

Marriage Practices: Indonesia

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Overview

According to Islamic belief, marriage is the most important event in the life of a Muslim. In Indonesia [1], the most often recited verse during the marriage ceremony is Q 30:21: “And among His signs is this: He creates for you mates out of your own kind, so that you might incline towards them, and He engenders love and tenderness between you: in this, behold, there are messages indeed for people who think!” The *qāri’* or *qāri’a* (reciter of the Qur’ān) will recite this verse to open the whole process of *akad nikah* or *‘aqd al-nikāh* (marriage contract). The marriage registrar (*penghulu*), who delivers the *khutba nikah* (marriage sermon) to sanctify the marriage and officiate the contract, will usually refer to the aforementioned verse and emphasize that marriage is one of God’s signs, as mentioned in the verse, referring to an Islamic doctrine that God creates everything in pairs. In the sermon, this verse will then be linked to a quotation from one of the Prophet’s sayings (*ḥadīth*): “When a person gets married she/he has completed half of her/his religion, so let her/him fear Allah with regard to the other half.” This *ḥadīth* is also often cited during the marriage advice session (*nasihat perkawinan*) that is usually delivered by an *‘ālim* (Muslim authority) at the conclusion of the marriage-contract ceremony. Quoting this *ḥadīth*, the *‘ālim* emphasizes that both the bride and groom have taken an important step in following the Prophet’s way of life when deciding to marry.

It is important to note that the place of Islamic doctrine as the basis of Muslim marriage in Indonesia does not mean that cultural tradition is not also important in this context. Throughout Indonesia, Islamic marriage is combined with local cultural traditions. In addition, legal issues are particularly important in Muslim marriage practices, because Muslims have approached marriage through the lens of Islamic law ever since the advent of Islam in the archipelago.

Akad nikah is enshrined in the Compilation of Islamic Law (*Kompilasi Hukum Islam*), which sets out the Islamic rules to be followed by Muslims in Indonesia on issues such as marriage, inheritance, and endowment. Law Art 1 No c of the 1991 Compilation of Islamic Laws states, “*Akad Nikah* is a series of *ijab* [words of delivery] pronounced by the *wali* and *kabul* [words of acceptance] pronounced by the groom or his representative on the presence of two witnesses” (Salim and Azra 2003, 279). Yet in practice, the whole process of *akad nikah* is accompanied by other ritual and ceremonial acts based on the cultural traditions of the couple. The role of the parents is especially important in preserving these cultural rituals during the *akad nikah* ceremony in most parts of Indonesia. Kathryn Robinson, in her study of marriage and sexuality in Soroako, South Sulawesi, for example, also emphasizes the important role that the parents of both the bride and groom play in arranging marriage ceremonies that follow the “traditional custom” (2002, 74).

This entry will further discuss the intersection between the issues relating to Muslim marriage, cultural traditions, Islamic law, and gender in Indonesia. The first section discusses key aspects of Muslim marriage in Indonesia, and in particular arranged marriage, early marriage, cousin marriage, love marriage, and the postponement of marriage. Following this, marriage payments and the rights of women will be discussed. It will then cover an ongoing issue which has been the main concern for women’s groups in Indonesia, namely polygamy.

Discussions of Muslim marriage have not only been the focus of Indonesian Muslim clerics but also female Muslim activists. Women's marriage in Indonesia has been accepted as arranged cousin marriage, who argue for women's rights based on liberal perspectives that emphasize such rights. Inspired by the life of the Indonesian heroine R.A. Kartini (1879-1904), Indonesian women have been actively challenging Muslim marriage practices since the early 1900s (Katz and Katz 1975, 656, Robinson 2006, 209). Robinson indicates that during the early twentieth century, women's movements focused on reforming aspects of Muslim marriage, such as those related to child marriage, forced marriage, and polygamous marriage (2006, 189). In 1928, during the first national women's congress—attended by nearly 30 women's organizations—the issues of "...polygamy, forced and underage marriage, and women's rights in *talak* (repudiation)" (Robinson 2006, 190) were the central agenda of their discussions. It is noteworthy that the organizations that attended this congress were not only Muslim women's organizations, but also secular nationalist groups that were not always in agreement with the former over marriage reform. Robinson argues that "In Indonesia, the demand for the protection of women's rights within marriage has brought women's groups into conflict with both Islamic groups and with the colonial and post-colonial states" (2006, 209).

The 1974 Indonesian Marriage Law, the 1991 Indonesian Compilation of Islamic Law (designed to be the reference point for Islamic courts), and its 2004 Counter Legal Draft, which was considered the most controversial attempt to reform Muslim marriage laws, were part of the women's struggle against anti-egalitarianism. The Counter Legal Draft was developed from the desire of progressive Muslims to reform the contents of the Compilation of Islamic Law, which were deemed to contribute to violence against women. The Draft was the product of the "Working Group for Gender Mainstreaming," which was spearheaded by the feminist Musdah Mulia, having been founded by the Minister of Religious Affairs in 2001; however, when the Counter-Legal Draft was ready to be launched, the Minister for Religious Affairs did not approve the contents and it was withdrawn in February 2005 (Leng, Jones, and Mohamad 2009, 9). The Minister's decision was made after considering the responses of conservative Muslims in Indonesia who opposed the draft because they assumed it represented secularism and liberalism and was thus against Islamic teachings (Leng, Jones, and Mohamad 2009).

Scholars have argued that marriage reform in Indonesia, which can be seen in the passing of the 1974 Marriage Law, was based on women's, particularly Indonesian feminists', aspirations and on the government's efforts to control population growth at the time (Robinson 2006, 197, 2009, 84). The Marriage Law stipulates the minimum age for marriage, an important element in the attempt to handle high population growth rates, particularly due to the high number of child or early marriages (Robinson 2009, 84). Robinson argues that the enactment of the law was an important agenda of the new government, the Suharto regime, "...to overturn the pro-natalist policies of the Soekarno regime and establish a state-sponsored population control program" (2006, 197).

The following section discusses the impacts of the Marriage Law on various issues related to Muslim marriage, and particularly the condition of women.

From arranged marriage, early marriage, cousin marriage, and love marriage, to the postponement of marriage

Studying the process of finding a marriage partner in Indonesia is not an easy task because there are many differences across the archipelago. This process is related to the social function of marriage, which not only differs across Indonesia but also changes over time. The heterogeneity of marriage norms and arrangements in Indonesia is evident through the existence of more than 300 different ethnic groups, each of which follows different types of kinship systems, both unilineal, such as the matrilineal Minagkabau and the patrilineal Batak, and bilateral, which can be found amongst the “Javanese, Sundanese and the people of South Sulawesi” (Robinson 2009, 13).

Historically, arranged marriage has been quite popular in many regions of Indonesia, especially in Java (see Geertz 1961, Singarimbun and Manning 1974). Different localities have diverse approaches for organizing arranged marriages. In some places in the archipelago—particularly parts of Java and amongst the Javanese who consist of more than 40% of the total Indonesian population—arranged marriage was, and still is, organized by parents and relatives (Singarimbun and Manning 1974, 68, Heaton, Cammack, and Young 2001, 481, Nisa 2011, 808). Hildred Geertz, for example, mentioned that this kind of practice was common in Java in the 1950s (1961). In contrast, in Soroako, South Sulawesi, older women held power in making decisions about arranged marriage in the 1970s (Robinson 2002, 73). At the same time, in some Soroako villages, the indigenous headman also had the power to force his community members to marry (see Robinson 2002, 73).

Those who experienced an arranged marriage were usually very young. Therefore, in Java, for example, the marriages themselves were often seen as trial relationships that were not expected to be successful (Geertz 1961, Singarimbun and Manning 1974). This pattern, however, was not necessarily the same elsewhere. In her study of marriage in Soroako, Robinson argues that “Marriages following ‘traditional custom’ were arranged by the bride and groom’s parents, with an eye to the successful establishment of a new household” (Robinson 2002, 74). Tim Heaton mentioned that between 1950 and 1959, 28% of the brides in arranged marriages were under 16 years of age (1995, see also Heaton, Cammack, and Young 2001). Many things were taken into account when deciding to arrange a marriage at that time, such as researching the background of the groom’s family and kin’s relationships. For example, the bride’s parents would generally seek a spouse for their daughter who had a good reputation (Heaton, Cammack, and Young 2001).

Early marriage

In the past, early marriage was a common practice in the archipelago. Initially there was not significant criticism toward early marriage because both Islamic law and the *adat* laws (customary laws) in many parts of Indonesia allow the practice. In Islam, for example, there are no teachings mentioning an age limit for marriage and there is the concept of *wali mujbūr* (lit. coercive guardian), referring to a girl’s guardian, such as a father or grandfather, who can give consent on behalf of the girl to be married (Blackburn and Bessel 1997, 109). In addition, Susan Blackburn and Sharon Bessel argue that before the twentieth century, early marriage or child marriage in Indonesia was not such a critical issue, particularly because many Indonesians did not keep birth records and marriages were supervised directly by kin and religious authorities (1997, 108). Ter Haar explained the way some Indonesians combine both Islamic teachings and *adat* laws in the practice of early marriage: “Mohammedanism sets up no objection to child marriages. Commonly, in child marriages the Mohammedan marriage

takes place first, and the marriage in accordance with *adat* law takes place only when cohabitation is possible” (1962, 193, see also Blackburn and Bessel 1997, 109).

Blackburn and Bessel (1997) have demonstrated that the practice of early marriage occurred not only among the lower classes but also the *priyayi* (bureaucrat and aristocrat) class of Java. This is an important point because some Indonesians believe that the practice has only been common for Indonesians from the lower classes. During the colonial period, the practice was even common among the Dutch themselves, and it was not unknown for elderly men to marry young women. For example, Baay (2010) mentioned the marriage of Carel Reynierz, who was appointed the twelfth Governor-General of the Dutch East Indies. Reynierz was 44 years old at the time that he married the 14-year-old Franscoise de Wit (Baay 2010, 7). The trend of early marriage led to the issuance of a decree in 1642 stating that a female divorcee was forbidden to remarry within three months of her husband’s divorce (Baay 2010, 7). This provision is identical with the *‘idda* period (the time a woman must wait after her divorce or the death of her husband) in Islam. In Islam, the *‘idda* period of a woman divorced by her husband depends on different conditions. Firstly, most women’s *‘idda* would cover the period of three menstrual cycles. However, for women who are not menstruating because they are immature or menopausal, their *‘idda* last for three months. Finally, for a woman who is pregnant, her *‘idda* lasts until she delivers. Therefore, it can be assumed not only that Islamic law has influenced *adat* laws but also those of the Dutch. In addition, the marriage of the famous Dutch Arabist, Snouck Hurgronje, must be mentioned. During his stay in the Dutch East Indies, Hurgronje married two young Indonesians from aristocratic families: Sangkana, the 17-year-old daughter of a *penghoeloe* (Muslim head of population) in Tjiamis, and Siti Sadijah, the 13-year-old daughter of an Islamic deputy judge in Bandoeng (Carvalho 2010, 67-68).

The minimum age for women to marry has also been one of the main points of contention between religious scholars and feminists. This is evident in the debates between young West Sumatran women and the conservative *Kaum Kuno* group in West Sumatra. In the 1910s, West Sumatran women wrote critically in *Soenting Melajoe* (“Malay Ornament”), a weekly newspaper for women, on the parental pressure for women to marry early. The same newspaper also proposed eighteen as the minimum age for women to marry (Blackburn and Bessel 1997, 111). The proposal was refused *Kaum Kuno*, one of whose members stated that the determination of eighteen as the minimum age for women to marry is unsuitable for women living in hot climates such as Indonesia because they mature faster (Blackburn and Bessel 1997, 111). Blackburn and Bessel recorded that he further argued that “..it was ridiculous to say that until age eighteen girls did not know how to look after children, since most had looked after younger siblings. If the girl had menstruated and reached age fifteen, she was old enough to marry” (Blackburn and Bessel 1997, 111).

The 1974 Marriage Law was regarded as one of the successes in the struggle of Indonesian reformists, especially women activists, in their fight against early or child marriage. According to Article 7 No 1 of the 1974 Marriage Law, the minimum marital age is 16 years for girls and 19 years for boys, with parental consent also required for those who want to marry under the age of 21 (Article 6 No 2). It is noteworthy, however, that the 1974 Marriage Law did not satisfy many women activists because their demand for the minimum age of marriage for females was 18, not 16, years of age. Although they considered the National Marriage Act as only a small success, it was a success nonetheless.

Strengthening the stipulation of the 1974 Marriage Law, the age of marriage is also mentioned in the Compilation of Islamic Law (CIL) Article 15 No 1, which states “For the benefit of families and households, marriage should only be done by a couple candidate who have reached

the ages stated in Article 7 No 1 year 1974, namely the husband candidate is at least 19 years old and the prospective wife is at least 16 years old.” This was one of the tenets of CIL that generated severe criticism from both very strict Muslims and feminist groups (see Nurlaelawati 2010, 124-25), for different reasons. The conservative Muslims rejected the Article altogether as they believed it violated Islamic teachings. On the other hand, the proposal of the revision of CIL put forward by the *Badan Pengkajian dan Pengembangan Hukum Islam* (BPPHI; “Institute for the Studying and Development of Islamic Law”) that related to the age of marriage, and which was supported by feminist Muslims, was that the minimum age of marriage should be increased from 16 years to 18 years for females, and from 19 years to 21 years for males. Feminist and liberal Muslim groups argued that the current minimum age of marriage positions women as second class citizens who are expected to obey men older than themselves (see Nurlaelawati 2010, 125). Therefore, the feminists and liberal Muslim thinkers who produced the Counter Legal Draft on the Islamic Legal Compilation proposed the same minimum marriage age of 19 years old for both brides and grooms. The points that the Counter Legal Draft proposed included: “a ban on polygyny, insistence on a contract of marriage, the obligation of both spouses to give *mahr*, the *iddah* for men, permission for inter-religious marriage...” (Nurlaelawati 2010, 125). However, the draft was criticized by Muslims from various groups, who condemned it as a “contradistinction to Islam” (Nurlaelawati 2010, 126). They urged the minister to annul the draft, which resulted in stopping the process of legislating the draft (Mulia 2009, 155).

Article 7 No 1 of the 1974 Marriage Law aimed at accelerating social reform and decreasing the frequency of early marriage (Cammack, Young, and Heaton 1996, 46). However, Cammack, Young and Heaton argued that this statutory made little difference to the significantly frequent number of underage marriages in Indonesia, despite the presence of a steady decline in the trend. They argued that the main reason was the widespread belief that the only important thing was that a marriage was a Muslim marriage based on Islamic law, regardless of whether or not the practice violated the statutory requirement (Cammack, Young, and Heaton 1996, 46). Early marriage is considered valid from an Islamic point of view. However, it is noteworthy that it is not legal for various reasons, including in terms of the age of marriage based on Article 7 No 1 and marriage registration Article 2 No 2 of the 1974 Indonesian Marriage Law, which states: “Every marriage is required to be registered according to the applicable regulations.” Therefore, Muslims in Indonesia who have *siri* (secret) marriages often argue that, as long as their marriage is valid in the eyes of God, they do not have to legalize their marriage by registering with the state marriage registrar (Pegawai Pencatat Nikah/PPN, see also Idrus 2009).

Gavin W. Jones (2001), in his study of early marriage among Madurese, also argued that the practice of early marriages remained common after the promulgation of the 1974 Marriage Law. Two main drivers behind the practice were their strong adherence to Islam and poor education (Jones 2001, 74). In addition, the presence of a limitation on the minimum age for marriage in the Marriage Law (Art 7) and CIL (Art 15) has not resulted in a significant impact in the decisions issued by religious courts. Judges in religious courts still prefer to return to the books of Islamic law (*fiqh*) to formulate their decisions related to giving permission for underage marriage, especially after taking information from parents who may fear the occurrence of pre-marital sex and seeking evidence of the girl reaching maturity through the sign of menstruation (see also Nurlaelawati 2010, 147). Since the judges in religious courts are permissive in terms of allowing underage marriage, it is not surprising that the debate surrounding the minimum statutory age to marry has, once again, become a hotly-debated topic in Indonesia.

The most recent development in the debates surrounding early marriages was in 2014, when groups of feminists and activists, including women's and children's rights activists and the Children's Human Rights Foundation (YPHA), filed a judicial review arguing that the current minimum age for women can lead to early marriages and forced early marriages. During the hearing on 2 December 2014, the petitioners' position was backed by a gynecologist, a pediatric specialist, a psychologist, and a renowned moderate Indonesian Muslim exegete, Quraish Shihab (Parlina 2014). On the other hand, the Indonesian Ulama Council (MUI), as well as the biggest Indonesian Muslim organizations, Nahdlatul Ulama (NU) and Muhammadiyah, opposed the review and asked the Constitutional Court to reject the request of the petitioners (Parlina 2014).

Cousin marriage

The phenomena of arranged marriage and early marriage are, in some regions in Indonesia, also related to cousin marriage, which is a preferred type of marriage in systems such as those of the Bugis of South Sulawesi and the Madurese of East Java. It must be noted that cousin marriage in Indonesia is found in specific marriage systems, which differ vastly between cultural groups. In Muslim communities, some parents not only follow customary marriage arrangements but also believe that the Qur'ān does not prohibit cousin marriage (cf. Q 4:23). However, other Muslims oppose the marriage of cousins, as they are often afraid of the negative effects of this kind of marriage, especially relating to the possible mental retardation of any children. Furthermore, a number of Muslim scholars in Indonesia urge Muslims to marry someone who is not a relative, something they do to build and expand new networks among Muslims and to create links between people from diverse ethnicities and regions. Those who uphold this position refer to the teachings mentioned in Q 49:13, which states, "O men! Behold, We have created you all out of a male and a female, and have made you into nations and tribes, so that you might come to know one another."

The primary objective for cousin marriage is to strengthen and maintain the bond of family. In Madura, for example, this term is known as *mapolong tolang*, literally meaning "gathering the bones," which in this context refers to unifying one's descendants, something that is done with the aim of keeping property within the family. The supporters of cousin marriage believe that family assets are earned through the work of parents and parents' relatives and, therefore, to inherit family assets one should be a relative. Among the Madurese (the people of Madura) it is not uncommon to find primary-aged school girls already engaged to be married as a result of parent-arranged cousin marriage. Among the Buginese, the reasons for cousin marriage also relate to the preservation of assets and the conservation of status. Similarly, cousin marriage has been preferred by high-caste Balinese women, especially as it relates to issues surrounding living together: cousin marriage will enable the new wife to have "...a smoother transition as she is already related to the female affines ('inlaws') with whom she will live" (Robinson 2009, 15).

Two communities that strongly preserve cousin marriage are the families of the leaders of *pesantren* (Islamic boarding schools), particularly in Java, as well as the Hadrami community (migrants from Hadramaut, many of whom are *sāda*, descendants of the prophet Muḥammad). Dhofier mentioned that the families of Javanese *Kyai* (leaders of *pesantren*) are not open because they maintain a high degree of in-group endogamous marriage (1980b, 92). Therefore, most *Kyai*, particularly in Java, are related through kinship and marriage

(Dhofier 1980b, 107). The families of *pesantren* need to maintain this kind of practice to preserve the prestige and privilege of the *Kyai*'s family, or that of the leader of the *pesantren*, as well as to retain leadership of the *pesantren* (Dhofier 1980b, 52, 1980a, 54). Endogamy conserves the status of *Kyai* in society, especially their economic, political, and religious roles within the community (Dhofier 1980a, 52). Cousin marriage, in this instance, aims to ensure that the younger generation can nurture and establish *pesantren* on their own in order to expand the influence of the family of the *Kyai*. In addition to this, the members of *pesantren* are also encouraged to have "endogamous marriages," referring to marriage with other *pesantren* graduates, in order to maintain and strengthen the *pesantren* culture (Dhofier 1980b, 109).

The second group that has preserved and nurtured cousin marriage or marriage to the father's brother's daughter (FBD) is the Hadrami community in Indonesia. Cousin marriage among the Hadrami is seen as preferable (see Geertz 1961, 77, Robinson 2009, 17). They base their practice on the concept of *kafā'a*, or suitability, which in this context refers to marrying someone from the same rank or family, i.e. the family of *sāda* (the descendants of the prophet Muḥammad). In order to maintain the *kafā'a*, it is especially important for women to marry Hadrami men, while it is tolerable for Hadrami men to marry someone from non-*sāda* (Slama 2014). Therefore, in the case of Hadrami men, the concept of *kafā'a* was not strictly preserved, especially during the early days of their arrival in the archipelago. The early Hadramis who arrived in the archipelago mostly married women from the existing Indonesian communities (Jacobsen 2007, 474, Nisa 2012, 65). This kind of endogamous marriage was central to the dispute that split the Hadrami in Indonesia. The case began when the Hadrami association in the Dutch East Indies, Jam'iyat al-Khayr, invited the Sudanese scholar Aḥmad Surkatī, who lived in Mecca but had been influenced by Arab modernists such as Muḥammad 'Abduh and Rashīd Riḍa, to be the school inspector in 1911 (Mobini-Kesheh 1999, 52, 54). During his visit to Solo, Surkatī suggested Hadrami women (*sharīfāt*) could marry non-*sāda*, which was considered by many conservative Hadrami *sāda* as being against tradition. This dispute eventually cause him to leave Jam'iyat al-Khayr in 1914, because of the opposition from conservative *sāda* who believed in the superiority of their genealogy, one which had to be maintained through the practice of customary endogamy (Mobini-Kesheh 1999, 55-56, Slama 2014, 68).

The communities that support cousin marriage are often seen by the outsiders of these communities as having the mentality of *al-tafākhkhur bī al-nasab* (proud of their lineage). Their special positions in their communities have driven them to preserve endogamous marriage. The main effect of this kind of marriage is the limiting of women's agency. Women are not free to determine their future life because of familial and social expectations. In the name of *birr al-wāliḍayn* (respect and kindness towards parents), many of these young women have accepted an arranged cousin marriage, despite the fact that some of them might have been hurt as a result. The free choice of marriage relating to women's consent to marry has been part of the agenda of marriage law reforms since the first Women's Congress in 1928 (see Robinson 2009, 42), and women activists have demanded that consent to marry should come from the prospective bride in order to protect her from being forced to marry someone against her will (2006, 196).

Love marriage

Arranged marriages, early marriages, and cousin marriages can be against the will of the bride (and groom) and thus result in unhappy marriages. In Soroako, for example, resistance against arranged marriage has emerged, in particular since the 1980s (Robinson 2002, 76). Love marriage has emerged both as an oppositional stance, and, more importantly, as a consequence of changes in Indonesian society. Robinson argues: “Resistance to arranged marriage point to the merging gender order and forms of domination within which personal relations are constituted” (2002, 76). There have been many factors that have led to the growing popularity of love marriage, or the desire to choose one’s own marriage partner, in contemporary Indonesia. Robinson, in her study of the trend of marriages based on romantic love in Soroako mentions several factors, in particular the transformation of economic conditions from “agricultural to the wage economy” (Robinson 2009, 125); this can also be seen in most other areas of Indonesia. This then accompanies “an advance in personal autonomy” (Robinson 2009, 125). The trend also demonstrates the shift in the way in which women understand their sexuality. Robinson argues, “Young women’s rejection to the marriage partners chosen by their parents was evidence of their resistance to the control of their sexuality and person” (2009, 127). Therefore, for these women, love marriage serves as a way in which they can exercise their individual autonomy as modern women. In addition, popular culture, through its rhetoric relating to romantic love, has also enabled this shift to be embraced by young people. However, as is also argued by Robinson, it is important to note that arranged marriage is not “...always negative for women” (2009, 85).

It is noteworthy that arranged marriage has been revived in recent times by the followers of Islamic revivalist movements (Nisa 2011). The arranged marriages conducted by the members of these kinds of groups are not mediated by parents or relatives, but by people from the same group, especially their *asātidha* (religious teachers) or friends. Here, we can see a shift in terms of marriage arrangement from parental- or kinship-based authority to that of movement leaders and cadres. The authority of older kin had been customarily important in the arrangement of marriages in the archipelago. The reason for this new type of arranged marriage is generally not to strengthen family ties or maintain family privilege but to make the respective group stronger. Religious homogamy between followers aims to produce staunch supporters and the next generation of the movement. Notably, the practice of arranged marriage by movement leaders also demonstrates how parental authority has been replaced by the authority of religious movement leaders. Additionally, cadres and staunch supporters of Islamic revivalist movements feel obliged to find marriage partners from the same circle to ensure that their partners can work with them toward their goal of becoming good Muslims (based on their understanding) and reach the same level of piety (Nisa 2011). This kind of arranged marriage has mainly become prevalent since it was propagated by one of the Islamist movements in Indonesia (the Tarbiyah Movement) in the 1980s (Smith-Hefner 2005).

Postponing marriage

Currently, there is an increase in the number of Muslim women who are postponing marriage. Jones recorded in 2010 that 12% of Indonesian women entering their 30s are still single, with this figure becoming lower for those reaching their 40s (2010, 8). The postponement of marriage is common in cities, especially in the capital city of Jakarta. However, postponement has not led to an increase in female singletons. This is mainly because Indonesian Muslims

believe in the importance of marriage in their lives. The stigma that a woman carries due to the postponement of marriage is high, and parents and guardians consider their daughter's marriage to be part of their responsibility, and so they often encourage their daughters to find marriage partners. Despite the decline of arranged marriage among urban, well-educated young women, parents' effort in being their daughters' matchmakers can still be seen. The oft-cited verse that leads many Muslim parents and guardians in Indonesia to encourage their daughters to marry can be found in Q 24:32: "And [you ought to] marry the single from among you as well as such of your male and female slaves as are fit [for marriage]." In addition, for female Muslims attaching themselves to Islamic or Islamist movements, it is the leaders, elites, and cadres of the movements—such as the Tarbiyah Movement, Salafī movements, Hizbut Tahrir, the Tablighi Jama'at, etc—who feel responsible for being the matchmakers.

The internalization of the verse above, as well as a number of sayings of the prophet Muḥammad on the importance of marriage, have served as a metaphorical "stick" for Muslim women who postpone their nuptial to eventually get marriage, rather than remain single. Importantly, for many Indonesians, marriage serves as a significant signal of the transition to adulthood and becoming a parent. Therefore, the expectation to get married is high.

Mahr: Rights and obligations

Mahr (Ind. *mahar*), is the obligatory gift paid by the groom to the bride in Islamic marriages. It is a sign of respect and honor from a groom to a bride. In the Qur'ān, this marital gift is referred to using different terms, such as *ṣadāqāt* (pl.) and *nuhl/nihl* (sing.) (see Al-Hibri and El Habti, 2006). Some Muslim societies use the term *al-ṣadāq* or *ṣadāq* (see Al-Hibri and El Habti, 2006) instead of *mahr*, which comes from the same root as *ṣidq*, meaning honesty and sincerity. The use of the term *al-ṣadāq* aims to demonstrate the sincere desire of a groom to marry a bride by giving her a marriage gift.

Mahr or *ṣadāq* should be seen as a right of the Muslim woman. Article 32 of the 1991 Compilation of Islamic Laws also states, "'Mahar' is submitted directly to the bride and from then on it becomes her personal possession" (Salim and Azra 2003, 285). Annelies Moors emphasizes that "according to Islamic law the *mahr* is a sum registered in the marriage contract, to which the bride herself is entitled" (1995, 82). The practice, however, may be different in various Muslim societies. For example, in some countries, such as in rural Palestine and in Israel—as studied by Grangvist (1931), Kressel (1977), and Rosenfeld (1980)—the bride's father can keep a portion of the *mahr* for himself (Moors 1995, 82-83). Scholars, therefore, have often translated and characterized *mahr* as bridewealth. Annelies Moors argues that "The *mahr* has often been characterised as bridewealth because of the direction of the gifts, from the groom to the bride's side" (1995, 82). Bridewealth refers to the giving from the groom or his kin to the bride's kin, and not specifically to the bride, as *mahr*. Some scholars use the term dower (see, for example, Al-Hibri and El Habti 2006, 172) to refer to *mahr* which can be the closest term as a definition. However, there is a slight difference between the two, as *mahr* is obligatory and ideally needs to be pronounced during the time of *'aqd al-nikāḥ*, while dower is optional and is paid to the widow upon the death of her husband. It is noteworthy that most Muslim jurists (*fuqahā'*) in *al-Mawsū'a al-Fiqhiyya* (1997, 151) argue that the pronouncement of *mahr* during the *'aqd al-nikāḥ* is not a part of the stipulation of marriage validity. They state, however, that the payment is obligatory and it is preferable to mention the payment in order to avoid disputes. In Islamic law discussions, there are two types

of *mahr*: *mahr al-musamma* (definite *mahr*), in which the definite amount of *mahr* is agreed to prior to marriage, and *mahr al-mithl* (exemplary *mahr*) in which the exact amount is not laid down during the marriage contract. There are three considerations in determining the amount of *mahr al-mithl*: the qualities of the bride, the position of the family, and the standard of *mahr* prevalent in the community (see also Mir-Hosseini 2000, 72). Ideally, the payment of *mahr* should not be delayed. However, if the payment is not received, an arrangement can be made, as explained in Article 33 No 2 of the 1991 Compilation of Islamic Laws, which states “Upon the agreement of the bride, the delivery of the ‘mahar’ can be delayed wholly or partly. The delayed ‘mahar’ is a debt of the groom” (Salim and Azra 2003, 285).

The responsibility of the groom to pay *mahr* is, in particular, mentioned in Q. 4:4: “And give unto women their marriage portions in the spirit of gift.” Although *mahr* is obligatory, there is no ruling on the exact amount. For example, in one of the *ḥadīth*, when the prophet Muḥammad was approached by his poor companion who wanted to marry, he said to him: “Search for something, even if it is an iron ring.” Immaterial things can be used as *mahr* too. On another occasion, the prophet Muḥammad, said: “Go, for I have put her under your charge to teach whatever of the Qur’ān you know.” In Indonesia, *mahr* can take various forms, such as items for Muslim prayer (prayer clothing, Qur’ān, and prayer mat), a Qur’ān, jewelry, cash, etc.

It is noteworthy that there are different types of marriage payments. *Mahr* is the most important because it is obligatory. Other marriage payments are influenced more by custom rather than Islam, and so vary considerably between the regions of Indonesia. The types of payments range from a contribution to the wedding feast and household goods, to capital goods, which may be in the form of rice fields or financial assets, including gold. These types of marriage payments are often seen as forms of exchange and a signal of the status of the parties, including the bride’s and groom’s academic status, careers, and most importantly, family backgrounds. There is no rule in Islam relating to other marriage payments, except the *mahr*.

The main rule in Islam pertaining to *mahr* is meant to make it easy for those who want to marry. Article 31 of the 1991 Compilation of Islamic Laws states “The agreement of the ‘mahar’ is to be based on simplicity and availability which is recommended in the teaching of Islam” (Salim and Azra 2003, 285). A *mahr* should not be a burden for the groom nor should it lead someone to postpone their marriage. Therefore, what is prescribed is modesty and decency in *mahr*. A *ḥadīth* mentions that the prophet Muḥammad said: “The best *mahr* is that which is easy.”

The reality, however, tells a different story. In general, the amount of *mahr* depends on the financial condition of the groom and his family. The practice of *mahr* demonstrates that it is no different from other types of marriage payments, such as the dowry and brideprice, or bridewealth, in terms of its position as a form of exchange and a signal of the status of both parties. Therefore, as with other types of marriage payments, the amount of *mahr* is also often associated with social stratification rather than religious teachings. *Mahr*, in practice, signals the rank of both parties. Generally, the higher the level of the bride, the higher the value of the *mahr* the groom is expected to give. As with other forms of marriage payments, sometimes *mahr* can lead to a severe and long contestation between the bride’s and groom’s families. ‘*Ulamā*’ (Muslim scholars) often emphasize that demanding a huge *mahr* is un-Islamic.

The position of *mahr* as a significant aspect in demonstrating one’s position in Indonesian society is mainly due to the fact that the value of *mahr* is usually mentioned during the marriage ceremony (*akad nikah*). The value of *mahr* is arguably one of the most anticipated moments during the marriage ceremony for attendees, who often want to hear the value of *mahr* that the

groom and his family have offered the bride. Therefore, for many Indonesians, *mahr*, as with other marriage payments, is also about family pride.

In addition to *mahr*, the most important aspect during the *akad nikah* is the pronouncement of the woman's right of divorce, which is written in their marriage books (certificates), known as *taklik talak* (*ta' līq al-ṭalāq* or *ṣīgha al-ta' līq*; see also Robinson 2006). Article 1 No e of the 1991 Compilation of Islamic Laws defines *taklik talak* as follows: "Taklik-talak is a kind of promise read by the groom after an aqad nikah and printed in the Marriage Document. It is a kind of promise guaranteed to a certain condition that might happen in the future" (Salim and Azra 2003, 278). Four aspects enable women to qualify for divorce:

- a. If a Muslim husband leaves his wife for two years in a row.
- b. If he cannot provide living expenses for three months.
- c. If he hurts or abuses his wife.
- d. If he neglects his wife for six months.

Taklik talak has a long history. The institutionalization of *taklik talak* in the archipelago began in the early eleventh/seventeenth century in Java (Nakamura 2006, 11). During the Dutch colonial government, *taklik talak* was incorporated there as part of *Ordonansi Pencatatan Perkawinan* ("Ordinance on Marriage Registration") (Nakamura 2006, 18). Post-independence, *taklik talak* expanded to the whole of Indonesia, through the decree from the Department of Religion No 15 of 1955 (Nakamura 2006, 20). Women's rights in *talak* (repudiation) has been an important agendum of women's activists and organizations. During the first Women's Congress in 1928, which was not only attended by Muslim women's groups but also Christian and secular nationalist groups, arbitrary repudiation was part of the agenda, in addition to polygamy, child marriage, and forced marriage (Robinson 2006, 190, 2009, 42-43). The first national Women's Congress produced three resolutions: "a request that the government require the *penghulu* (celebrant) to explain the meaning of conditional divorce (*taklik talak*) following the marriage contract (*nikah*); a request for an increase in the number of girls' schools; and that the government give assistance to widows and orphans of civil servants" (Robinson 2009, 43). This demonstrates the importance of *taklik talak* in protecting Indonesian Muslim women from becoming the victims of arbitrary repudiation.

The following section deals with one type of Muslim marriage—polygamy—which is often considered the most problematic type by many Muslim women, especially women activists in Indonesia.

Polygamy

The practice of polygamy was regulated not long after Indonesia's independence in 1946 through Law 22 Art 3 1946, which states that a man had to report to a registrar if they wanted to practice polygamy. If they failed to report this, the marriage would still be valid but the person involved had to pay a fine of Rp. 50 (about 0.0003c) (Katz and Katz 1975, 672).

One year before the enactment of the Marriage Law in 1974, the government introduced a Draft Marriage Law, which proposed to ban both polygamy and unilateral divorce (Butt 2010, 287).

However, the draft resulted in severe criticism from conservative Muslim groups (Butt 2010, 287). Those who opposed the bill believed it signified a serious threat to the development of Islamic law in Indonesia because they thought that polygamy and unilateral divorce are permissible in Islam (Butt 2010, 287). To reconcile the resultant tension, the central government amended the bill. The readiness of the government to please Muslim critics of the proposed law can be seen as part of an effort to “play safe” in accommodating the voice of the majority of Muslims.

However, the Marriage Law still regulates polygamy, but only by making it more difficult to be practiced legally (Butt 2010, 288). Article 3(1) states, “In principle, in a marriage a man can only have one wife. A woman can only have one husband.” The explanatory note of this Article states “This act is based on the principle of monogamy.” The option to have a polygamous marriage is stated in the Article 3 (2), “The court can grant permission for a husband to have more than one wife if desired by the parties concerned.” The procedure of having a polygamous marriage is explained in Article 4 (1), “In the case of a husband who requests to have more than one wife, as mentioned in Article 3 paragraph (2) of this act, it is obligatory for him to submit a request for permission to the court of where he lives.” Therefore, according to this law, a husband who wants to have more than one wife has to submit a written application. The court will then issue its approval based on three considerations mentioned in Article 4 paragraph (2): The court mentioned in paragraph (1) that it will only grant permission to a husband who wants to have more than one wife if: The wife cannot carry out her conjugal duties as a wife; the wife becomes physically disabled or suffers from an incurable illness; or the wife is unable to bear children. Article 5 further explains the requirements that must be fulfilled by a man before applying for permission to the court to receive license to have more than one wife. Article 5 paragraph (1) states:

To be able to submit the permission to the Court, as mentioned in Article 4 paragraph (1) of this act, these are the requirements that have to be fulfilled: a. Permission from existing wife/wives; b. Certainty that the husband can support the life needs of his wives and children; and c. A guarantee that the husband will be fair towards all of his wives and children.

Those who marry polygamously without having judicial consent will be fined (Rp. 7.500 or about 0.59c) based on Government Regulation No 9 1975 as part of an administrative violation and imprisoned (no more than 5 years in prison) based on the Indonesian Criminal Code Article 279 paragraph 1. Many religious courts, however, ignored the law after its enactment (Butt 2010, 288). According to Simon Butt, this was due to a lack of control from the government (2010, 288-89).

In addition, this aspect of the law has been opposed by conservative Muslims. Katz and Katz, for example, recorded a response by conservative Muslims stating “man is polygamous by nature” (1975, 673). Therefore, they argued, if a man is not allowed to have more than one wife then there will be an increase in the practice of prostitution and extra-marital affairs (Katz and Katz 1975, 673, see also Butt 2010, 291). On the other hand, liberal women’s groups saw the practice of polygamy as disguised prostitution (Katz and Katz 1975, 673). In 1983 after the struggle of Dharma Wanita—consisting of the wives of Indonesian civil servants—over polygamy, a government regulation was launched to restrict polygamy for civil servants (Robinson 2009, 85). In 1981, these elite women of Dharma Wanita, “...asked President Suharto to formulate a special law to protect the wives of civil servants from polygamy and divorce” (2009, 86). The regulation, Presidential Decree No 10 of 1983, states that a civil servant who wants to have a polygamous marriage has to ask permission from his superior. Throughout its journey, the regulation on polygamy has remained a contested issue. The most

controversial issue regarding polygamy was when the Counter Legal Draft launched its proposal to remove completely the possibility of polygamous marriages for Muslims (Mulia and Cammack 2007, see also Nurmila 2009). NGOs focusing on women's advocacy have also demanded reform of the marriage law to ban polygamy. One of the most vocal groups has been LBH APIK ("Legal Aid Institute for Women in Jakarta"), a legal advocacy center for women, which emphasizes that polygamy is harmful for both first and second wives, because it can lead to violence against women (Robinson 2009, 178). On the other hand, during the Reform Period, Muslim men who support polygamy have also demanded the withdrawal of Presidential Decree No 10 of 1983 (Robinson 2009, 86, 2007, 44).

Conclusion

The discussion of Muslim marriage in Indonesia is ongoing, particularly as it relates to women. Although Indonesia is not an Islamic state, the marriage law enforces and regulates Islamic marriage for Muslims. However, issues surrounding Muslim marriage not only involve Islamic law, but also incorporate cultural practices. This is particularly clear from the issues relating to diverse forms of marriage arrangements, marriage payments, and negotiations. Therefore, as has been argued by many other scholars, the nature of Muslim marriage in Indonesia is not merely about personal relationships, as it is understood in contemporary Western society, but also about relations between societal groups.

In many parts of the world, there is an increase in the number of women who choose to be single. Muslim women in Indonesia are not immune to this trend, although, overall, marriage is still the norm. Education, career, and living in cities may lead some Muslim women to choose to postpone marriage, but female singletons are still very rare. Many aspects have supported this trend. One of the most important of these aspects is cultural, and religious in particular: in Indonesia, women are often defined by their marital status, thus creating a burden for families who have an unmarried mature woman in the household. Religion, for many Muslim women, is often the main factor that causes them to marry. Furthermore, in Indonesia, marriage and parenthood signal the transition to adulthood.

This entry has demonstrated that issues of Muslim marriage, especially those relating to marriage-law reform, have been closely linked to the women's agenda for equal rights. Throughout the history of Indonesia, debates surrounding Muslim marriage within the country have been more than merely a discussion of religion and religious contestation; they have also been related to the country's legal system, political contestation, women's struggles and, more importantly, culture, as Muslim marriages have long been integrated into wider cultural practices.

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