

## Violence against Women and Islam: Dispelling Stereotypes and Telling Truth, A View From Indonesia



*Khariroh Ali, a Member of National Commission on Violence Against Women  
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NATIONAL COMMISSION ON  
VIOLENCE AGAINST WOMEN  
KOMISI NASIONAL ANTI KEKERASAN TERHADAP PEREMPUAN

**KOMNAS PEREMPUAN**

"Lembaga independen yang merupakan mekanisme nasional untuk menghapuskan kekerasan terhadap perempuan yang didirkan berdasarkan Keputusan Presiden Nomor 181/1998 pada tanggal 15 Oktober 1998."



## Factsheet on Indonesia



- **17.000 islands; Over 300 different native languages**
- **Total population: 250 millions ( 87 % are Muslims)**
- **The world's largest Muslim majority-nation**

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## ***Reformasi and Gender Equality Movement***

- After a long period of authoritarian rule under Suharto regime (32 years), Indonesia began a transition to democracy in 1998, called “*reformasi*” or Reform Era.
- *Reformasi* has had a positive effect on the situation of women and on progress towards gender equality. During New Order, public discourse on gender focused on woman’s role as wife and mother and their contribution to the development of the nation (state of *Ibuism*).
- In 1998, the National Commission on Violence Against Women was founded under Presidential Decree with special mandate to eliminate all forms of violence against women and to promote, protect, and fulfill of women’s rights in Indonesia.
- A Presidential Decree, issued in 2000, obliges all government agencies to mainstream gender in their policies, programmes and budgets to eliminate gender discrimination.



- Political representation by women increased from 11% in 2004 to 18% in 2009, 18% (2014) due in large part to new election law quotas advocated by women’s groups.
- In keeping with the government’s announced ‘zero-tolerance policy’ on violence against women, a number of related laws have been enacted, including the *Law on Domestic Violence* (2004), the *Victim Protection Law* (2006), and the *Law on Anti-Trafficking* (2007).
- A commitment to the advancement of women has been shown through the ratification of international agreements, passage of laws, and the establishment of institutional policies and programs that address women’s specific needs.
- Many NGO’s working on gender equality issues have flourished in the last 15 years and played important roles in advancing women’s rights.
- However, violence against women and minority groups remain a big problem in Indonesia.



## 1. Decentralization and discriminatory bylaws

- Transition to democracy has produced the devolution of legislative authority to the district/municipalities and provinces as part of the overall process of decentralization.
- In various districts, local governments and parliaments have been successfully producing policies that improve the access of marginalized groups including women and children who are the victims of violence.
- However, the phenomenon of regionally based legislation linked to religious teachings, which in some instances curtails the democratic freedom of citizens and strengthen discriminatory practices already existing in the society.
- These regulations are frequently referred to in Indonesia as sharia-influenced regional regulations (*perda syariah Islam*). However, the many problems with that label include the fact that not all of the religion-related regulations seek to support the implementation of sharia.
- One such draft regulation in the Christian area of Manokwari, Papua, for example, actually seeks to restrict the building of mosques and the wearing of Muslim headscarves.



- The initiation and implementation of these local regulations not only allow the practice of discrimination that continue to plague society, but also create situation in which the state institutions become the initiators and actors that directly discriminate against its citizens. It is known as the institutionalisation of discrimination.
- From 2009-2015, Komnas Perempuan has recorded the enactment of at least 389 discriminatory bylaws under pretext of religion and morality in which 322 have a direct impact on the life of women and minority groups
- From 322 discriminatory bylaws– 138 criminalize women, 30 regulate space and personal relationship, 100 force women to wear certain dress, 39 on curfews, and 15 place restrictions on women's mobility.
- Those regulations are discriminatory because they restrict women's movement and their ability to participate in the public sphere, pursue employment, education, etc.





## on the Dress Code

- Regional Regulation (*perda No.1/2002 on the Regional Development Program of Dompu District, West Nusa Tenggara*) which mentions the obligation for civil servants seeking promotion, prospective brides and bridegrooms, student candidates for junior and senior high schools, and students who wish to obtain diplomas to be able to read or recite the Qur'an and to wear Islamic dress, such as the *jilbab*/headscarves. This kind of policy is usually aimed to develop the image of "an Islamic region".
- The regulations on certain dress codes similarly violate the constitutional rights of citizens to enjoy the right to freedom of worship and freedom of expression.
- In Bulukumba and Dompu districts, women who did not wear the jilbab could not conveniently access to public services because some government officials were only willing to serve those who dressed according to the regulations.
- Female legislative candidates in Pangkep District were forced to wear the jilbab by the party chief, if they want to continue running in the elections.
- Aside from the threat of punishment, women who refuse to obey the dress codes regulation can also face social sanctions in the form of exclusion, because they were considered not being good women.



## Criminalizing Women

- The local bylaws on the prohibition of prostitution have the most direct impacts on the lives of women. The main goal is to build a religious image of the regions as well as a part of the protection for women.
- For example in Tangerang District Perda No. 8/2005, article 4 said *"Anyone whose behavior or attitude is suspicious, to the extent that it gives the impression that she/he/they are a prostitute/prostitutes is/are prohibited to be on public roads, squares, in lodgings, inns, hotels, dormitories, citizens' houses/leased houses, coffee shops, at amusement sites, entertainment venues, on street corners or back streets or other places in areas that can be seen publicly."*
- With such an ambiguous legal formulation in the prostitution regulation, any woman, on account of her dress or behavior could be arrested, even punished based on suspicion. It increases the chances for wrongful arrests as many cases confirmed. Komnas Perempuan counted more than 30 cases of wrongful arrests.
- The implementation of the local bylaws on prostitution particularly disadvantages and targets under privileged women. Raids on suspected prostitutes are often specifically carried out in locations considered to be centres of prostitution, which are likely to be in the areas of impoverished communities. In reality, working class women have to be on the streets late at night for work, earning a living or waiting for public transportation.



## **Qanun on Khalwat in Aceh**

- Aceh is the only province in Indonesia to have officially enacted the formalization of shariah law.
- Perda/Qanun No.14/2003 article 1, said khalwat is defined as “the act of two or more adults of opposite sex who have no marriage or kin relationship being in close proximity.”
- This qanun prohibits adult men and women without marriage ties or blood relations to be together without other people around, or in a place where intimate contact is possible.
- The regulation states that khalwat/indecency (or fornication) is one of the acts of disobedience to God’s word prohibited in shariah and is also against the Acehness customs, because the act could tempt a person into adultery.
- Every Muslim in Aceh who commits khalwat faces punishment in the form of three to nine strokes of caning or fine of 2,5 millions to 10 millions Rupiah (USD 250-1000)
- The qanun on khalwat is ill-defined and in facts adds to the confusion about when the acts of two persons (male and female) who are being together constitute a legal violation.
- The result can be criminalization of women in all kinds of social relations with the opposite sex.
- The participants in the FGD conducted by Komnas Perempuan testified that in cases where the charge of khalwat, the process of arrest and interrogation done by Shariah Police (Wilayahul Hisbah) was often violent, by way of shouting, slapping, and humiliating.
- The qanun on khalwat puts women in a situation without legal certainty by discarding the principle of the presumption of innocence, which is guaranteed in Constitution (Article 28 D (1)).



## **Curfew for Women**

- The female mayor of Banda Aceh Illiza Sa'aduddin Djamal ordered venues including restaurants, sport centers, Internet cafes and tourist attractions to not serve women after 11:00 p.m. unless accompanied by their husbands or other male family members (Mayor Instruction No.2/2015)
- The curfew was intended to decrease sexual harassment against women there. An investigation conducted by the Kita dan Buah Hati Foundation in 2015 placed Aceh on top in terms of sexual harassment cases in 2014, with the most incidents recorded in Banda Aceh.
- The Mayor said that females working or visiting nightspots must return home by 11pm, is meant to protect women from sexual harassment and prevent them from being overworked.
- The main concern is that in the sexual harassment case, women are the victims. The curfew bylaw however blames the victims instead of protecting them. Therefore, instead of limiting the victims' activities, providing maximum protection to them is more pressing so that they can continue their daily routine and actualize themselves without having to feel insecure.
- The curfew not only takes away the basic freedom of movement but represses women who have to work night shifts to support their families.



## How Do We Explain about these Discriminatory Bylaws?

- Some observers have pointed out that the sharia-inspired bylaws have arisen from a range of motives, some religious, some political as local elites seek to retain power by appealing to “Islam”, and some local government attempt to deal with complex social problems, the roots of which are poorly understood.
- Within the constitutional framework, the emergence of discriminatory bylaws indicates the failure of the regional autonomy system. The guidelines set out in Law No. 32/2004 which are the foundation for the implementation of regional autonomy have not followed in the formulation process of local bylaws.
- The Komnas Perempuan findings show that exploitation of deficiencies in processes of public participation and accountability, abuse of the concept of “local majority” and the continuing practice of corruption and abuse of power are three characteristics that have influenced the formulation of discriminatory local bylaws.
- Discriminatory bylaws were also not necessarily driven by a religious conservative ideology intent to suppress women, but rather were the result of poor legal literacy and poor legal drafting skills on the part of local government officials.



## 2. Gender-Biased Teaching

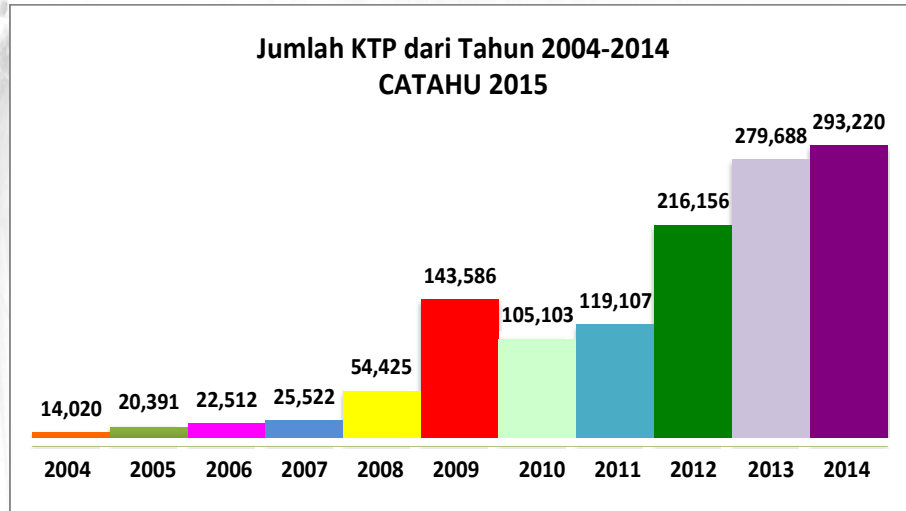
- A primary area of concern for Muslim women’s rights activists has been the gender bias in the religious texts.
- Such as that a man is the head of the family, that a woman must exercise unquestioning obedience and that a man has the right to “discipline” his wife, and that a man is allowed to have more wives (polygamy).
- The practice of polygamy amounted to discrimination against women, to their subordination, and subjected them to domestic violence.
- However, one of the difficulties faced by gender activists in Indonesia is the question of legitimacy, that is, whether they have a deep enough knowledge of Islamic sources to be taken seriously when they comment on gender and Islam.
- In this context, Komnas Perempuan has worked closely with religious leaders under the program “Breaking the Silence; Religions Heard The Voice Of the Victims”.
- The goal is to involve religious leaders in eliminating violence against women in their respective communities.





### 3. Domestic Violence

*Jumlah Kasus KTP Tahun 2014*



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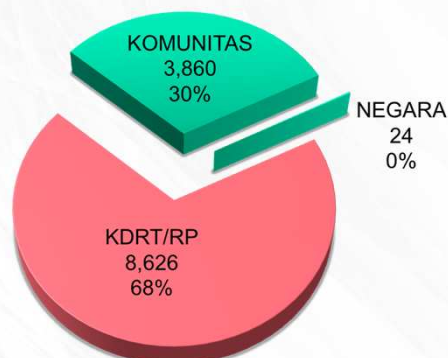
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### 3 Domains of VAW (Domestic, Community, and State)

**KTP menurut Ranah (n=12.510)  
CATAHU 2015**



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## Why Domestic Violence remains on the Top?

- The high number of cases on domestic violence shows that home is no longer a safe place for women.
- Inequality of gender relation in the family. The Marriage Law of 1974 places men as the head of family; allows men to engage in polygamy under certain conditions; allows under-age married for girls
- The lack of implementation of the Bill on Domestic Violence No. 23/2004
- Re-victimization of women
- The impunity of perpetrators



## 4. Discrimination against LBT Women

- A 2013 Pew Research Center report about global attitudes towards gays and lesbians found that 93 percent of Indonesians did not believe that homosexuality should be "accepted by society," making the country one of the least tolerant nations surveyed.
- LGBT people are marginalized in Indonesia, susceptible to becoming victims of violence or sexual assault and also discriminated against in the workforce.
- Hardline Islamist activists also target and intimidate LGBT individuals. One of the most vocal anti-gay Muslim groups is the Islamic Defenders Front, known as the FPI in Indonesia.
- Indonesian Ulema Council (MUI) issued a fatwa (religious edict) on March 4 that calls for whipping and even the death penalty for men or women engaged in same-sex relations. Earlier this year, on January 15, the MUI had declared a fatwa on all sexual relations between individuals of the same sex as "haram"—forbidden—because "sexual intercourse can only be done by a married couple, which is a man and a woman."





## 5. VAW in the Religious Minority Groups

- According to the Jakarta-based Setara Institute, which monitors religious freedom, there were 230 attacks on religious minorities in Indonesia in 2013 and 107 cases in 2014 through November.
- The alleged perpetrators were almost all Sunni Islamist militants; the targets included Christians, Ahmadiyah, Shia, Sufi Muslims, and native faith believers.
- In 2012-2013 Komnas Perempuan appointed a special rapporteur (Shinta Nuriyah Wahid) on violence against women in the context of religious freedom and beliefs.
- The report shows some impacts on women; severe trauma and stress, the decline of their health status (miscarriages, menstruation disorders, etc); they lose their access to economic, education, and employment; target of sexual harassment; increase domestic violence from husbands;

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## Conclusion

- Indonesia is often cited as the best example of a thriving and continually maturing democracy in Southeast Asia. The encouraging developments of a remarkably free press, successful elections at both national and regional levels, a significant reform of judiciary, and a vibrant civil society, have opened the space to eliminate violence against women.
- However, the government made little progress in ending impunity for past serious human rights abuses by security forces; failed to protect the rights of Indonesia's religious minorities from increasing harassment, intimidation, and violence by Islamist militants; allowed the enforcement of local Islamic bylaws that violate rights of women, LGBT people, and religious minorities.
- The radical Muslims with conservative views on gender continue to push their agenda by controlling women. But on the other hand women's rights activists both from religious and secular backgrounds have collaborated to resist fundamentalist agenda that is clearly contrary to democratic principles.
- **Is it Cultural War???**

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