

Women's Narrative and Local Practices of Muslim Family Law: (Exploring Moderateness [*wasathiyya*] of Islam Nusantara)

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Abstracts

This article seeks for two essential resources of promoting the moderateness of Indonesian Islam, which are still underdeveloped in the existing literatures. Namely, mainstreaming women's narrative as a basis of analysis of research about Indonesian Islam and examining the practices of Islam in everyday life of Muslims across the archipelago. Based on writer's experiences in conducting ethnographic research regarding Islamic family law, this article aims at discussing further how women's inclusion generates particular model of understanding and application of Islamic family law. As a matter of fact, family law is the most intimate legal practices in everyday relations for Muslim and thus, involve both men and women. Moreover, Islamic law is not merely about doctrines and universal resources, but also about interpretation and local practices. This article argues that the presence of women's voices and experiences in the epistemology of Islamic law, which is often excluded, is one of primary factors of ensuring how Islamic family law can provide more justice and equality to women's interests. The practices of Muslim family law in eastern Indonesian where women's authority and power are continuously negotiated can be considered as among initial characteristic of the moderateness of Indonesian Islam.

Keywords: Islam Nusantara; Women's Voices; Local Interpretation; Family Law; moderateness (*wasathiyya*)

INTRODUCTION

This article discusses two important methods that need to be considered in an effort to ensure that Islam Nusantara is a distinctive taste of Indonesian Muslims and promote it as a middle ground (*wasathiyya*) on issues of gender equality and justice. First, increasing the study of empirical Islamic law, how Islam is practiced (law in action or *iusoperatum*). Second, ensuring women's experience as the legitimate subject of investigation and serve as the epistemological base of formulating Islam Nusantara. Both of above are analytical tools to actually explore how the particularity of Islam in Indonesia at the same time reveals the views of Indonesian Muslims represented by women, as those who have mostly been neglected in the production of Islamic knowledge.

This article focuses on sociological interpretation and everyday practices of Muslim family law in Eastern Indonesia, particularly regarding disobedience in the families (*nusyuz*), the negotiation of *mahr* (marriage payment,) and *ijbar* rights. *Ijbar* in Islamic doctrines is an authority to force, given to fathers and grandfathers from patrilineal line, and to marry their virgin daughters off without their consents. (Az Zuhaili, 1989:186; Muchtar, 1993:93, Syafi', 2011:162-163; al Dimiyati, 1998:53)¹ The above study cases illuminates how incorporating women's perspectives and narratives can serve as a critical reanalysis of our notions regarding Islamic family law and a corrective to the bias of the mainstream. Meanwhile, looking at the practice of Islamic family law gives us enriched data about the particularity of Islamic laws as well as how Muslim wrap up these practices with Islamic legal doctrine.

¹Laws related to *ijbar* rights are not clearly stated in the Qur'an and Hadith. The most distant reference to *ijbar* is the opinion of the Islamic jurists in various of Islamic schools, known as *fiqh*. *Fiqh* itself is a dynamic understanding of Islamic law as the results of sociological process and relations and thus, mundane and relative. However it is often considered as sacred and absolute. Consequently, the Muslim community becomes insensitive to the "practices" of Muslim communities in various locus and tempus, even though practices are just another sides of the representation of Islamic law in addition to "resources".

Why is family law the starting point? For a long time women were seen as domestic beings, mastering the realm of the family in care and education jobs. Conversely, in addition to providers of income, men are often considered not to have the same intimacy as women toward families. Unfortunately, even in family as the closest institution to their lives, women's voices are often ruled out in the formulation of its laws.

The author's experience in examining various issues of family law in Islam gives enlightenment on how incorporating women's perspectives and considering their experiences renders different meanings and understandings in formulating rules regarding family law. This article is a reflection of writer's researches about three themes as mentioned above. Ethnographic research that listens to women and emphasizes observation of practices, symbols, settings and relations, reveals important insights that have been left behind in understanding some of the rules of Islamic family law.

The discussion in this article begins with a few questions: Why are women's voices important to understanding Islamic family law? How do women negotiate their interests in the practice of Islamic family law? How does this provide a unique understanding of Islam that is developing in Indonesia (Islam Nusantara)? How Islam Nusantara might shape and be shaped by the practiced Islam and women's agency in Indonesia ?

LITERATURE REVIEW

Islam Nusantara: Local Interpretation with Global Determination

Islam Nusantara, basically, means "Islam that develops **in** the archipelago which refers to a country called Indonesia. So there is an "in" conjunction between the words "Islam" and "Nusantara."² This term is actually not new but has become popular lately because of the political nuances that are approaching. Scholars even claim that the Islam of the Archipelago was built up since the entry of Islam in Indonesia especially in Java when Walisongo spread Islam with full peace. (Maimun, 2016; Burhani, 2017)³

The term is booming again when it was used as the theme of the 33rd NU congress in Jombang, East Java 1-5 August 2015 so that the term is synonymous with the NU organization. The full theme of the congress was "To strengthen Islam Nusantara for the civilization of Islam and the World" (Maimun, 2016; Taja, 2015)).

Later this term has become controversial, some support while some refuse it. This debate inevitably ignites discussion and raises various studies by including this concept of Islam in sharing scientific fields such as education (Taja, 2015), art (Nurahim and Setyorini, 2018), Islamic law (Maimun, 2016) pluralism and state security (Hasan and Putra, 2018; Chalik, 2016).

There has not been a specific discussion that links this Islam Nusantara with the concept of gender equality and justice in the existing academic literatures although this term has attracted wider attentions, recently. However, there is already an assumption that because of the nature of Islam Nusantara which is open to local culture, it enables the values of gender equality to flourish and be integrated with Islamic values in the lives of Indonesian Muslim communities. So, Islam Nusantara is seen as facilitating the perspectives as well as

²BadriyahFayumi, "Islam Nusantara-the Concept and Practices to Support Gender Equality in The Muslim Communities," paper presented at the International Young Muslim Women Forum, Jakarta, 24-28 Oktober 2018.

³Burhani (2017) divided the formation stage of Islam Nusantara into three parts. First, in the decade 1950-1960, when Western scholars saw Islam in Indonesia as unique and distinctive. Unfortunately, this uniqueness was more pejorative in meaning in which Islam in Indonesia was seen as peripheral and syncretic. The second stage was the formation of Indonesian Islamic identity around 1980-1990 with Abdurrahman as its pioneers through his concept of *Pribumisasi Islam*. The third stage is happening at the moment and found its way after NU 33rd congress in Jombang in 2015 that the Islam Nusantara is no longer just an identity but becomes the spirit of change.

practices of gender equality in Indonesia (Fayumi, 2018). Meanwhile, in the view of many anthropological scholars, Indonesian or generally Southeast Asian cultures are more friendly to women than cultures in South Asia (Errington, 1990). Based on this later investigation, we may assume that Islam Nusantara more as a result of cultural values of looking at gender differences in Indonesia.

This paper does not ambitiously prove the truth of these assumptions, but rather proposes alternative methods that can be used to test the assumptions.

Islam Nusantara departs from the universal nature of Islam itself which is seen as a blessing for all nature. According to Chalik (2016) Islam Nusantara is *rahmatan lil'Alamin*, a spirit of Islam that has long been developed in the archipelago, not a new ideology. Furthermore, in Akhiyat's (2017) opinion, Islam Nusantara is a moral value which combine two important concepts of people religiosity, namely faith and experience.

Therefore, Islam Nusantara is actually a picture of the proximity of Islam as a system of belief and local culture as the experience of Indonesian Muslim life, "the interpretation and implementation of Islam that features harmony between Islamic teachings and local cultures"⁴.

The concept of Islam Nusantara has been reflected in Abdurrahman Wahid's thought through the term "*Pribumisasi Islam*" (indigenization of Islam) which aims to elevate the authenticity of Islam that is different from Islam in other regions. Presenting Indonesian Islamic authenticity has also been sought by other experts such as Hasbi ash Shidiqi with "Indonesian fiqh", Hazairin with the term "national schools", and Munawir Syadzali with "contextualization" (Burhani, 2018; Hosen, 2016).

The main character of Islam Nusantara is what is popularly called "*wasathiyyah* or moderation." The use of this "moderation" term is different for western scholars and Muslim scholars. In the first instance, the word moderation is very political which is opposed to radicals while Muslim scholars place this term in several contexts based on the lexical meaning of it (Islam and Khatun, 2015).⁵ Some of the meanings of the word *wasathiyyah* are justice or balance (*al-'adl*), merit or excellence (*al-fadl*), better (*al-khairiyyah*), median (*al-bainiyyah*). The meaning of *wasathiyyah* which is relevant to the discussion of this article are "justice" "balance" and "something better."

Politically, the use of the term Islam Nusantara with its *wasathiyyah* character is as opposed to transnational Islam that has radical, hard, and intolerant characteristics such as ISIS (Islamic State of Syria and Iraq). This is for example illustrated by the views of several religious leaders such as Said Agil Siradj.⁶ The state, through its officials, including Minister of Religion and Head of the Indonesia Republic Police, saw that this Islam Nusantara could be an ideological and cultural mechanism to form a soft approach in combating radicalism and religious based violence that still haunts Indonesia and the world.⁷ This is what Hosen calls as "a local Islam with global ambitions." (Hosen, 2016) with an important note that "Islam Nusantara should therefore not be about promoting a Javanese Islam, rather it should

⁴Burhani, Ahmad N, "Islam Nusantara as Promising Response to Religious Intolerance and Radicalism" https://www.iseas.edu.sg/images/pdf/TRS21_18.pdf

⁵ "It should be noted that the term 'moderation', in Islamic scholarship, was born in a context unlike the Western scholarship. It seems that the Western use of the term is mostly concerned with its political agenda in the Muslim world. Whereas, Islamic use of it fundamentally refers to Islamic theology, ethics, belief system, legal positioning, politics etc" (Islam and Khatun, 2015: 70)

⁶Siraj (2015) "Islam Nusantara Mencegah Radikalisme" (<https://www.suara.com/wawancara/2015/06/29/070000/said-agil-siradj-islam-nusantara-mencegah-radikalisme>).

⁷<https://www.cnnindonesia.com/nasional/20160203214507-20-108718/cegah-radikalisme-kemenag-kampanyekan-islam-nusantara>,
<https://nasional.kompas.com/read/2017/01/19/17525891/kapolri.islam.nusantara.bisa.menangkal.radikalisme>

promote how local culture, wherever it may be, can interact positively with Islamic teachings”⁸.

The uniqueness and tolerant character of Islam in Indonesia is also recognized by international scholars who conduct studies on Indonesian Muslim religious practices. This could be the basis for the usefulness of the Islam Nusantara for the condition of Muslims globally which is considered still loaded with issues of intolerance and discrimination against women. (Qadir, 2016). As a home country for the majority of Muslims in the world, the authenticity of Indonesian Islam can also be directed to place Indonesian Islam as one of the centres of Islamic civilization not only in matters of security from radicalism but also specifically related to issues of balance, justice, and gender equality.

The implementation of the first Indonesian Women's Ulama Congress (KUPI) in 2017 was initiated mostly by women's religious leaders and academics who see that the flexible and open nature of the Islam Nusantara provides space for the development of gender discourse in Islam in Indonesia. Islam Nusantara provides opportunity for the declaration of KUPI where around 35 participants from 16 countries all over the world (Fayumi, 2018).⁹

The social and cultural capital that is contained in the Islam Nusantara as mentioned above should not only be a slogan. This movement needs to formulate a methodology that can prove the slogan. If not, then Islam Nusantara as a facility as well as a result of the values of gender equality end up being merely an assumption.

METHODS

Women's Narratives Complement Perspectives

Methodologically, this study encourages the interpretation of facts from the perspective of agents (actors) by involving the voices of women as subjects who are able to describe their choices and explain their actions responsibly. As a matter of fact, women's voices are often left aside in knowledge production. Listen to the experience of women accommodates feminist research methods and holds the principle that social life is not only shaped by the experience of half of world's population, males, but each individual's voice is meaningful including that of females.

“ A great deal of information on women exists, but it frequently comes from questions asked of men about their wives, daughters, and sisters, rather than from the women themselves. Men's information is too often presented as a group's reality, rather than as only part of a cultural whole. Too often women and their roles are glossed over, under-analysed or absent from all but the edges of description” (Reiter, 1975:12).

Awareness of the importance of positioning women as resource persons is relatively late for me. In 2012 I presented a research plan for a dissertation in front of five professors consisting of two prospective supervisors, two examiners, and one head of study programs. One of the comments and all of them agreed was the lack of female informants I mentioned in the draft proposal even though my research topic was about women's agencies. Assumptions as feared by Reiter (1975) above seem to be happening today in the research of social humanity sciences including religious studies.

⁸ Hosen (2016) “ a local Islam with global ambitions” <https://indonesiaatmelbourne.unimelb.edu.au/islam-nusantara-a-local-islam-with-global-ambitions>

⁹ See also <https://www.liputan6.com/regional/read/2931836/ulama-perempuan-dan-perwakilan-16-negara-kumpul-di-cirebon>

I always remember the notes from professors in research work. In my early days I went to the fieldwork, the perspective has been sharpened because I found the views of women and men in seeing and judging something often different. For example when I interviewed them separately how they interpreted local culture which symbolized women as wells and men as buckets.

Abu Ishaka saw that it meant that the woman is static and can only wait for men's proposal related to marriage decision while the man is active in chasing for and proposing a woman of his choice. Meanwhile UmiRohana saw that the symbol actually indicates that the woman is the source of life symbolized by the water contained in the well. Even though she does not move, the well implies the power by which women can reject male's applications. While men must spend energy to find the right well according to the capacity and size of the his bucket to get something from the well.¹⁰

Women's voices are primary data of this article while men's perceptions are to complement the data from them. There are nine informants who share their experience to build this article from. Ethnographic research also focus on participant observations which aimed at uncovering meaning and motives behind their experience.

Women and men because of different experiences propagate unique perspectives. Their respective viewpoint does not oppose rather complements each other to understand how culture sees the role of women and men from the symbols they use. Listening to both parties as such provides a complete picture as a basis for exploring and assessing values or views in a particular cultural context. If the researcher only listens to men's views, which unfortunately frequently occur, then only half pieces can be obtained. This is not only biased but also dangerous because it confirms male dominance in the production of knowledge.

Male dominance in the production of knowledge can be one of the reasons for improper intervention to ensure gender equality and justice in the field of law including Islamic law. Male superiority emerges from self-sufficiency of male voices and it leads to male oriented approach. In the view of feminist legal theory, laws are designed to please those in power and therefore must be in accordance with their interests. Therefore, listening more to women's voices, as subalterns, in social and legal research and establishing dynamic interpretation of Islamic laws is a must.

Furthermore, the inclusion of the personal stories of women to uncover women's agency will at least alleviate the problem that "the control over women by male dominated kin groups is an important theme, whereas the ways in which women resist or acquiesce in this control are not discussed" (Lamphere, 1973:98). Listening to women's voices, then, will help cover this gap by allowing women to express themselves.

THEORETICAL FRAMEWORK

Problems in Studying Families: Under Representation and Overgeneralization

There are, at least, two main problems related to women in conducting family studies, namely first, under representation of women at the level of data collection for research about families. As a family member, women are certainly an integral part of families. A family has a share history, future, and blood (Copeland and White, 1991: ¹¹ So it is absolutely inappropriate if they are left behind in all studies of the family. Especially in Islamic law, the family is considered as the most important institution that is always promoted

¹⁰ Notes from fieldwork research about *Mahr*, 21-25 April, 2013 (names mentioned are pseudonyms)

¹¹ "here is also a built-in power hierarchy in families that is less obvious or non-existent in other groups. This hierarchy is partially determined by the existence of two or more generations, partially by culture-wide expectations (e.g., for different sexes), partially by age differences even within a generation, and partially by idiosyncratic family history." (Copeland, Anne P. and White, Kathleen M. *Studying Families; Applied Social Research Methods Series* (California: Sage Publications, 1991), p. 5.

as principal foundation of forming a community civilization where women should be the main actors.

The problem of lack of representation of women in reflecting on their experience, formulating opinions, speaking out their desires then raises a second problem, namely, over generalization. Many Islamic family law rules are interpreted as such, where men's interests are overgeneralized into common interests. Marriage itself is formulated as *aqad at tamlik* (contract of men's ownership) where men have to pay women for *mahr* (dower).

Marriage is also interpreted as *aqad al ibahah* (contract of permission), a bond that allows activities that were previously illegitimate to be lawful, such as sexual relations. Although the Qur'an has described that sexual relations with a beautiful expression that the husband is clothing for the wife and vice versa, but having sexual relations is still attached to the husband's rights and obligations of the wife. Power relations are still becoming the principle in seeing marriage as a binding bond.

The new concept invented by Qodir (2019) called *mubadalah* (reciprocity) laid the foundation on how to read the text of the Qur'an, including matters related to marriage, in the principle of reciprocity. As implied in the introduction to his book, the emergence of the principle of *mubadalah* begins with the intensity of his study of the concept of equality of women in Islam and also discussions with female leaders and activists. It can be implied that the voice and experience of women he intensely socialized with have provided a new way of looking at marriage ties, namely the contract of reciprocity. With the values of reciprocity, marriage is not overgeneralized only from men's experience and merely for the benefit of men, but should be seen as a joint investment between two sexes.

In the history of the revelation of the Qur'an and the establishment of the law of the Islamic family, for example on the *dhihar* theme, Allah has heard the voice and protest of a woman in formulating Islamic law (Ingrid, 2017).¹²

The two problems, under representation and over generalization, mentioned above must be disentangled by integrating the experience of women in their religious practices to see whether Islam embraced and become the basis of life in the archipelago indeed raises the concept of *wasatiyyah* or not? Also whether the concept of *wasatiyyah* is actually the result of integrating women's experience in the legal formulation of their families.

DISCUSSIONS

Women's Contribution in Re-governance of Islamic Family Law

This in-depth observation and interviews of women's experiences in Islamic laws can produce the following double benefits:

First, minimizing the view that women's subordination is a universal fact. The general view that women are not present in social life and family law can be revisited and corrected. We will know how women are in fact continuously negotiating their rights in family and the rules regarding families itself.

¹²*Dhihar* literally means "back." Terminologically, *dhihar* refers to the custom of pre-Islamic societies who divorce their wives by saying "your back is like my mother's back." Islam changes this *dhihar* concept by distinguishing it from *thalak* (unilateral rights of husband to initiate divorce). Historically, the change was motivated by the protest of a female *shahabah* of the Prophet named KhaulahbintiTsa'labah, who would refuse her husband who had saying *dhihar* to her but asked her to have sex again. Tsa'labah came to protest against the *dhihar* rule to the Prophet and begged the Prophet to pray so that Allah revealed revelations about how this really was to provide justice for women. She did not want to divorce from her husband but also did not dare to have sexual intimacy. This incident later became the cause of the revelation of the verse of Qur'an named al Mujadilah (1-5) which means "the rebel woman." It is said in the verse that *dhihar* does not mean divorce and that it can be withdrawn if a husband frees a slave or fasts for two consecutive months or feeds sixty poor people before husband and wives can reconcile.

Second, avoiding the distortion of understanding of Islamic legal texts. The text of Islamic law is never separated from the context including social environment that affects the meaning of a text and determines how a rule of law is practiced. In this section I will present ethnographic data that can illuminate that women's contributions and controls in the practice of Islamic family law provide different colours in understanding some sub-topics of Islamic law itself.

a. Husband's Nusyuz (disobedience): A Reality Without Name

Nusyuz is generally understood as an act that can only be done by a wife. The study of high rate divorce initiated by the wives (*ceraigugat*), conducted in 2011 and 2017, revealed the main cause of such divorce is the neglect of the responsibility of the husband who abandoned his wife's economic rights, does not treat her well, with having marital affairs and violence against women in the families.¹³ This fact sends a message that *nusyuz* is actually can be perpetrated by men.

I explored the topic of *nusyuz* more from the experience of women. The data I found encouraged to reformulate the meaning of *nusyuz*, no longer "wifely disobedience" which implies power relation but "the neglect of obligations" which can involve both husbands and wives. This kind of redefinition is possible because of integrating the narratives of women who experience the consequences of *nusyuz*.

The high rate of divorce was apparent during my recent observation and research. Within 3 months during the study, which was in August-October 2017, divorce in Islamic court of Mataram showed a figure of 57 compared to the women initiated divorce rate, which amounted to 18 cases. Most of the divorce, if not all, is caused by the neglect of the obligations carried out by the husband.¹⁴

Women's experiences complete the picture of how *nusyuz* should be seen and defined. As a matter of fact, law in action as above is another half of defining Islamic laws, apart from its law in action. Women's inclusion in research about family, marriage, and Islamic law unpack the necessities of redefinition some Islamic popular terms who has been mis-led by patriarchal minded Muslim jurists and scholars.

b. Mahar: Reciprocal Contribution

Islamic family laws name the marriage payment as *Mahr*. *Mahr* (dower) is a religiously sanctioned obligation of grooms to give property to brides with a sense of responsibility in the initiation of marriage (Monsoor, 2008). If *Mahr* is not paid to the wife, it is considered as husband's debt and she is the only recipient (Mehdi, 2003). *Mahr* also symbolizes the husband's obligation to respect and protect his wife. All the four Sunni

¹³Wardatun, Atun, *Realitas Tanpa Nama: Nusyuz Suami dan Cerai Gugat di Pengadilan Agama Pulau Lombok, NTB*, Unpublished Research Report, funded by MORA (The Minister of Religious Affairs) 2017

¹⁴**Husband cheats many times:** The case of divorce was filed by Bq. Dewi Hanafiah versus L. Mandra Hermawan because of her husband's cheating. This affair causes the wife to feel uncomfortable, humiliated, and deprived of her right to get love from her husband. Their conflict peaked when the husband was found to have married secretly with his cheating partner who was also her high school friend. They met at a reunion. Dewi, then, sued for divorce. **Domestic Violence (Physical Violence):** the divorced filed by Sri Handayani to her husband Ardiansyah because Sri could not bear the husband's rude attitude. During the trial, the wife presented two family witnesses who knew and witnessed the cruelty of her husband. The throw on the nape of the neck which is still bruised is clear evidence of the cruelty "This was thrown with a wooden cabinet door that had been released. On the front of my neck, there are still remaining nail marks," she said while shedding tears. **Dishonest and Gambler Husband:** Yuniarti is carrying her second child. Her big stomach as she was pregnant for 7 months did not prevent her determination from divorcing her husband, "my husband is not honest, sir!" she said to the judges. "He always complained that he had no salary even though according to his colleagues he had a salary of at least 2 million rupiahs per month." It turns out that the money is often used for gambling.

schools of law underlined the rules that a wife has right to ask for the immediate payment of *mahr* after the marriage has been consummated and if husband wants to defer the payment; it is also her right to allow postponement of the debt while remaining the sole recipient (Takim, 2012).

In a study conducted by the author about negotiating marriages in the Muslim community in eastern Indonesia, it was revealed that there was cooperation in the supply of this *mahr* and how women gave meaning to marriage payments. Completing the understanding that women can be together with men and the existence of the principle of reciprocity can be seen in the following cases:

Indah is a government employee and married to her first love, who was a widower and a volunteer teacher when they got married. She went to Java Island to follow her brother and pursued her undergraduate studies in one of the universities in Jember, while her boyfriend at that time went to Mataram, West Nusatenggara, to go to university. Separated by this distance, they drifted apart. Later, when she went back to Bima after finishing her degree, she stopped off at Mataram and arranged a day out to meet with him, and they officially broke off their relationship because he planned soon to marry a girl of his parents' choice, who was also his relative. Indah was disappointed and returned to Jember, East Java, for a while. She did not want to go back to Bima. However, a year later, she decided to go back to find a job and live close to her parents. She found that her previous boyfriend was living happily with his wife and a daughter, and although some men tried to approach her, including her previous boyfriend's brother, she was not interested in getting married.

A year later, her former boyfriend's wife passed away, leaving a three-year-old daughter. For this reason, his family wanted him to marry his sister-in-law, a younger sister of his dead wife, so that she could be a good stepmother for his daughter. However, because of what Indah called "jodohtidakakanlarikemana" (destiny will not leave you), the love between her and her former boyfriend grew again. Indah's family was worried that she would not be able to get along well with the daughter, and her boyfriend did not have secure job, whereas she was a government employee and a freelance business woman, distributing traditional woven sarongs to shops in the city, and even sending them to Java. An even stronger objection was made by his family because of their worry about the little daughter's wellbeing. They felt she would be better cared for by her maternal aunt. Indah did not give up and she would not go back on her promise to wait for him, even though he was a widower. She arranged everything, including how the party would be. She asked him just to agree to whatever her family asked him to do or to bring for the marriage, but she actually provided it and no one in her family knew except her older sister. She wanted to show that she could do better than both her own and his family thought she could.

Indah's story demonstrates how the type of marriage payment she arranged is used as a means to show a woman's effort in making herself desirable, in spite of the family of her chosen groom shunning her. This case illustrates women's power to negotiate rules about *mahr* as well as her roles as an active giver rather than a passive receiver.¹⁵

c. *Ijbar* and Dependency of Women in Social Practice

Ijbar is the right of the father and grandfather who can intervene in the choice of their daughter or granddaughter as their future husband. Literally, *ijbar* is even interpreted as coercion. Involving women in seeing this rule complements the perspective on *ijbar* practices in the community. As a matter of fact, women in their positions as mothers, aunts, grandmothers, sisters, and prospective brides also intervene and even direct, influence, and

¹⁵Wardatun, Atun, "The Social Practices of Mahr among Bimanese Muslims: Modifying Rules, Negotiating Roles, in Women and Property Rights in Indonesian Islamic Legal Contexts (John Bowen and Arskal Salim, eds) (Netherlands: EJ Brill, 2018) p. 15-29

decide who to marry or prospective partner for men or women under their guardian such as, daughters and sons, nieces and nephews. In short, women may become perpetrators of *ijbar* rather than merely objects of coercion.

The study we conducted in 2017 on this topic found an interesting meaning of *ijbar* (forced marriage) from the Bimanese Muslim people in eastern Indonesia.¹⁶ Conceptually, the Bimanese acknowledge the existence of *ijbar* rights. But in its implementation, this arbitrary right is not always in the form of coercion nor is it only the authority of a father or grandfather. Negotiations in it are interpreted creatively, to bridge basic rights as parents toward the child, including the right to marry. A creative way is manifested in the form of giving freedom to a child to determine his/her own soul mate. At a certain point, when the interests of both parties are different or conflicting, a deadlock gets a channel for resolution, initially with negotiations at which level of diversity varies from case to case. If there is no compromise or a resolution cannot be reached, then the parent's right will clash with the child's agency.

Islamic law continues to be negotiated where women become an inseparable part. As a rule that regulates relationships between individuals not just personal, family law cannot be eliminated from interests and experiences of anyone involved in it. In the context of husband and wife, both parties must negotiate interests. The redefinition of terms and the repositioning of women's functions in the regulation of family law is a logical consequence of women's experience in the practice of family law. The practice of law or law in action is also a picture of how Islamic law itself.

CONCLUSION

Promoting Moderation of Islam Nusantara

Islam and Nusantara are interdependent in which they both reflect as a character of another and must be seen reciprocally. In Indonesian context, we should have Islam with Nusantara character, and Nusantara with Islamic values. With deductive thinking, we see how Muslims in this matter including women strive to ground Islamic teachings so that they are doable in accordance to their own context. On the other hand, inductively, religious practices, as manifestations of their understanding and interpretation adapted to experience, generate a cultural practice that has been passed down for generations. The practice of culture is actually inseparable from the religious values that Indonesian Muslim live with their local values while embracing the doctrines of Islamic law. This is what I mean as the sacralization of locality as mentioned above.

In this context, Islam Nusantara needs to be continuously studied by involving women's experience and enriching data from existing religious practices. By doing those, it can be seen and concluded that whether Islam Nusantara promotes moderation (*wasathiyah*) in looking at the position and role of women. Furthermore, promoting a method rather than a product of Islam Nusantara can attract more global attention to find that there is something compelling about Islam Nusantara (Hosen, 2016).

By exploring women's narrative in the practice of Islamic family law, this research has helped to explain power relations and gender construction among Indonesian Muslim. Examining the marriage system, of which marriage payment is an integral part is fundamental to understanding power relations (Robinson, 2009). Moreover rules of marriage are primary shapers of the structure of gender relation as Kerber and Dehart state: "if we want to understand the system of gender in a culture _the rules of marriage are the place to begin"

¹⁶Wardatun and Wahid, *Sociological Interpretation of Hakijbar (Rights to Force) of Wali (Male Guardians) in Marriage Practices of Bimanese Muslim in Eastern Indonesia*, Unpublished research report, 2018

(2004: 55). Social practice of marriage, then, is a good focus for discussing gender relation as feminists anthropology have shown.

This research also contribute to enrich the availability of academic inquiries on Muslim in eastern Indonesia which has been very limited so far. Considering West Nusatenggara as part of Eastern Indonesia and Austronesian culture, this study will also add a discussion to the distinctive and conspicuous features of Eastern Indonesia and spectacle diversity of Austronesian culture. It is also expected that the description about small ethnic groups in Indonesia will enrich not only perspectives on large diversity of Indonesian society but also views on global Muslim practices.

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