available online: <https://iwhc.org/resources/facts-child-marriage/> (Last viewed: 08 February 2017).

³⁹ Constitutional Court (*Mahkamah Konstitusi*), *The Marriage Law should be Revised*, *Op. Cit.*

⁴⁰ WHO, *Child marriages: 39,000 every day*, New York, 7 March 2013, available online: http://www.who.int/mediacentre/news/releases/2013/child_marriage_20130307/en/ (Last viewed: 08 February 2017).

and her spouse is large. Girls who marry young are more vulnerable to intimate partner violence and sexual abuse than those who marry later.⁴¹

The Court's finding that sixteen was the legal minimum age for women to marry, which is lower than the minimum age for men, can be considered an indication of women's subordination. There is a gender bias in the law normalised by the culture in positioning husbands as older, which reinforces other privileges available to men: they are better educated, have a higher social status, and are considered to be (although not all) physically stronger than their wives. The law should support the age of nineteen years as the minimum age for women and men to marry, as it is discriminatory in its current form.

Polygamy

The Marriage Law follows the principle of monogamy as stated in Article 3 (clause 1) of the law: "In principle, in a marriage, a man may only have one wife, and a woman may only have one husband." However, the law also allows a man to have more than one wife, as Article 3 (clause 2) states: "The court may permit a husband to have more than one wife if the parties concerned so wish." As Erna Ratnaningsih, an activist from LBH APIK points out, "[t]his law perpetuates polygamy."⁴² The law sets up provisions contrary to the spirit or intent of Article 3 (1), by allowing men to have more than one wife. As stated in Article 4 (3), a

⁴¹ WHO, *Ibid.*

⁴² Hukum Online, 27 February 2015, *Op. Cit.*

husband can enter polygamous marriage if: “1) The wife cannot perform her obligations as a wife, 2) she has a disability or illness that is not curable, and 3) she cannot give birth to a child”. These provisions have been criticised by Indonesian feminists such as Siti Musdah Mulia and Inayah Rohmaniyah who consider them to be gender biased and discriminatory to women. Women tend to be the objects of the law, while men and their rights are its subject.

The first condition for polygamy, that “the wife cannot perform her obligations as a wife,” can be an instrument for abuse by men. A wife may be regarded as failing in her obligations if she is not a good cook, or does not perform domestic chores according to male standard. In fact, many Indonesia women have careers and participate in public life, just as men do, which bars them from performing all the household work, or results in women shouldering the double burden of work as well as housework and childcare. In one case, a woman was taken to court by her husband because she left home to take up a position in a different town as a civil servant. As she left without his consent, he was able to argue she had not met her obligations to him as a wife.⁴³

The second provision, where a man can take a second wife if his “wife has a disability or illness that is not curable” can be considered unfair. Using a physical state such as disability to justify men’s polygamy is unjust. A woman’s incurable illness may bar her from performing her household duties. However, men may also experience disability and illness, and in some cases, women care

⁴³ Hadiz, Liza, and Eddyono, Sri Wiyanti, *Standardisation of Gender Roles in Policies in Indonesia (Pembakuan Peran Gender Dalam Kebijakan-Kebijakan di Indonesia)*, LBH-APIK Jakarta, 2005, pp. 71-73

for their ill husbands for years and look after their children, but they are not permitted to take a second husband to support the family. This provision is an excuse to support polygamous practice.

The third provision allows men to take a second wife if his first wife cannot provide him with children. This also discriminates against women. If a woman is not able to get pregnant, it does not automatically mean that the woman is infertile; it may indeed be the man who is infertile. In addition, if a man feels sad because he has no children, a woman may feel the same. As a consequence of the assumptions underpinning the law, society tends to see the absence of children in a marriage as the wife's fault. These examples illustrate the need for reform.

Penalties for the Lawbreaker

There are some cases where Marriage Law has been breached by men. However, violations of Marriage Law do not usually have any consequences. While the three conditions for polygamy should be an object of scrutiny in the Religious Court before it approves a request, in practice, the court does not strictly enforce them. Applications can be fraudulent, or fabricated, by the husband. Examples include providing a fake divorce certificate to the court, telling the court he has never married, or threatening to divorce his wife if she does not give him 'consent' for polygamy. There is no penalty for such breaches, as there are no

provisions stipulating the penalty for those who break the law.⁴⁴ Recently, a popular religious preacher was found to have married another woman in secret. This illegal marriage was revealed seven years later by his first wife, who filed for divorce in the court. Commenting on this case, Budi Wahyuni, of the Women's Commission (*Komnas Perempuan*), argues that secret polygamy can be considered a form of violence against women. "It may not be physical, but psychological, violence."⁴⁵ However, no penalty was applied in this case. According to Aripin, a Professor in Islamic Law from the State Islamic University of Jakarta, one of the weaknesses of the Marriage Law is the absence of Articles that prescribe penalties for lawbreakers. Therefore, he argues that the law needs amendment.⁴⁶ Bedner and van Huis, in 'Plurality of marriage law and marriage registration for Muslims in Indonesia: a plea for pragmatism', have the same view as Aripin. They point out that people who break the Marriage Law by failing to register a marriage or giving fraudulent reasons for polygamy were either not punished at all, or faced an insignificant fine.⁴⁷

The absence of punishment has resulted in some husbands entering polygamous relationships illegally, and in some cases, it results in domestic violence either against the first or the second wife, which may involve physical, emotional, psychological, or economic violence.

⁴⁴Hukum Online, 27 February 2015, *Op. Cit.*

⁴⁵ Detik News, "Secret Polygamy is Violence (*Poligami Diam-Diam itu Kekerasan*)," Detik, 23 March 2017, available online: <https://news.detik.com/berita/d-3455070/komnas-perempuan-poligami-diam-diam-itu-kekerasan> (last viewed: 05 June 2017).

⁴⁶ UIN Jakarta, UU Perkawinan Perlu Diamandemen (*Marriage Law needs amendment*), 20 November 2008, available online: <http://www.uinjkt.ac.id/uu-perkawinan-perlu-diamandemen/> (viewed: 05 June 2017).

⁴⁷ Adrian Bedner & Stijn van Huis, "Plurality of marriage law and marriage registration for Muslims in Indonesia: a plea for pragmatism", *Utrecht Law Review*, Vol. 6, Issue 2, 2010, p. 175.

The case of Riana Anitasari confirms the condition of women in a secret polygamous marriage. She married a high-ranking official who was the Head of an office in Central Java Government, in secret, as a second wife. After six years, and two children, the man left her and their children with no economic support. Finally, she and her children came to the office of the Local House of Representatives and disrupted a meeting between the Governor and Representatives, in order to shame him into taking responsibility.⁴⁸ Her case was very public, and was covered by local and national news media, as it involved one of the top figures in Central Java. The husband was removed from his position of the Head of Office, but Anitasari's case to get financial supports for her children is not yet settled.

The Marriage Law must be amended, not only to revise articles that discriminate against women, but also to include penalties for those who flout it.

Increasing Women's Participation in Legislation-Making

Reforming the law is not an easy task. It requires advocacy from women activists and NGOs, and importantly, the existence of, and support from, women in the parliament. As amendments to the law are conducted by the parliament, women's involvement in formal politics is necessary. Indonesian women need to be actively involved in political parties and stand for election to not only represent women

⁴⁸ Tempo (Daily News), "Has a secret wife, Central Java high-ranking official is removed from his position (*Punya isteri simpanan pejabat Jateng dicopot*)", available online: <https://nasional.tempo.co/read/news/2011/11/01/179364239/punya-istri-simpanan-pejabat-jateng-dicopot> (viewed: 2 November 2017).

but also to campaign for the rights of women in the People's Legislative Assembly (*Dewan Perwakilan Rakyat/DPR*). However, statistics show that the number of Indonesian women involved in formal politics is small.⁴⁹ According to Umaimah Wahid, the low number of women in the DPR, state institutions, and political parties results in government policies failing to adequately address women's needs. Quantity matters. She gives the example of Eka Komariah Kuncoro, a member of the DPR. In a consultative meeting consisting of fifty members of the DPR, of which forty-nine were men and she was the only woman, she was booed when she raised the idea of considering women in the meeting's decisions.⁵⁰ This experience illustrates why the low numbers of women in the parliament is significant in every decision made by the DPR. Hence, a rational quota and a fair proportion of women in the DPR are important to address women's issues in law and policy.

In the General Election of 2004, Indonesia issued Law No. 12, 2003, mandating political parties to ensure at least 30 percent of candidates were women. Section 65 of the Act states: "Each political party may nominate candidates for DPR, Provincial DPRD and District DPRD for each electoral district with regard to women's representation of at least 30 percent." The same requirements were issued for the election in 2009, with Law No. 8, 2008, Article 55 stating: "The list of candidates (for DPR) must contain at least 30% women." However, the quota of 30 percent women candidates has not been achieved, and

⁴⁹ Budianta, Melani, "Decentralizing Engagements: Women and the Democratization Process in Indonesia", *Signs*, Vol. 31, No. 4, 2006, pp. 918.

⁵⁰ Wahid, Umaimah, "Quota 30 Percent of Women (*Kuota 30 Persen Perempuan*)," available Online: <https://idabudhiati.wordpress.com/kuota-30-perempuan/> (last viewed: 24 July 2017).

some parties had less than 30 percent on their list. According to Dian Kartikasari, the Secretary-General of the Indonesian Women's Coalition (*Koalisi Perempuan Indonesia/KPI*), the laws have no power to enforce a quota, since there is no penalty for parties that do not achieve it.⁵¹ She also argues that “usually, the problem is the structure of political parties. The board of the parties has been dominated by men from the central [committee] to the branches. Encouragement to achieve a quota requires the willingness of men.”⁵²

Before the 2014 election, Indonesia issued a further law (No. 8, 2012) mandating all political parties to accomplish the quota of 30 percent women candidates, along with penalties for political parties that did not achieve the quota. Article 59 states: “In the case of a list of candidates does not contain at least 30 percent women, the KPU gives political parties a chance to revise the list.” If political parties did not meet the quota, they would be barred from standing for election in the Election Area (*Daerah Pemilihan*) where the quota was not fulfilled. The penalty is regulated by the Decree of the General Election Commission No. 7, 2013.⁵³ All political parties fulfilled the quota for the election in 2014. Of a total 6,619 candidates running for election to the DPR from twelve political parties in 33 provinces and 77 election areas, 63 percent (4,152) were men and 37 percent (2,467) were women. However, the number of women elected

⁵¹ Berita Manado, “Barrier to achieve 30 percent quota for women representation (*Kendala Mencapai 30 Persen Kuota Perempuan*),” 24 April 2013, Available online: <http://beritamanado.com/kendala-mencapai-kuota-30-persen-keterwakilan-perempuan/> (viewed: 09 June 2017)

⁵² Berita Manado, *Ibid.*

⁵³ Detik News, “General Election Commission warns political parties to fulfil a quota of 30 percent women candidates (*KPU Ingatkan Parpol Penuhi Kuota 30 Persen Caleg Perempuan*),” 26 March 2013, Available Online: <http://news.detik.com/berita/d-2204143/kpu-ingatkan-parpol-penuhi-kuota-30-persen-caleg-perempuan-> (viewed 10 June 2017)

to the DPR for the period 2014-2019 comprised only 14 percent, or 79 of the 560 members of DPR. This number is even lower than the previous period of 2009-2014, when women comprised 17.8 percent, and 101 women were elected. In total, women's representation in the DPR from the national to the local level accounts for no more than 20 percent.⁵⁴ Low representation of women in politics is a global issue, not only affecting Indonesia. In some Middle Eastern countries, women only gained the right to vote in the last decade, for example in Saudi Arabia, which granted women the right to vote in 2015.⁵⁵

The 'quality' of female candidates is commonly given as a reason for why they were not elected. They were perceived as not 'ready' to contest the election. Moreover, some candidates are wives of male politicians in DPR, which is considered to create a political dynasty in political parties.⁵⁶ Eva Kusuma Sundari, a member of the DPR from the Indonesian Democratic Party (PDIP), rejects these criticisms. She argues that the reason for the low number of women elected in the election is the lack of commitment by political parties in advocating women's representation. She complains that they have no programme to build the capacity of women to run for the DPR: "this is not fair [blaming women]. Why don't they [political parties] seriously recruit, give adequate training, and prepare women

⁵⁴ Selinaswati, "Recruitment of Women as Candidates for the Legislative Assembly and the Masculine Face of Political Parties (*Rekrutmen Perempuan Sebagai Caleg dan Wajah Maskulin Partai Politik*)", *Jurnal Perempuan*, 8 April 2014. Available online: <http://www.jurnalperempuan.org/blog/rekrutmen-perempuan-sebagai-caleg-dan-wajah-maskulin-partai-politik> (viewed: 09 June 2017)

⁵⁵ Wahid, *Op. Cit.*

⁵⁶ Ramadhan, Hasan, "The Phenomenon of Women Legislators Candidates" (*Fenomena Calon Anggota Legislatif Perempuan*), *Jurnal Perempuan*, 11 November 2013. Available online: <http://www.jurnalperempuan.org/fenomena-calon-anggota-legislatif-perempuan.html> (Last viewed: 09 November 2015).

candidates five years before [the election]?”⁵⁷ However, some political parties list female candidates instantly, rushing to meet the quota of 30 percent, as failure to do so incurs a penalty. It is reasonable that some women listed in the candidate lists are relatives of men politicians, as they may be inspired by their family more than women who do not have politicians as members of the family. There is nothing wrong with this phenomenon, according to Sundari, as long as the women politicians have the capabilities and meet the requirements to be fit and proper candidates.⁵⁸

Moreover, according to Binny Bukhori, Chair of the Cadre Development Council of the Golkar Party, the Indonesian political system is dominated by men. The culture of the DPR is also masculine. Some meetings of the DPR start at 9.00 pm and end at 2 or 3 am. Moreover, some meetings are held out of town in cafes and the like.⁵⁹ These conditions create obstacles for women. Kartikasari asserts that “the situation and culture within the political party create embarrassment [for women] such as hanging out until 1.00 in the morning, and when women come home, they still have to deal with the family and the surrounding [neighbours who see them as deviating from the ‘norms’ for women].”⁶⁰

⁵⁷ Berita Manado, *Op. Cit.*

⁵⁸ Berita Manado, *Ibid.*

⁵⁹ Wardi, Robertus, “National Political System is still Masculine in Nature (*Sistem Politik Nasional Masih Bersifat Maskulin*),” *Berita satu*, 11 April 2013. Available online: <http://www.beritasatu.com/politik/107369-sistem-politik-nasional-masih-bersifat-maskulin.html> (viewed: 09 June 2017)

⁶⁰ Ninditya, Fransiska, “Aura of Indonesian Politics is very Masculine (*Aura Politik Indonesia Sangat Maskulin*),” *Antara News*, 14 November 2013. Available online: <http://www.antaraneews.com/berita/405013/aura-politik-indonesia-sangat-maskulin> (viewed: 09 June 2017)

According to Selinaswati, the case is even worse for women who are elected as they must combat negative stereotypes. Their capabilities are often doubted, and they are considered as not as capable as male politicians. This perception arises from the view that politics is not the 'right' domain for women, who are supposed to be responsible for household tasks and caring for children, so they are perceived to have no time or energy to take a place on the political stage. By contrast, men are perceived as having no domestic responsibilities, so they are viewed as having enough time to be fully active in the political arena.⁶¹

Such views are both biased and patriarchal. They not only hinder women from participating in politics, but also discourage people from electing women as their representatives in the DPR. Even women do not elect women as a result of this misperception. To enhance women's participation in formal politics it is necessary not only to build the capacity of women and political parties, but also to deconstruct gender constructions based in culture, religion, and state policy, as discussed in Chapter Two. Persistent naturalisation of gender roles disadvantages women and normalises existing gender inequality.

Failure to increase women's participation in formal politics and the decline in the number of women in the DPR disadvantages women. The power and perspectives of women are necessary to construct laws and policies to meet the needs of women, especially in the areas of domestic violence, women's poverty, and maternal mortality. Moreover, advocacy from women in the DPR is required

⁶¹ Selinaswati, *Op. Cit.*

to amend laws that are gender biased.⁶² These include not only the law on marriage, but other laws such as the law on pornography, the law on health, and the law on citizenship.⁶³ Without women's participation in formal politics, the slogan "there is no democracy without women," is taken only to mean that women are vote targets, rather than actors, in Indonesian democracy, according to Melani Budianta.⁶⁴

Challenges against the Proposed Amendments

The campaign for the reform of the Marriage Law by women activists and NGOs has been met with challenges. Kholda Naajiyah, a woman activist from *Hizbut Tahrir Indonesia* (HTI) argues that the reform of the Marriage Law will destroy Indonesian families. In "Destroying Family through Amendment of the Marriage Law (*Penghancuran Keluarga melalui Amandemen UU Perkawinan*)", published on the official website by Women of Hizbut Tahrir (*Muslimah Hizbut Tahrir Indonesia*),⁶⁵ Naajiyah asserts that demands for reform of the Marriage Law come from feminists driven by a secular-capitalist ideology that aims to reduce the influence of Islamic teachings. She contends that a ban on marriage for women below the age of eighteen will only open the door to a sexually permissive culture.

⁶² Wahid, *Op. Cit.*

⁶³ Wahid, *Ibid.*

⁶⁴ Budianta, Melani, "Decentralizing Engagements: Women and the Democratization Process in Indonesia", *Signs*, Vol. 31, No. 4, 2006, pp. 918.

⁶⁵ Naajiyah, Kholda, "Destroying Family through Amendment of the Marriage Law" (*Penghancuran Keluarga melalui Amandemen UU Perkawinan*), Publication of Hizbut Tahrir Indonesia, 26 Jun 2007, available online: <https://hizbut-tahrir.or.id/2007/06/26/penghancuran-keluarga-melalui-amandemen-uu-perkawinan/> (last viewed: 5 January 2017).

In addition, she argues that deconstructing gender roles that have been prescribed in the Marriage Law will lead to disharmony and breakdown of the family, which is harmful to children.⁶⁶ Naajiyah's view is supported by other writings in the same vein published on the website. These include "Being Vigilant against Efforts for the Liberalisation of the Family through Gender Ideology,"⁶⁷ "A Systematic Effort to Liberalise The Marriage Law",⁶⁸ and "Being Vigilant against the Conspiracy to Destroy Muslim Families."⁶⁹ Such articles demonstrate resistance by the conservative organisation to progressive campaigns that aim to strengthen Indonesia's legal and political framework to achieve gender equality.

For HTI, a transnational organisation working to establish a *Khilafat* (Caliphate: one nation for all Muslims in the world), the existing Marriage Law is already framed in accordance with Islamic teachings, including those Articles discussed as in need of amendment: the status of husband and wife, the minimum age for marriage, and polygamy. The gender roles described in the Marriage Law are to be taken for granted and are unchangeable as they come from God. The notion that the husband is the head of the household, the breadwinner, the guardian of his daughters in marriage, and the protector of the family, who has the

⁶⁶ Naajiyah, *Ibid*.

⁶⁷ Hizbut Tahrir Indonesia, "Being Vigilant against Efforts for the Liberalisation of the Family through Gender Ideology" (*Mewaspada Upaya Liberalisasi Keluarga Melalui Ide Gender*), available Online: <https://hizbut-tahrir.or.id/2010/01/18/mewaspada-upaya-liberalisasi-keluarga-melalui-ide-gender/> (last viewed: 13 June 2017)

⁶⁸ Hizbut Tahrir Indonesia, "A Systematic Effort to Liberalise The Marriage Law" (*Ada Upaya Sistematis Untuk Meliberalkan UU Perkawinan*) available online: <https://hizbut-tahrir.or.id/2009/04/06/ada-upaya-sistematis-untuk-meliberalkan-uu-perkawinan/> (last viewed: 13 June 2017)

⁶⁹ Hizbut Tahrir Indonesia, "Being Vigilant against the Conspiracy to Destroy Muslim Families" (*Waspada Makar Penghancuran Keluarga Muslim*), available online: <https://hizbut-tahrir.or.id/2012/07/03/waspada-makar-penghancuran-keluarga-muslim/> (last viewed: 13 June 2017)

right to divorce, while women do not, is given by God, and this must not be interfered with. Therefore, according to HTI, which tends to interpret Islamic teachings literally and has been working to apply Islamic law throughout the country, any reform of the Marriage Law is considered a change to Islamic Law. In short, HTI considers it an action degrading to Islam.

HTI not only resists reform of the Marriage Law, but has also criticised the issuance of DV Law. HTI argues that the DV law has caused an increase in divorce, as women today have the courage and legal support to litigate for divorce or report domestic violence, which can result in jail for offenders. It argues that this results in neglect of children. Moreover, according to HTI, the DV Law is the result of a Western capitalist system that is incompatible with Indonesian culture.⁷⁰ HTI has been actively campaigning not only to preserve the Marriage Law in its current form, but also proposes repeal of the DV Law.

Similarly to HTI, moves to challenge the domestic violence law have also been raised by organisations in Pakistan, such as the Muslim Scholars Organisation or *Jamiat-i-Ulema Islam* (JUI), one of Pakistan's largest Muslim groups. Fazlur Rehman, the chair of the JUI, denounced the Pakistani Domestic Violence Act 2012 as 'un-Islamic', because it makes men insecure, and considers it "an attempt to make Pakistan a Western colony again."⁷¹ The standpoint of HTI

⁷⁰ Ni'mah, Zulfatun, "The Efficacy of Law Enforcement for the Elimination of Domestic Violence" (*Efektifitas Penegakan Hukum Penghapusan Kekerasan Dalam Rumah Tangga*), *Mimbar Hukum*, Vol. 24, No.1, February 2012, p. 61.

⁷¹ Fenton, Siobhan, "Anti-Domestic Violence Law to Protect Women is Un-Islamic, Pakistani Advisory Group Rules", *Independent*, 4 March 2016. Available online: <http://www.independent.co.uk/news/world/asia/bill-protecting-women-against-domestic-violence-is-un-islamic-pakistani-advisory-group-rules-a6911161.html> (last viewed: 31 July 2017).

and JUI above is in line with the views of conservative Muslim countries in the Middle East, where HTI was founded, on family matters.

In terms of their perspectives on reform to family law, Siti Musdah Mulia argues that Muslim countries can be classified into three distinct categories. First, a Muslim country that has never made any legal reform to family law, and continues to impose family law as it is defined in classic texts, such as Saudi Arabia. Secondly, a Muslim country that radically reforms family law and replaces it with European civil law, such as Turkey. Third, a Muslim country that seeks to modify its family law without losing its basic roots in Islam, such as Egypt.⁷² Of these three categories, HTI clearly follows the model exemplified by Saudi Arabia.

Since 19 July 2017, HTI has been banned by the Indonesian Government because its *Khilafat* ideology contradicts the state principle of *Pancasila* (Five principles) and Indonesia's *Constitution 1945*. It has also been banned in Malaysia, Indonesia's neighbouring country, since 17 September 2015, and by other countries including Egypt, Jordan, and Syria.⁷³ However, the influence of HTI is significant, as it has millions of followers spread throughout Indonesian provinces, and it is believed that the organisation may still work underground. Due to the ban, articles from HTI's website are no longer available, but copies of the articles referred to in this thesis are available in appendix 1.

⁷² Mulia, Siti Musdah, *Islam and Inspiration of Gender Equity (Islam dan Inspirasi Kesetaraan Gender)*, Kibar Press, Yogyakarta, 2007, p. 122.

⁷³ Amindoni, Ayomi, *Besides Indonesia, Why Other Dozens of Countries Ban HTI (Selain Indonesia, Mengapa Puluhan Negara Larang Hizbut tahrir)*, BBC Indonesia, 19 July 2017. Available online: <http://www.bbc.com/indonesia/indonesia-40652360> (viewed: 6 November 2017)

Strengthening the Participation of Grassroots Organisations to Enhance the Effectiveness of the DV Law

HTI's campaign to reject amendment of the Marriage Law and repeal the DV Law are not in line with Indonesia's efforts to protect women and children from domestic violence. HTI's view that the gender roles in the Marriage Law are in accordance with Islamic teachings and hence must be preserved can lead to benevolent sexism and cultural violence as discussed in Chapter Two and Chapter Five. In short, HTI opposes the campaign against domestic violence, and seeks to undermine effectiveness of the DV Law.

To enhance the efficiency of the DV Law is to challenge the views of HTI and similar conservative Islamic organisations. This can be achieved through the involvement of other religious-based organisations such as Muhammadiyah and Nahdlatul Ulama (NU). These are two biggest Muslim organisations in Indonesia, providing education from basic primary to higher degree level, in religious schools (*Madrasah*) throughout all the provinces of Indonesia. They offer significant human and cultural capital to educate society about domestic violence and the DV Law. Moreover, both organisations have women's divisions that are progressive on gender issues, and prominent figures such as Siti Ruhaini Dzuhayatin from Muhammadiyah, and Sinta Nuriyah Wahid and Lies Marcoes Natsir from NU. This is because, as Julisa Delgado puts it, culture which contributes to the ineffectiveness of laws to eradicate violence against women

“must be attacked at its core through education, [and] reforming the established social conditions that allow such violence to exist, regardless of culture.”⁷⁴

DV Law will be more effective if society is educated, and has sufficient understanding and awareness of the aims of the law. Indonesian society needs to be better informed about the DV Law to raise awareness about what domestic violence is, and how the law operates. Citizens need to be well informed not only about their obligations under the law, but also the rights that are guaranteed by the law. Those who know their duties and rights are more likely to give an appropriate response to acts of domestic violence they experience or witness. According to Ni'mah, education to raise awareness of the DV Law takes place at three levels: first, the realisation that there is a DV Law that criminalises any violence in the household; second, the realisation that each member of the family has the right to be free from violence by any other members; third, the realisation that as a member of society, individuals have an obligation to protect victims of domestic violence in accordance with their capability.⁷⁵

Raising the consciousness of society about the DV Law needs solid cooperation from government and non-government agencies. Moreover, grassroots organisations such as Muhammadiyah and NU have a key role to play in delivering the message of the DV Law, as their figures are relatively more trusted than government figures in the communities. Hence, they need to be

⁷⁴ Delgado, Julissa, “Law to Nowhere”, *COHA Forum*, 20 April 2011. Available online: <http://www.coha.org/law-to-nowhere/> (last viewed: 07 June 2017)

⁷⁵ Ni'mah, *Op. Cit.*, p. 61

equipped with training to ensure that their gender perspectives, knowledge, and skills are adequate to perform the community education.

At the national level, there has been cooperation between the Women's Commission and Muhammadiyah, NU, and the Catholic Council to publish a book related to the response of these organisations toward domestic violence. The book is called *Breaking the Silence: Religion Listens to the Voices of Women Victims of Violence*, published in 2009. It contains three different sections: The Response of Muhammadiyah, the Response of NU, and the Response of the Catholic Church. The book aims to be a reference for members of these religious organisations to understand gender, gender relations, and how to eradicate domestic violence based on religious teachings. At the local level, the PPT of Central Java cooperates with Aisiyah, the women's wing of Muhammadiyah to provide legal assistance for victims of domestic violence. Collaboration between government and NGOs or grassroots organisations must be based on mutual trust, as the absence of trust leads to poor alliances and may be a source of conflict, such as in the case of the PPT of Semarang, discussed in Chapter Five.

Breaking the Barriers: Enhancing the Role of the Religious Court in Family and Criminal Law

Access to justice for women victims of domestic violence not only requires reform of the substance of the Marriage Law and the KHI, but also requires reform of the court system. As Saraswati notes, in 'Justice and the identities of

women: The case of Indonesian women victims of domestic violence who have access to Family Court':

family law [Religious Court] as the avenue for Indonesian women victims of domestic violence to obtain their rights and justice is still far away from their expectations, and even from the aims of the Marriage Act 1974, PP [Regulation] 10 of 1983 and the Compilation of Islamic Law [KHI] to create equality before the law between a man and a woman in terms of marriage and divorce.⁷⁶

Domestic violence in Indonesia's legal system comes under the jurisdiction of the Public Court (*Pengadilan Negeri*). For non-Muslim citizens, the Public Court deals with both family and criminal issues. For Muslim citizens, the Public Court only deals with criminal issues, and family matters are referred to the Religious Court.⁷⁷

Separating criminal and family matters into two courts is problematic in the case of domestic violence. This is because domestic violence, as a criminal issue, is always related to family issues such as divorce and custody, which cannot be separated from the Religious Court. Just as the KHI needs revision, the Religious Court also needs reform to deliver justice for women victims of domestic violence. When dealing with cases of domestic violence, the Religious Court needs to enlarge its jurisdiction, so that it acts not only to redress the rights of victims, but also to punish the perpetrators of domestic violence.

⁷⁶ Saraswati, *Op. Cit.* , p. 20

⁷⁷ For more information about the Indonesian legal system, please read: Reni, Savitri Dewi, *The Indonesian Legal System and Legal Research*, Hauser Global Law School Programs, Updated January 2012. Available online: <http://www.nyulawglobal.org/globalex/Indonesia1.html> (last viewed: 29 December 2015)

There are several arguments that can be mounted in support of this view. Most victims of domestic violence access the Religious Court to process their cases, rather than the Public Court. As a recent report of the Women's Commission explains, the Religious Courts deal with most allegations of violence against women.⁷⁸ In 2013, according to the report, women victims of domestic violence preferred to use the Religious Court, with almost 95 percent using it rather than other legal bodies.⁷⁹ According to Saraswati, the Religious Court is considered the last resort for women to end domestic violence and to obtain their rights as wives, as the criminal court system is not satisfactory.⁸⁰ Women avoid the criminal court system because of the difficult litigation process, which starts with reporting the matter to the police and ends in the Public Court, taking time and money, as well as causing psychological and social burdens. Victims are prone to intimidation from perpetrators, their families or their community. A series of horrors will be revealed publicly if their husbands are jailed, resulting in financial problems, the risk of enmity with husbands and their family members, and negative stereotypes. Many women fear for the future of the children who must live without their fathers, and children may feel ashamed to have their fathers jailed as criminals. The burdens that women face are therefore not only financial, but psychological.⁸¹ Curnow writes:

⁷⁸ Indonesian Women's Commission, Report of Violence against Women (*Catatan Kekerasan Terhadap Perempuan Tahun*), 2013

⁷⁹ Indonesian Women's Commission, *Ibid.*

⁸⁰ Saraswati, *Op. Cit.*, p.1

⁸¹ Sundari, Any, "For the Better Court" (*Untuk Peradilan yang Lebih Baik*), *Rifka Media*, No. 51, Nov 2012-Jan 2013, p. 4

Women who are separated or estranged from their husbands are often negatively stigmatised and socially ostracised, leading to isolation and exposure to a range of risks: sexual and gender-based violence, human trafficking, denial of inheritance entitlements, or simply being labelled as widows, which is sufficient to evoke negative stereotypes of spinsters or older women living on the margins of society.⁸²

Some women access the Religious Court with the aim to secure a ‘good divorce’ (*bercerai secara baik-baik*), a divorce that does not break up previously good relationships.⁸³ This comprises a form of negotiation by women. Even though the divorce is final, there is an expectation that it will not spark the perpetrator’s revenge, and the woman can maintain her rights to financial support from the ex-husband for her and the children. However, according to Saraswati, women tend to proceed to the Religious Court because of their disappointment in the criminal court system and its unwieldy apparatus, particularly the response of police to reports of domestic violence. Negative responses from the police compel women to bring issues of violence in their marital relationship to the Religious Court as a last resort to obtain justice.⁸⁴

The arguments above suggest that women prefer to go to the Religious Court, the court that deals with family matters, as a means to resolve domestic violence. However, domestic violence is a crime according to the DV Law, so these cases should proceed in the Public Court. The trend of women going to the

⁸² Curnow, *Op. Cit.*, p. 214

⁸³ LRC-KJHAM, *Op.Cit.*, p. 20

⁸⁴ Saraswati, Rika, *Women and the Settlement of Domestic Violence (Perempuan dan Penyelesaian Kekerasan Dalam Keluarga)*, Citra Aditya Bakti, Bandung, 2006, p. 6

Religious Court is one reason why domestic violence is not often apparent in the Public Court.

According to Sulistyowati Irianto and Antonius Cahyadi, domestic violence is a crime hidden within family matters including divorce.⁸⁵ In 2013, 60 percent of the divorce cases filed by women involved domestic violence as a key reason for seeking divorce.⁸⁶ As Irianto and Cahyadi point out, this blurs the boundaries between the Religious Court and the Criminal Court. The Religious Court cannot ignore domestic violence experienced by women by arguing that it is the jurisdiction of the Public Court. Therefore, they argue, an integrated court, a domestic violence court that governs both family and criminal dimensions is needed. Domestic violence courts have been set up in the US, Canada, Australia, New Zealand, and in South East Asia, including Malaysia, Singapore, and the Philippines.⁸⁷

However, establishing an integrated court to deal with family and criminal matters is not an easy task, because family issues in the courts are administered according to the religion of litigants. To realise Irianto and Cahyadi's idea, the government would need to establish two separate domestic violence courts for

⁸⁵ Irianto, Sulistyowati and Cahyadi, Antonius, *The Broken Barrier of Criminal and Family Law: Study of the Court for Violence against Women (Runtuhnya Sekat Perdata dan Pidana: Studi Peradilan Kasus kekerasan Terhadap Perempuan)*, Yayasan Pustaka Obor Indonesia, Jakarta, 2009, p. 326.

⁸⁶ Bahri, Samsul, "Punishment of Court-Annexed Counselling for Husbands as a Protection for Women Victims of Domestic Violence (*Penghukuman Mengikuti Program Konseling Bagi Suami Sebagai Upaya Perlindungan Terhadap Perempuan Korban kekerasan Dalam Rumah Tangga*)," *Publication of Indonesian Supreme Court*, 02 September 2014, available online: <http://badilag.mahkamahagung.go.id/artikel/publikasi/artikel/penghukuman-mengikuti-program-konseling-bagi-suami-sebagai-upaya-perlindungan-terhadap-perempuan-korban-kekerasan-dalam-rumah-tangga-oleh-samsul-bahri-29> Indonesian (viewed, 2 January 2016)

⁸⁷ Irianto and Cahyadi, *Op. Cit.*, p. 326.

Muslims and non-Muslims, which is not easy. Alternatively, rather than establishing two new tribunals, the government could broaden the jurisdiction of the Religious Court by giving it the power to punish perpetrators of domestic violence. For non-Muslim citizens, the Public Court can continue its work in dealing with both family and criminal issues.

It is more feasible to integrate the DV Law in the Religious Court which hears cases according to the KHI. By doing so, judges are not only able to order the perpetrator to compensate victims of domestic violence in accordance with the KHI, but are also able to punish perpetrators in accordance with the DV Law, for example, by ordering the perpetrator to attend court-mandated counselling. Such a solution means victims of domestic violence do not have to lodge cases in two different courts to access justice, which reduces the burden on victims in terms of costs, time, and psychological and emotional impacts.

The need to integrate the KHI with DV Law in the Religious Court has been suggested by several of its judges. Samsul Bahri, the Chair of the Religious Court of Yogyakarta, suggests that the Religious Court should have the jurisdiction to order perpetrators of domestic violence to attend court-mandated counselling.⁸⁸ He further argues that the benefit of integration is evident, that is, to fulfill the rights of victims of domestic violence and to restore harmony in family life. In addition, he suggests that integration can be legalised through a decree of the Supreme Court.⁸⁹ The Women's Commission also supports integration. As

⁸⁸ Bahri, *Op. Cit.*, p. 4

⁸⁹ Bahri, *Ibid.*, p. 10

integration needs judges who comprehend both the KHI and the DV Law, the Women's Commission has issued a book entitled *Reference for Judges of the Religious Court about Domestic Violence*⁹⁰. The book provides information about the interrelation of DV Law, Islamic law, and gender issues.

Moreover, the role of the Religious Court in settling domestic violence cases can be enhanced through improvement of the court mediation system. As mandated by the Supreme Court's Regulation No. 1, 2008, litigants in the Religious Court must try to settle their disputes through mediation before proceeding to the court. According to Fatahillah Abdul Syukur and Dale Bagshaw, court-annexed mediation has the potential to be a champion of Indonesian legal reform as it can amicably settle domestic violence disputes. When victims of domestic violence do not wish to take their cases to the criminal court, mediation offers an alternative way to resolve the conflict.⁹¹ Syukur and Bagshaw argue that:

Settlements produced from Religious Court-annexed mediation have legal enforcement equal to a decision made by a judge. As one of the goals of court-annexed mediation is to overcome case backlogs, settlements are final and binding, which means they cannot be appealed. After a settlement is reached, the mediator sends the mediated agreement to the judges' chamber.⁹²

⁹⁰ Komnas Perempuan (Indonesian Women's Commission), *Reference for the Judges of the Religious Court about Domestic Violence (Referensi bagi Hakim Peradilan Agama tentang Kekerasan dalam Rumah Tangga)*, Jakarta, 2008.

⁹¹ Syukur, Fatahillah Abdul, and Bagshaw, Dale Margaret., "When Home Is No Longer "Sweet": Family Violence and Sharia Court-Annexed Mediation in Indonesia", *Conflict Resolution Quarterly*, Vol. 30, No. 3, 2013, p. 271

⁹² Syukur and Bagshaw, *Ibid.*, p. 287

In his book, *Mediation for Domestic Violence Cases*,⁹³ Ridwan Mansyur argues that litigation in the criminal court causes disharmony in the family since it tends to punish the perpetrator rather than redress the victim's rights. Therefore, domestic violence cases are better resolved through restorative justice, which emphasises rehabilitation, compensation and restoring the rights of women victims of domestic violence and their children.⁹⁴ Restorative justice mechanisms, according to Mansyur, include⁹⁵ court-ordered mediation.

However, there are some problems with mediation in the Religious Court. It may disadvantage victims of domestic violence if the perpetrator has a high status in the society, or where the power of the parties is unequal. In some cases, it is difficult to require perpetrators to attend a mediation process. Another problem is the lack of skilled judges able to conduct mediation. Without proper skills, some judges tend to 'judge' rather than mediate in the process, which is against the principle of self-determination in mediation, where disputants voluntarily come to agreements without coercion. Without mediator qualifications, judges may not be able to differentiate between mediating and judging as they are two separate competencies. In addition, not all judges support mediation.⁹⁶ According

⁹³ Mansyur, Ridwan, *Mediation for Domestic Violence Cases (Mediasi Penal Terhadap Perkara KDRT)*, Yayasan Gema Yustisia Indonesia, 2010, p. 259

⁹⁴ There are some innovation (implementation of the idea of restorative justice) made by the Religious Court by the redress of compensation for divorce (*mut'ah*) against husband who committed domestic violence against his wife, which is forcing the husband to pay an amount of money to his ex-wife although the divorce case filed by the wife (*cerai gugat*).

⁹⁵ Mansyur, *Op. Cit.*, p. 259

⁹⁶ There was a training in mediation for judges of Religious Court, in 2009, held by the Religious Court of the District of Pati, Central java, in collaboration with Walisongo Mediation centre (WMC), see: WMC, *Training for Religious Court's Judges of Pati*, available online: <http://wmc-iainws.com/news/53-pelatihan-mediasi-bagi-hakim-hakim-pengadilan-agama-pa-pati> (last viewed: 24 July 2017).

to Syukur and Bagshaw, the goal of mediation is difficult to achieve as some judges will ignore agreements made through mediation:⁹⁷

The settlement is sometimes excluded from the judge's final decision. Some of them argue that settlements agreed to in mediation are not in accordance with current laws so they must be excluded. Others believe that cases must be decided by a judge, not mediated. This situation discourages judges who are eager to practice mediation.⁹⁸

Enhancing the roles of the Religious Court through the integration of the KHI and the DV Law in the Religious Court, and upgrading the knowledge, skills, and perspectives of judges about the role and benefits of court-annexed mediation will increase the opportunity for the victims of domestic violence to gain access to justice.

Improving the Quality of Law Enforcers

One significant reason for the ineffectiveness of the DV law to combat domestic violence is the inability of law enforcers to apply the legislation. Law enforcers have the legal status to implement the law, including the task of receiving a report, investigation, litigation, prosecution and judgement. Any weakness by law enforcers in the implementation of the DV Law leads to the impunity of the perpetrator and the loss of victims' rights, which results in the ineffectiveness of

⁹⁷ Syukur and Bagshaw, *Op. Cit.*, p. 280

⁹⁸ Syukur and Bagshaw, *Ibid.*, p. 280

the DV Law.⁹⁹ As Delgado points out, citing Abel Hermant, a French novelist, “in keeping people straight, principle is not as powerful as a policeman.”¹⁰⁰

Police officers, prosecutors, and judges face challenges in implementing DV Law, which causes problems for women victims of domestic violence in the litigation process. Problems start with reporting their cases to the police station and continue throughout the tribunal procedure in the courtroom. Some police officers are not responsive to reports of domestic violence, showing no empathy, or being insensitive when questioning victims. As discussed in Chapter Five, the case of SV-4 shows corruption is a problem. Moreover, as discussed in Chapter Three, some prosecutors delay domestic violence cases on evidentiary grounds due to ‘insufficient witnesses’, as there may be only one witness (the victim herself), despite her bringing another proof, usually *visum* documents. Further, some judges have different interpretations of articles of the DV Law and use different measurements in assessing the quality or intensity of the violence, especially psychological violence.

The problems in enforcement of the law occur because of a lack of training and dissemination of the DV Law. In her interview, PS-2, the Head of the Women’s and Children’s Protection Unit (UPPA) in Semarang said that training for police in the UPPA was held only once, in 2005.¹⁰¹ Due to turnover, most police officers in the UPPA are not trained. Information and knowledge about

⁹⁹ Delgado, *Op. Cit.*, p.1

¹⁰⁰ Delgado, *Ibid.*, p.2

¹⁰¹ Interview with PS-3, the Head of the UPPA of the City of Police Department, in Semarang, 14 October 2014.

procedure in domestic violence cases take place by word of mouth. Prosecutors and judges face the same problem of lack of training in the DV Law, which affects handling of domestic violence cases. In Semarang, prosecutors and judges are appointed randomly to handle cases of domestic violence, and no special preparation or training program is provided for them.¹⁰²

Without proper training, the legal system has no standard for delivering services, which contradicts the need for Minimum Service Standards enacted by the Ministry of Women's Empowerment and Child Protection in 2010. As the system does not comprehend the DV Law, it tends to ignore the specific nature of domestic violence and perceive it just like other criminal cases, which disadvantages victims of domestic violence.

This problem in handling domestic violence cases exists not only in Central Java Province, but also in other provinces of Indonesia,¹⁰³ and even in other countries. Norma Ledezma Ortega, the General Coordinator of Justice for our Daughters (*Justicia para Nuestras Hijas*), in her comments on the implementation of the Law for General Access of Women to a Life Free from Violence (LGAMVLV) adopted by the Mexican government, states that “the law

¹⁰² Interview with PS-4 (34), a prosecutor in the Public Court of Semarang, in Semarang, 12 December 2014.

¹⁰³ Lingasari, Yohannie, “Victims of domestic violence are often discriminated against by law enforcers (*Korban KDRT Kerap Alami Diskriminasi oleh Penegak Hukum*),” CNN Indonesia, 03 March 2015. Available online: <http://www.cnnindonesia.com/nasional/20150303065426-20-36236/korban-kdrt-kerap-alami-diskriminasi-oleh-penegak-hukum/> (viewed: 17 January 2017)

is there, but there is no one to put it in practice [...] cops are not convinced that they have to apply the law [...] for that reason the law is ineffective.”¹⁰⁴

Building the capacity of the legal system by providing knowledge, skills, and perspectives on the implementation of the DV Law is necessary. Its ability to deal with domestic violence cases, which ranges from answering calls for help from victims, protecting victims, and sanctioning perpetrators, is instrumental for the effectiveness of the DV Law. The lack of training not only contradicts the regulations of the Minister of Women’s Empowerment and Child Protection, but also disadvantages victims of domestic violence, and may be a significant reason for an increase in domestic violence in the future. Moreover, training on domestic violence within the system needs to be supported by a balance-turnover scheme to address staff turnover. Training for new staff to ensure they have the same ability as previous staff will ensure consistency of approach and standardise protocols and procedures in domestic violence cases.

The Need for Court-Mandated Counselling Services

DV Law will be ineffective if there is no proper infrastructure to support it. Infrastructure to support the DV Law includes the establishment of special service areas for victims in the police station, and the creation of PPTs in every province and district in Indonesia. However, one area of service mandated by DV Law remains absent: court-mandated counselling. As stated in Article 50 of the DV

¹⁰⁴ Delgado, *Op. Cit.*, p. 3

Law, a judge can order perpetrators of domestic violence to attend court-mandated counselling. However, up to the present day, no service for court-mandated counselling has been established. Hence, no judge ever orders this redress in the court. “The order is there, but no facility to implement the rule; it is weird, isn’t it?” said one judge from the Public Court of Semarang.¹⁰⁵

Court-mandated counselling offers several benefits to victims of domestic violence. It will enhance the awareness of perpetrators to respect their wives and women in general. It will also equip the perpetrator with information about the DV Law, providing a deterrent effect that aims to reduce the crime. Access to such information is important, as not all those responsible are aware that domestic violence is a crime due to cultural and religious beliefs that normalise men’s violence. “It is heartbreaking to punish a man committing domestic violence against his wife without him knowing that what he has done is a crime,” said a judge in the Public Court of Batang District, Central Java.

According to Saeroni, an activist of Rifka Annisa women’s crisis centre, court-mandated counselling is the answer to raising awareness, as most perpetrators of domestic violence are reluctant to voluntarily access counselling.¹⁰⁶ In Saeroni’s experience of providing counselling for perpetrators,

¹⁰⁵ Interview with PS-2 (52 years), a judge in the Public Court of Semarang, in Semarang, 11 December 2014.

¹⁰⁶ Saeroni, “Is mandatory counselling possible for perpetrators of domestic violence? (*Mungkinkah Mandatori Konseling Bagi Pelaku Kekerasan Dalam Rumah Tangga?*)” *Laki-Laki Baru (New Men)*, 19 September 2013. Available online: <http://lakilakibaru.or.id/mungkinkah-mandatori-konseling-bagi-pelaku-kekerasan-dalam-rumah-tangga/> (viewed: 25 July 2013)

79 men accessed services for perpetrator counselling from 2007 to July 2012.¹⁰⁷ This number represents only 6.4 percent of the male perpetrators of domestic violence that use Rifka Annisa services. Only in one in 15 cases did perpetrators voluntarily seek counselling. Of those 79 men who did access counselling, only 50 percent went on to change their behaviour, while the other half gave up, or only came in the initial stages.¹⁰⁸ Saeroni argues that some perpetrators are difficult to negotiate with, and deny the violence they commit. He notes common characteristics of perpetrators of domestic violence: most are in denial, either minimising the violence as a ‘minor’ incident, or justifying the violence by blaming others, and some intellectualise the violence through rationalisation strategies.¹⁰⁹

The experience of Rifka Annisa in delivering counselling for perpetrators of domestic violence can help the central and local governments to understand perpetrator attitudes, and organisations like this can help to develop and establish court-mandated counselling services for perpetrators of domestic violence.¹¹⁰ The establishment of court-mandated counselling services is essential, as perpetrators of domestic violence tend to be reluctant to voluntarily seek counselling. In addition, the majority of victims of domestic violence would prefer not to divorce their husbands, but rather, make them change their behaviour, as discussed in

¹⁰⁷ Rifka Annisa, *Counselling for Behavioural Change in men (Konseling Perubahan Perilaku Laki-Laki)*, available online: <http://rifka-annisa.org/id/berita/berita-umum/item/164-konseling-perubahan-perilaku-laki-laki> (viewed: 24 February 2017)

¹⁰⁸ Rifka Annisa, *Ibid.*

¹⁰⁹ Rifka Annisa, *Ibid.*

¹¹⁰ Mitra Perempuan, *Counselling for the Perpetrators of Domestic Violence (Konseling Bagi Pelaku Kekerasan Rumah Tangga)*, available online: <http://perempuan.or.id/2006/11/10/konseling-bagi-pelaku-kekerasan-dalam-rumah-tangga/> (viewed: 24 March 2016).

Chapter Five. Such outcomes would enhance harmony in the family, which is a goal of the DV Law.

Governments can create services for court-mandated counselling in two ways: first, counselling services could be run by a government body. The Supreme Court can collaborate with the Ministry of Social Affairs to establish counselling services. Alternatively, the Supreme Court could collaborate with the Ministry of Religious Affairs to provide such services, as the Ministry of Religious Affairs already has a Marriage Advisory Body (*Badan Penasehat Pembinaan dan Pelestarian Perkawinan/ BP4*). BP4 has trained counsellors and a counselling room in the Office of the Ministry of Religious Affairs in every province and district. Indonesia can also learn from the experience of other countries. For example, Malaysia has clearer regulations about who administers its domestic violence counselling program. Article 11 (on Counseling) of Malaysia's Domestic Violence Act 1994 (Act 521) states: “ a ‘conciliatory body’ includes bodies providing counselling services set up under the Department of Social Welfare and, in cases where the parties are Muslims, also includes those set up under the Islamic Religious Affairs Department concerned.”¹¹¹ Second, the Supreme Court could direct perpetrators to NGOs that already have perpetrator counselling programs such as Rifka Annisa or Mitra Perempuan, with the court undertaking regular supervision and accreditation. Moreover, according to Saeroni, Rifka Annisa already provides court-mandated counselling services. Rifka Annisa delivered counselling to a perpetrator of

¹¹¹ Malaysia Domestic Violence Act 1994 (Act 521), available online: <http://wccpenang.org/wccnew/wp-content/uploads/2014/09/Act-521-Domestic-Violence-Act-1994.pdf> (Last viewed 24 February 2017).

domestic violence after this was mandated by the Court of Florida, USA. The perpetrator was an Indonesian man who committed domestic violence while he and his wife were in Florida for a holiday. He was released after paying bail, and was ordered to attend court-mandated counselling in Indonesia, conducted by Rifka Annisa. The counselling lasted for one year and was regularly supervised by an independent agency, appointed by the Florida court.¹¹² The Indonesian government can use the same model to ensure perpetrators attend counselling. A key benefit of this approach is that Rifka Annisa already has capacity and programs to deliver counselling services ordered by the court.

The absence of court-mandated counselling services required under DV Law is a serious concern, and gives the impression that the law is not being implemented appropriately. There will be a backlash if the DV Law is seen as mere tokenism, brought in only to appease women activists who have lobbied for it. The risk not only includes an increase in domestic violence and social impunity, but may also lead to victim blaming, such as occurred in the case of Cambodia. Katherine Brickell writes, quoting a deputy of district leader in Cambodia, “the problem we have is not the law, but rather the victims themselves.”¹¹³ Women are seen as not only “clouding the judgment of law”, but also “as actors denying the agency of institutional stakeholders (and law itself) to

¹¹² The Indonesian man was in Florida with his wife for a holiday. The violence happened in a hotel. He abused his wife and barred her from contacting the police. His neighbours in the hotel contacted the police. The man was charged by a court in Florida and faced a \$USD 500 fine or a year’s imprisonment in jail. He was released after paying bail of \$USD 1500 with an obligation to have a perpetrator’s counselling. The advocate of the man then contacted Rifka Annisa to conduct counselling for him. See: Saeroni, *Op. Cit.*

¹¹³ Brickell, Katherine, “Clouding the Judgment of Domestic Violence Law: Victim Blaming by Institutional Stakeholders in Cambodia”, *Journal of Interpersonal Violence*, SAGE Publication, Volume 32, Number 9, 2017, p. 1259.

bring perpetrators to account.”¹¹⁴ The investment in the DV Law’s efforts to protect and deliver services for victims of domestic violence will be damaged if this occurs.

Conclusion

The effectiveness of the DV Law depends not only on the DV Law itself. It needs other laws to support it, and reform of legislation that can form the basis for normalising domestic violence, including Marriage Law. Reform of the Marriage Law needs the active involvement of women in formal politics to represent women in the parliament, and participation by women in NGOs and grassroots organisations to advocate for women’s rights. Reform of the Marriage Law will increase the effectiveness of DV Law. A solid court system, trained law enforcers, and appropriate facilities to implement the spirit and intent of the law, including access to court-mandated counselling services, are required for DV Law to be effective.

¹¹⁴ Brickell, *Ibid.*, p. 1

CHAPTER SEVEN

CONCLUSION

“It needs crazy people to work for this issue since it deals with tears, overtime, threats, and problems.”¹

This quote from Mulyanah represents an expectation about the qualities that civil servants involved in service provision for victims of domestic violence must embody. The PPT and its services are instrumental for women experiencing domestic violence to ensure their rights and to rebuild their lives after domestic violence. The PPT has been a project of the Indonesian Government from the Central to the Local Government level since the Joint Decree (*Surat Keputusan Bersama*) of 2002, with the PPT acting as the cornerstone organisation in the enactment of the DV Law of 2004. However, the implementation of services differs from one local government area to another.

This research has evaluated two PPTs in two local government areas: the PPT of Central Java Provincial Government, and the PPT of the City of Semarang, known as SERUNI. Through a series of open-ended interviews with policymakers, law enforcers, PPT staff, victims of domestic violence, and activists from NGO and grassroots organisations, it has explored the policies of the Central, the Provincial, and the City Government in establishing services for

¹ Interview with Sri Mulyanah (61 years). in Semarang, 20 August 2014.

victims of domestic violence. It has also evaluated the functions of the legal system, PPT staff, and the role of NGOs and grassroots organisations in delivering services to victims of domestic violence. It has aimed to examine the effectiveness of domestic violence services by exploring the perceptions of stakeholders, especially victims of domestic violence as the main beneficiaries of the services. Using Interpretive Evaluation Research approaches, it has explored the points of view of the people experiencing the problem, namely the women victims of domestic violence. It is framed in feminist approaches, so that it speaks not only *about* women, but also *for* women.

My original contribution is not only to examine the implementation of services for victims of domestic violence in two local government areas, but also to critically evaluate the regulatory and policy framework guiding government responses to domestic violence at the Central, Provincial and city level. This has been necessary to obtain a holistic view of government policies and to chart their implementation from national to local level. By exploring the interrelationship between DV Law, Islamic Law, and gender relations, this thesis has attempted to offer a rigorous understanding of the problems for women in accessing justice in Indonesia. Moreover, it has involved a broad range of stakeholders involved in domestic violence service provision: the views of policymakers, service providers, victims of domestic violence, NGOs and grassroots organisations provide a comprehensive understanding of the strengths and limitations of PPT services.

There are two limitations to this research. First, victims of domestic violence were not approached directly, but through PPT staff. This was for safety reasons and to protect their personal information, such as where they live. As a consequence, some respondents were reluctant to offer a transparent assessment of the services they received. Secondly, respondents comprised women who had already accessed PPT services, except SV-1. This means that the perceptions of women victims of domestic violence in Central Java who have not accessed PPT services requires further research.

The findings show that accuracy of data on domestic violence remains a problem at both provincial and district level. As elaborated in Chapters Four and Five, the three government agencies (PPT, BP3AKB and the Statistics Office) have inconsistent data about the number of reports of domestic violence in the same period. This disadvantages victims of domestic violence, as without accurate data, the service and its funding may not be set up properly and a mismatch between policies and victims' needs may occur. To gain accurate figures on domestic violence needs strategies, not only to set up a robust system of data collection and data delivery from one institution to others, but also to provide service centres that are accessible and appropriate for victims to report their cases. Ending the 'silent culture' or 'conspiracy of silence' in a patriarchal community like Java that bars women from revealing domestic violence is necessary in the long-term goal of eliminating domestic violence.

The study of two PPTs has revealed that the role of local regulation (*Perda*) is essential in efforts to deliver effective services to victims of domestic violence. The *Perda* acts as an umbrella protocol covering service operations and funding, and its benefits are evident in the case of the PPT of the Provincial Government, which, as of 2009, unites government agencies (SKPD) in their efforts to deliver services, and regulate funding. The *Perda* constitutes a tool to break the ‘*ego sektoral*’ problem of government agencies, by obligating all agencies to support PPT services.

By contrast, the case of the PPT of Semarang reveals that the absence of *Perda* results in disharmony among service providers and reduces the quality of services. Without *Perda*, Semarang cannot require government agencies to support and collaborate with the PPT to deliver services to victims of domestic violence. Moreover, the absence of *Perda* has clear implications, because there are no formal work plans or budgets for services in some government agencies, including Semarang Public Hospital. The perception that Semarang had the highest funding for its PPT in 2013 is inaccurate. This research shows that the total budget is provided for the activities of the Office of Women’s Empowerment of Semarang, but the funding allocation for services for victims of domestic violence comprises only fifteen percent of the total, which is considered by PS-1, a SERUNI staff, less than the amount needed to cover the PPT services.

Clearly, the role of individuals in the Office of Women’s Empowerment is influential in the success of the PPT. As discussed in Chapter Four, Rachmawati

is a committed-individual woman civil servant who breaks conventional bureaucratic attitudes, works like an NGO activist, and builds bridges between government agencies and NGOs. She has been involved at all levels of development of the service centre in all its forms: from PPKPA in 2003, and KPPA in 2006, to the PPT in 2009. She coordinated the formulation of the *Perda* 2009 and advocated the scaling up of the PPT throughout all 35 districts and cities. Rachmawati's role has been influential in uniting government agencies, breaking the '*ego sektoral*' problem and creating collaboration between government and non-government agencies, which is one of the keys to success in Central Java's domestic violence service provision. Her expertise has been recognised at the regional and national level as she has been a speaker and trainer for other provinces, and her production of manuals on how to set up budgets that are gender-responsive have been adopted at the national level. The individual civil servant like Rachmawati is not mirrored in the City of Semarang, where high-level officials in the Office of Women's Empowerment, who create policies for SERUNI, are not supportive. This means, according to PS-1, that the Office of Women's Empowerment is part of the problem, not the solution, especially when it pays full-time SERUNI staff a salary of only IDR 750000 (\$AUD 75) per month. The absence of officials such as Rachmawati in Semarang has led to poor coordination within and between government offices and NGOs in delivering services. The Office of Women's Empowerment needs committed personnel to run domestic violence services, not least because it is considered a difficult area of public service. The system of staff turnover needs reform, especially in view of

the high level of turnover in the Women's Empowerment Office. As discussed in Chapter Four, the rollover scheme needs to consider personnel quality to achieve the aim of rollover, which is 'the right person in the right place.' It needs to take account of a senior civil servants gender sensitivity and perspectives on women's issues, rather than merely considering seniority. Worse, some of these positions are filled as a form of 'political compensation' under the patronage system. Dealing with victims of domestic violence needs passion and commitment, as illustrated in Mulyanah's quote at the beginning of this chapter. Without these qualities, policies and services can disadvantage victims of domestic violence, for example, the low salary of PPT staff and limited funding for services, which result from low commitment to the need to eradicate domestic violence.

Central Java Provincial Government's domestic violence services have been awarded the *Anugerah Parahita Ekapraya* Award by the President of Indonesia for nine consecutive years, from 2005 to 2013. In addition, Central Java is considered a model for other provinces. By comparison, the City of Semarang's PPT is ranked sixteenth of thirty-five other districts of Central Java, based on the evaluation by KPK2BGA in 2013. This is a modest ranking, remembering that Semarang is the capital city of Central Java, with infrastructure benefits that other districts do not enjoy.

In terms of the policy of the Indonesian Government to respond to domestic violence, the aim of the DV Law is not only to protect victims and restore victims' rights through the prosecution of perpetrators and delivery of

services for victims, but also to prevent domestic violence. The ultimate goal of the DV Law is to eliminate domestic violence in Indonesia. To achieve this aim, Indonesia needs to reform its justice system. Necessary reform includes amendment of the Marriage Law and the Compilation of Islamic Law (*Kompilasi Hukum Islam/KHI*), ratification of the Optional Protocol of CEDAW, the establishment of Court-Mandated Counselling, and broadening the jurisdiction of the Religious Court.

The Marriage Law and the KHI need revision because they can be used by perpetrators to justify the abuse of women with impunity. As discussed in Chapter Six, Articles in the Marriage Law prescribing the status of husband and wife in the household, the minimum age for marriage, and the acceptance of polygamy need to be reformed. These Articles deliver legal justifications for abuse in domestic violence cases as well as contradicting elements of the Marriage Law itself and other subsequent laws such as the Child Protection Law of 2002 and the Labour Law of 2003.

Despite Indonesia ratifying CEDAW through Law No. 7, 1984, which obligates the government to fulfil and protect women's rights and binds it to periodical reports to the CEDAW Committee, Indonesia also needs to ratify the Optional Protocol of CEDAW to enhance opportunities for women victims of domestic violence to access justice. As discussed in Chapter Three, CEDAW's international treaty body can accept complaints and has mechanisms to inquire into any act of violence against women, including domestic violence. Through the

ratification of the Optional Protocol, Indonesian women whose rights are breached can take legal action against an individual, an organisation, or even the state. Although Indonesia signed the Optional Protocol in 2000, it is not bound to it as Article 3 of Indonesian Law No. 24, 2000, on the International Treaty states that for a multilateral agreement, being a signatory is not enough: it needs ratification or accession.

Indonesia also needs to establish court-mandated counselling services. The absence of such services has impaired the ability of judges to order perpetrators to attend counselling. No order for counselling has been issued by the court since the DV Law was passed in 2003, because no such government-based counselling service exists. Counselling is mandated by Article 50 of the DV Law, which aims to change perpetrators' perspectives and violent behaviour. One of the key aims of the DV Law is to maintain the integrity of the family unit by ensuring harmonious and prosperous households. As counselling services are not yet established, this goal of the DV Law is unlikely to be achieved. The absence of court-mandated counselling is also a contributing factor in most cases of domestic violence being taken to court, which results in the break-down of the family, or divorce. This has led to some women victims of domestic violence being reluctant to bring their cases to court because they do not want to divorce. In view of the fact that the establishment of court-mandated counselling services requires both time and significant expense, the government could avail itself of BP4 and the perpetrator-counselling programs run by NGOs such as Rifka Annisa to meet this need.

DV Law needs suitable dissemination if it is to be properly understood in the legal system. As discussed in Chapter Three, some prosecutors apply Indonesia's Criminal Procedure Law (KUHAP) rather than applying the DV Law in domestic violence cases. This contradicts the legal principle that special law overrides the general law. Therefore, the legal system needs adequate training to understand the role of DV Law, so that an understanding of domestic violence as an exceptional crime that should be addressed under DV Law is properly recognised. In addition, the law requires that the system treats victims of domestic violence as experiencing a distinct form of crime different to other kinds of violence such as common assault. Neglect of the DV Law by the system disadvantages victims of domestic violence. Some victims experience long delays in accessing the court due to evidentiary issues, as some prosecutors require more than one witness in domestic violence incidents. This criterion is hard for women to meet because most are the exclusive witnesses to the violence experienced. However, the DV Law states that one witness is sufficient if accompanied by one additional proof such as a medical document (*visum et repertum*). The problem is some women are not familiar with the processes in securing this evidence. Hence, some women seek this form of proof several days or weeks after the violence occurred, which makes their injuries hard to detect. The evidentiary problem is even worse in the case of psychological violence as psychological *visum* is less common for the legal system. As there are no fixed criteria on how to measure psychological violence, some judges use different measures such as the

appearance of the victims or the physical condition of the victims, which can disadvantage victims of this form of domestic violence in obtaining justice.

The Religious Court is also in need of reform in that the majority of victims of domestic violence go to the Religious Court in preference to the Public Court. The government, through the Supreme Court, needs to broaden the jurisdiction of the Religious Court so that it can deal with family matters as well as the criminal aspects of domestic violence. To do this, the Religious Court needs to apply DV Law alongside the KHI. In support of this call, the Indonesian Women's Commission (*Komnas Perempuan*) has published a book entitled *Reference for the Judges of the Religious Court about Domestic Violence (Referensi bagi Hakim Peradilan Agama tentang Kekerasan dalam Rumah Tangga)*. The publication aims to provide judges with knowledge about the interrelation of DV Law, Islamic Law and gender issues. In addition, because not all victims of domestic violence want to proceed to the criminal court, the Religious Court should strengthen its court-annexed mediation system to provide an alternative way to settle domestic violence cases out of court. One way of strengthening the court-annexed mediation system is by delivering proper training for judges involved in mediation. As discussed in Chapter Six, all litigants in the Religious Court should take part in court-annexed mediation to settle their disputes, as mandated by the Supreme Court's Regulation No. 1, 2008. As most mediators of court-annexed mediation in the Religious Court are judges, they need to acquire the knowledge, skills, and attitudes of mediators. Without these qualities, judges tend to 'judge' rather than mediate the disputes as judging has

been their 'nature' and key competency, but this goes against the principle of self-determination in mediation. In addition, proper training would not only enables judges to deliver proper mediation services, but also changes the attitude of judges who do not support mediation, as knowledge leads to transformation.

To achieve reform of the justice system, particularly amendments to existing laws, requires the advocacy and the presence of women in the parliament to act as legislators. Women's participation in formal politics is a necessity. As discussed in Chapter six, Indonesia's Law No. 8, 2012, mandates political parties to have a quota of 30 percent women in their candidature lists for the People's Legislative Assembly (DPR). All political parties have met the quota for General Election of 2014; however, the number of women elected to the DPR for the period 2014-2019 comprised only 79 (14 percent) of the 560 members of the DPR. There are obstacles for women that create barriers to participation in formal politics: the lack of commitment by political parties in advocating women's representation and building women's capacities as legislators, and the masculine culture of political parties and the DPR that mean politics is seen as 'not suitable' for women. Therefore, increasing women's participation in formal politics requires two strategies. First, to build women's capacity as politicians and legislators, and second, to deconstruct gender constructions that bar them from the political stage.

Calls for reform of the Marriage Law have been met with challenges from conservative Islamist organisations such as the Party of Liberation of Indonesia

(*Hizbut Tahrir Indonesia*/HTI). This transnational organisation considers any proposal to amend the Marriage Law unacceptable. According to HTI, Articles on the status of husband and wife in the household, the minimum age for marriage, and polygamy conform to Islamic teachings. Any revision of these articles is, for HTI, an act to destroy Muslim families and degrade Islam. HTI also rejects the DV Law, because, in its view, the law corrupts Islamic family norms. Conservative standpoints such as HTI's strengthen Javanese patriarchal culture. As discussed in Chapter Three, Javanese culture is a blend of Javanese traditional custom and religious teachings, so domestic violence is considered a private matter rather than a crime. This not only provides the basis for perpetrators to abuse women without feeling guilty, but also prevents women from reporting domestic violence. To eliminate domestic violence requires not only reform of laws that are not women-friendly but also the transformation of gender relations throughout Javanese society, as well as challenging the views of conservative organisations such as HTI. Despite being banned since 19 July 2017, the influence of HTI is significant as it has millions of followers spread throughout Indonesian provinces and may still work covertly. HTI's views need to change through the dissemination of DV Law and reinterpretation of religious teachings that justify domestic violence. These efforts can be made through cooperation between government and grassroots organisations, which is, by regulation, also part of the duties assigned to the PPT. To challenge the wider patriarchal culture, and the views of organisations like HTI, the PPT can liaise with other Muslim organisations such as Muhammadiyah and Nahdlatul Ulama (NU), which have

progressive views that support gender equality, as well as prominent figures such as Siti Ruhaini Dzuhayatin from Muhammadiyah and the founder of Rifka Annisa, and Sinta Nuriyah Wahid and Lies Marcoes Natsir from NU. In addition, Muhammadiyah and NU run educational institutions from kindergarten to tertiary level, and Islamic boarding schools, that can disseminate women-friendly interpretations of Islamic teachings. At the national level, cooperation has been initiated by the Women's Commission by publishing a book entitled "*Breaking the Silence: Religion Listens to the Voices of Women Victims of Violence*" that outlines support services for women victims of violence offered by three religious-based organisations: Muhammadiyah, NU, and the Catholic Church.

These findings suggest at least three further areas for research on government policy on domestic violence in Indonesia. First, as this research deals mostly with women who access the PPT services, the perceptions of women who have experienced domestic violence but have not used the PPT needs further research. Secondly, this thesis has uncovered inconsistent and unreliable data on domestic violence in both Central Java and the City of Semarang. Therefore, research on how government agencies such as the PPT, the Statistics Office, and the Ministry of Women's Empowerment and Child Protection might collect and process meaningful and reliable data on domestic violence can be a significant basis for further research. This may include investigation of the agencies' methods for obtaining data, their accuracy, and the flow or transfer of the data from office to office, from local to national level. Third, this research has investigated PPTs as part of wider system that consists of several agencies providing services to victims

of domestic violence. Investigating the local dynamics impacting service providers such as the hospital and the police to explore how they deliver services and implement regulations is also a useful area for further research. In addition, as the PPT is administered by national ministries, an investigation of the role of the Ministry of Religious Affairs in providing services and facilities for women victims of domestic violence would also be a significant area of further research.

This thesis's contribution to knowledge in the field of domestic violence has uses for Indonesia's Central Government, the Central Java Provincial Government, and the City of Semarang Government. First, this research can be used when formulating policies for the elimination of domestic violence and delivering services to victims of domestic violence at every level of government. Second, this research provides Indonesia's Central Government with suggestions for reform of the justice system to ensure the effectiveness of domestic violence law and programs. Third, this research can help social workers, advocates, health providers, and other service providers to design effective strategies to deliver services to women victims of domestic violence. Fourth, as the trend in the literature on domestic violence in the last two decades has been more concerned with the nature of domestic violence, issues of control in domestic violence, and the effects of domestic violence on women and children, this thesis contributes to enriching understandings of interventions in domestic violence in their specific cultural context.

Domestic violence remains a key area in the efforts of the international community to bring about gender equality and to ensure that the rights of women, as citizens, are protected. While Indonesia has taken many steps to recognise and protect the rights of women to live free from violence, the home remains a key focal point in any campaign to end domestic violence. This campaign is not only a concern for women, but requires the commitment of communities and governments to effect social and political change as well as changes in attitudes that position domestic violence as inevitable. The types of intervention into domestic violence that governments authorise will play an important role in addressing and eliminating domestic violence.

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