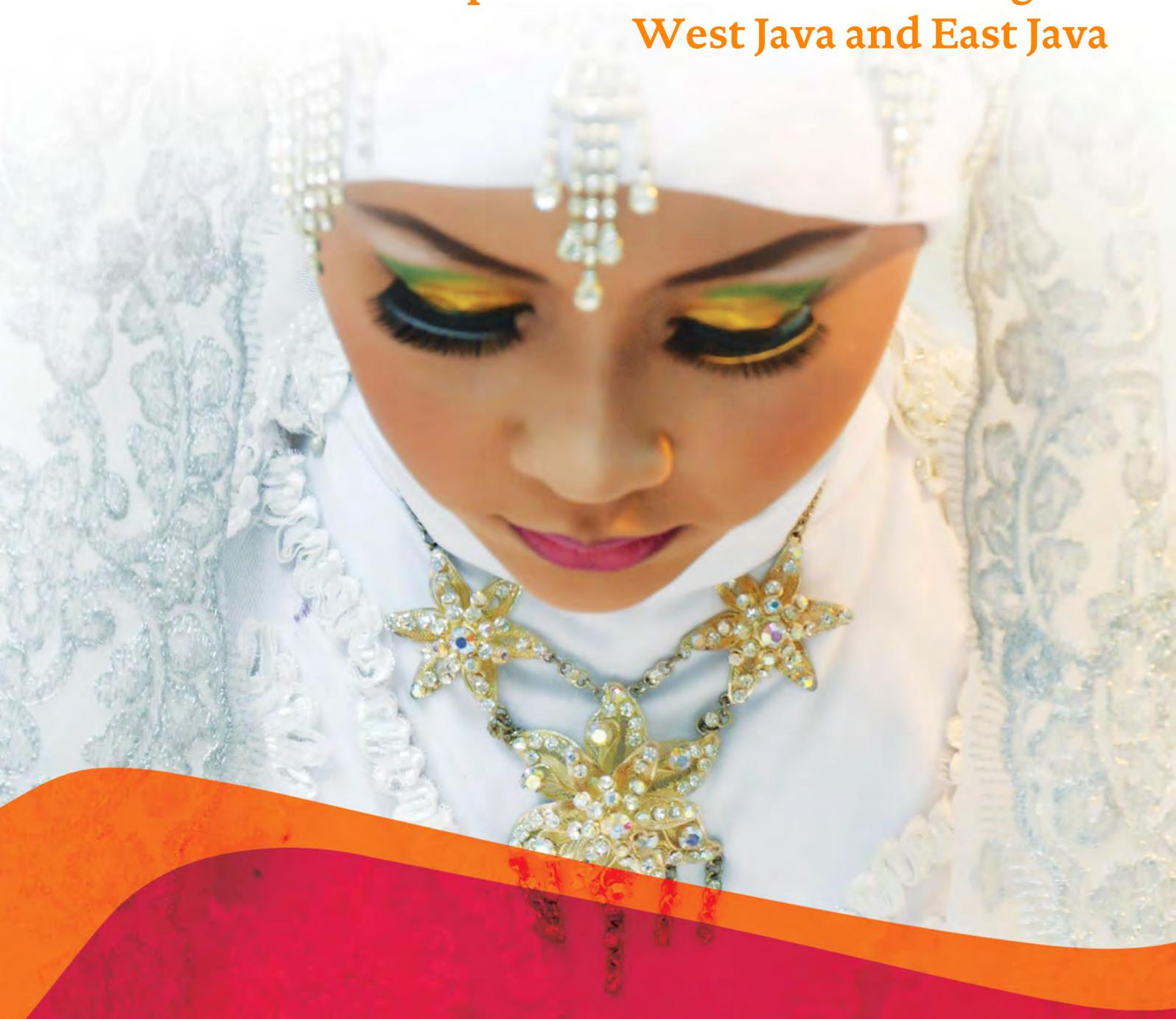


The Influence of Conservative Religious Interpretations on Child Marriage in West Java and East Java



Building New Constituencies for Women's Sexual and Reproductive Health and Rights (SRHR): Interlinkages between Religion and SRHR

NATIONAL REPORT

The Influence of Conservative Religious Interpretations on Child Marriage in West Java and East Java

Rural Women's Social Education Centre (RUWSEC)
Asian-Pacific Resource and Research Centre for Women
(ARROW)

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LIST OF ACRONYMS

ARHP	Adolescent Reproductive Health Programme
CPR	Contraception Prevalence Rate
CSE	Comprehensive Sexuality Education
DHS	Demographic Health Survey
FP	Family Planning
HIV	Human Immunodeficiency Virus
IUC	Indonesian Ulama Council
MDGs	Millennium Development Goals
MMR	Maternal Mortality Ratio
MUI	Majelis Ulama Indonesia
NU	Nahdatul Ulama
NUS	National University of Singapore
PBUH	Peace Be Upon Him
RF	Religious Fundamentalism
SRH	Sexual and Reproductive Health
SRHR	Sexual and Reproductive Health and Rights
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund
WB	World Bank
WHF	Women's Health Foundation
WHO	World Health Organization
YKP	Yayasan Kesehatan Perempuan

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EXECUTIVE SUMMARY

Official statistics in Indonesia show that in specific provinces and among some ethnic groups child marriage continues to be practised. This study tries to unpack the impact of child marriage and shed light on those who are involved in facilitating it, including religious actors, and their use of religious interpretations to justify the practice. Culture and religion work together and are inter-woven in enabling the practice and effecting the resulting impacts on the wellbeing of children. The practice of Islam in Indonesia is closely linked to *adat* (the unwritten customary law), which affects how child marriage is considered, rationalized and perpetuated in the country.

Article 7 of the Indonesian Marriage Law (No.1/1974) defines the minimum legal age of marriage as 16 years for women and 19 years for men. Activists have tried for over 15 years to revise the law but have been unsuccessful. The two largest Muslim organizations (*Nahdatul Ulama* and *Muhammadiyah*) and the *Indonesian Ulama Council* (IUC) have shown consistent support for the practice of child marriage by refusing to change the minimum age of marriage for girls from 16 to 18 years. This was appealed to the Judicial Court by Women's Health Foundation (WHF) with the support of several organisations, a process which started in 2014 and ended in 2015. Unfortunately, after 10 sessions, the Judicial Court decided against WHF's appeal to raise the minimum age of marriage for a girl to 18 years.

The refusal by the Indonesian Ulama Council (IUC) to increase the minimum legal age of marriage is attributed by them to the Quran and Hadith (teachings of the Prophet) despite both not stipulating a minimum legal age of marriage for a woman or a man. They note that the only sign of a girl's maturity (*baligh*) is when she experiences her first menstruation and for a boy it is a "wet dream," usually around nine years of age. They refer to Aisha (the Prophet's wife) who is said to have married the

Prophet when she was nine years old. Another sign of maturity cited by them is when a girl reaches the age of 15 years and she is considered eligible to get married, and a boy reaches the age of 18 and is eligible to get married. According to them, the current minimum legal age in the Marriage Law is already revolutionary because it reached a consensus in setting 16 years as the minimum legal age of marriage for a girl. Furthermore, the IUC believes that marriage is a rule (*ibadah*) in Islam and nobody should make it difficult for people to realise the practice and that everyone should get married at least once.¹

This study was conducted to trace the influence of conservative religious teaching and conservative interpretation toward several selected verses in the Holy Quran and Hadiths on Marriage. The study is descriptive and used qualitative methodology. Primary data was collected from two locations in West Java Province and East Java Province, both areas with some of the highest fertility rates, maternal mortality ratio and infant mortality rates in Java Island, where 70% of the Indonesian population lives.

This study sheds light on the determinants and the actors involved in sustaining the practice of child marriage in conservative contexts. Conservative interpretations of religious phrases from the Quran and Hadiths that justify child marriage are also presented. The study presents a series of recommendations targeting various stakeholders and notes that the spread of progressive interpretations can support campaigning and efforts to eliminate child marriage in Indonesia.

¹ Taken from the Official Statement of the IUC during the Judicial Court hearing in 2015.

1. INTRODUCTION

UNICEF defines child marriage as a formal or informal union involving a person below the age of 18 years.² This definition includes boys and girls, while recognising that girls are more affected than boys by this practice. Child marriage transcends regional and cultural boundaries and is a global crisis.

The practice persists to varying degrees around the globe. Seven-hundred million girls were married before they turned 18 years in 2013; 250 million of them before 15 years (UNICEF 2013). If these trends continue, 142 million girls will marry before adulthood from 2013-2020 – i.e. 14.2 million girls annually (UNFPA 2012).³

Across developing countries, an estimated one in three girls is married before 18 years, and one in nine before 15 years (UNFPA 2012). According to UNICEF (2013), the highest prevalence rates, commonly measured by the percentage of women aged 20-24 years who report being married before 18 years, are found in South Asia and West and Central Africa as well as Sub-Saharan Africa, where an estimated two out of five girls are married as children.

UNFPA (2012) finds that in South Asia from 2000-2010, 46% of girls within the age group of 20-24 years were married before they turned 18 years (similarly, 15% in Eastern Europe and Central Asia and 18% in East Asia and the Pacific).⁴ In South Asia the highest rates of child brides during the period 2000-2011 are from countries such as Afghanistan (39%), Nepal (41%), India (47%), and Bangladesh (66%).

² As defined by UNICEF and cited here http://www.unicef.org/protection/57929_58008.html and also cited by WHO here: http://www.who.int/mediacentre/news/releases/2013/child_marriage_20130307/en/.

³ Estimates based on 2010 figure.

⁴ Does not include China due to lack of data.

⁵ Also see <http://www.girlsnotbrides.org/wp-content/uploads/2014/10/GNB-factsheet-on-child-marriage-numbers-Oct-2014.pdf>.

⁶ See <https://www.scribd.com/doc/53066173/Undang-undang-Republik-Indonesia-No-1-Tahun-1974-Tentang-an>.

TABLE 1: Countries with the Highest Absolute Number of Girls Married Before 15 Years

Country	Numbers (In Thousands)
India	10,063
Bangladesh	2,359
Nigeria	1,193
Brazil	877
Ethiopia	673
Pakistan	600
Indonesia	458
Democratic Republic of Congo	291
Mexico	260

Source: UNICEF Statistic and Monitoring Section, Division of Policy and Strategy (2013).⁵

Marriage at a young age forces girls into adulthood before they are emotionally or physically mature, leading to a range of harmful physical and psychological effects and a limitation of a range of their rights. Child brides are often expected to bear children soon after marriage, which makes them vulnerable to pregnancy and childbirth complications because their bodies are not physically ready. The World Health Organization reports that pregnancy complications are the leading cause of death among girls (15–19 years) in low and middle income countries, and those girls are twice as likely to die in childbirth as mothers aged 20 years and older. Babies born to adolescents are more likely to die, tend to have lower birth weights and weak immune systems, and face higher risks of malnutrition (WHO 2014). Child marriage can make girls more vulnerable to HIV. In Kenya and Zambia, HIV infection rates were higher among married girls than unmarried girls (Council on Foreign Relations 2013).

In Indonesia, child marriage is widely practised and legally accepted as stipulated in paragraph 7 of the Indonesian Marriage Law (No. 1/1974)⁶ where the minimum legal age of

“ In Indonesia, child marriage is widely practised and legally accepted as stipulated in paragraph 7 of the Indonesian Marriage Law (No. 1/1974) where the minimum legal age of marriage is stated to be 16 years for women and 19 years for men. ”

marriage is stated to be 16 years for women and 19 years for men. Activists have tried to revise the law for many years but have been unsuccessful. The two largest Muslim organizations – *Nahdlatul Ulama*⁷ and *Muhammadiyah* as well as the Indonesian Ulama Council (IUC)⁸ have shown consistent support for the practice of child marriage by refusing to support the changing of the minimal legal age of marriage for girls to 18 years, which is also evident from the rejection of an appeal to the Judicial Court by WHF with the support of several organizations in 2014 (Middleton 2015).

There are many causal factors that have been identified that contribute to the continuation of child marriage. It is seen to perpetuate in patriarchal societies where girls have low value in their families and communities and have limited choices over their bodies and lives. Girls are often married shortly after puberty to maximise their childbearing potential. A girl's virginity is closely tied to a family's honour where child marriage is considered a preventive strategy to avoid pre-marital sex and pregnancy (UNFPA 2012).

The cultural and religious implications of the practice are not to be ignored or its influence undermined. People of various religions and cultures have been identified to practise child marriage. In Ethiopia, for instance, child marriage is embedded in the customs of Orthodox Christian communities like those in

the Amhara region, even though the Orthodox Church opposes it. In conservative interpretations of Islam too, the practice has been justified by conservative leaders using interpretations of the age of maturity as age of puberty (Council on Foreign Relations 2013).

The research and advocacy work of the Women's Health Foundation (WHF) in Indonesia since its inception in 2001 has involved women's reproductive health issues that are heavily influenced by social construction, discriminatory policies and biased religious interpretations. Child marriage became an issue for WHF when it was raised during a training session conducted by WHF in several districts in the country.

As at 2010, Indonesia had the highest number of Muslims in the world; 209 million, which was 13% of the global population,⁹ and Islam is not identified as a State religion (Sumaktoyo and Rindiastuti, undated). Since Indonesian Independence in 1945 religious conservative and fundamentalist forces have been trying to make their mark in the country, including by promoting practices such as child marriage and dictating relations with other religious minorities and sects. During the 32 years of the Soeharto centralised and authoritarian regime it was difficult for groups such as Laskar Jihad (Jihad Troops) and Front Pembela Islam (FPI or Islamic Defender Front) to spread their conservative beliefs and many leaders were jailed (Sumaktoyo and Rindiastuti, undated). After the fall of the Soeharto regime in 1998, a multi-party system was introduced and in 2000 decentralisation became the socio-political system in the country. Conservative groups took the opportunity to expand their conservative beliefs and form a new political party as well as have an informal presence at the local level during this time.^{10,11} For many decades, fundamentalist groups in West Java have operated with the aim of transforming the Republic of Indonesia into an Islamic State and moving away from Western influenced democratic rule. They completely reject the Western style social and political system and consider the world as the place of a life and death struggle or *jihad* of the forces of Islam against the forces of “*kafir*” (disbelief) and therefore the struggle should be permanent, unless the whole

⁷ See <http://www.nu.or.id/>.

⁸ The Council comprises Indonesian Muslim groups including *Nahdlatul Ulama* (NU), *Muhammadiyah*, *Persis*, *Al Irsyad*, *Majelis Mujahidin Indonesia* (MMI), *Hizbut Tahrir Indonesia* (HTI), *Forum Ulama Umat Islam* (FUUI) and the Islamic Defender Front (FPI). It was founded by the Indonesian New Order under the Suharto administration in 1975 as a body to produce fatwa and to advise the Muslim community on contemporary issues. (Wikipedia-https://en.wikipedia.org/wiki/Indonesian_Ulema_Council). The Council recently issues fatwas against the gay community and activists. See <https://76crimes.com/tag/indonesian-ulema-council/> and <http://www.thejakartapost.com/news/2016/02/09/ulema-council-ban-muslims-lgbt-advocacy.html>.

⁹ See http://www.pewforum.org/2015/04/02/muslims/pf_15-04-02_projectionstables74/.

¹⁰ See <http://www.thejakartapost.com/news/2012/05/25/islamic-fundamentalism-and-democracy.html>.

¹¹ See <http://www.ibtimes.com/rise-islamic-hard-liners-indonesia-turning-pakistan-1342233>.

world is Islamised and unified under the umbrella of an Islamic super state.

This study unpacks the influence of conservative religious interpretations on child marriage in selected areas of Indonesia and sheds light on those who are involved in facilitating it, particularly looking to religious actors and the use of various religious interpretations that are used to legitimise child marriage.

Research Objectives

- To understand the cultural and religious determinants that influence the practice of child marriage in West Java and East Java, including the influence on reproductive health decisions such as contraception.
- To develop a way ahead to integrate this understanding into advocacy to eliminate child marriage in Indonesia.

Research Questions

- What are the conservative views influenced by Islamic teachings that are widespread amongst parents of girls who were married between the ages of 12–15 years in West Java and East Java? Who develops this narrow interpretation in relation to child marriage?

Research Methodology

This study used a largely qualitative methodology, together with a secondary desk review of literature and secondary data such as statistics from the Religious Affairs Office (number of married couples since 2011–2014 at the district level etc.). The qualitative component was done to include primary data which has been presented as case studies and in-depth interviews.

For the in-depth interviews, in each of the study locations, 12 women who were married before the age of 16 years and who had, at the time of the interview, experienced at least three pregnancies, were interviewed to explore their perceptions and attitudes. Parents of some of the girls, as well as religious leaders, were also interviewed in order to explore their perceptions, beliefs and attitudes on child marriage and the use of modern contraception.

Data was collected in two locations, namely West Java and East Java, which are areas known for practising conservative

views related to child marriage and having high rates of child marriage in the country as well as having some of the highest rates of maternal and infant mortality and fertility rates (see following section) (Harii 2010).

Other factors that were used for the selection of specific locations within the districts include:

1. Programmes undertaken by Women’s Health Foundation (WHF) in Bondowoso district in East Java which found that a high number of youth have been married under the age of 16;
2. A study conducted by the midwifery faculty of Airlangga University revealed that 20.8% of marriages in Bondowoso District are child marriages of girls below 16 years of age.¹² A report from the Bondowoso Family Planning Women Empowerment Bureau (BPP&PA) reported that in 2013 the number of child marriages in Bondowoso District was the highest in East Java (400 child marriages in 2013; 40% of all marriages in 2013).¹³ The study also found that many babies born to these girls were premature and underweight.¹⁴
3. A study (Rahima Journal No. 23, December 2007) conducted by the Rahima Foundation which worked with female religious leaders in Cianjur district (West Java) found that child marriage is still a common practice in the region and that babies born from such unions had a tendency to be underweight. Many died before they reached one year.
4. The total fertility rate and infant mortality rate in both study locations are still high, although economic conditions are not always adverse in these two areas, which indicates that poverty is not always a reason for early marriages of girls and indicates that there are other contributing factors.

Profile of West Java: The province of West Java, located in the island of Java, has a population of 46.3 million (2014), making it the most populous province in the country (18% of the total population) (BPS 2016a). People in West Java mainly engage in agriculture as a source of livelihood and 8.7% of the

¹² Wirman, Wilma Peslika, *Effect of Socialization Program Maturation Age of Marriage Against Young Women Knowledge and Attitudes about Marriage Age Maturation SMPN₁ Pakem In District Bondowoso*, University of Airlangga.

¹³ Bondowoso Peringkat 1 soal Pernikahan Dini. http://passopatifm.com/index.php?option=com_content&view=article&id=179:bondowoso-peringkat-1-soal-pernikahan-dini&catid=1:regional&Itemid=11.

¹⁴ Women’s Health Foundation, *Pengalaman di Lapangan: Memangkas Pernikahan Anak di Bondowoso, Jawa Timur*.

population are poor. The province, together with East Java, has the highest rates of child marriage. The female population in West Java in 2014 was 21,146,692, of which 3,921,592 were females between 10–19 years (West Java Province Central Bureau of Statistics 2014). The UNICEF Indonesia Profile (2015), shows that one in four girls below 18 years was married. The school enrolment rate was 65.7% for older children (between 16–18 years) in 2015 (BPS 2016b).

Profile of East Java: East Java is the second most populous province (38 million in 2010) and the most developed of provinces in the country, with a GDP second only to Jakarta (18% of the total population in 2014) (BPS 2016a).

Agriculture continues to dominate in the province but its productivity is low. Inequality is on the rise and is affecting growth and wellbeing in the province. Although poverty rates have seen drastic declines, it continues to affect those who remain unemployed and those who are low wage earners (ILO 2013). In East Java, school enrolment for older children (between 16–18 years) was only 62.7% in 2013 (BPS 2016c).

In 2012, West Java and East Java had the highest absolute number of girls married before the age of 18 (322,889 and 237,307 respectively), followed by Central Java (146,034) (SUSENAS, various years).

TABLE 2: Summary of Qualitative Sampling

Locations for the research	<ul style="list-style-type: none"> Cianjur district in West Java and Bondowoso district in East Java
Case studies	<ul style="list-style-type: none"> 12 case studies in each location
In-depth interviews (N=50)	<ul style="list-style-type: none"> 24 interviews with women who had been child brides (12 in each location) 14 interviews with parents 12 interviews with District Religious Affairs officials, religious leaders (female and male) and Family Planning Department officials
Focus group discussions (N=4)	<ul style="list-style-type: none"> 2 FGDs – religious leaders and community leaders in each study location

TABLE 3: Total Fertility Rate and Infant Mortality in West Java and East Java 2012

	West Java	East Java
Fertility Rate (2012)	2.5	2.5
Infant Mortality (2012)	38	38

Source: Indonesian Statistic Bureau, 2012.

TABLE 4: Under-aged Marriages in Cianjur District in West Java (undated)

Cumulative Percentage Under-aged Marriages			
	< 16 years	< 18 years	18 years
Cianjur	17.5%	41.7%	53.3%
Bulukumba	11.7%	25.0%	36.5%

Source: PhD Survey from Stijn Cornelis van Huis, IAAW, Humboldt Universitat zu Berlin.

TABLE 5: Percentage of Ever-married¹⁵ Women Aged 20-24 Married Before Age 18 across West Java and East Java by Average Prevalence, 2008-2015

Province	2008	2009	2010	2011	2012	2013	2015	Average Prevalence
West Java	33.1	30.4	28.0	30.2	30.9	26.7	25.9	29.3
East Java	29.5	28.5	28.0	27.3	26.3	25.9	24.5	27.1

Source: Secondary analysis of SUSENAS 2008-2012, 2013 and 2015

¹⁵ Ever-married women or men are persons who have been married at least once in their lives although their current marital status may not be “married.”

2. PROFILING INDONESIA: SRHR AND CONSERVATIVE INTERPRETATIONS OF RELIGION

A PROFILE: Indonesia	
Total population (2010) (Census 2010 in Susilo, Herna and Sari 2015a)	239 million
Population of women (2015) (World Bank)	49.6%
Population of young people (Census 2010 in Susilo, Herna and Sari 2015a)	18%
Ethnic groupings (Susilo, Herna and Sari 2015a)	1,340 groups
Religious groupings (Census 2010 in Susilo, Herna and Sari 2015a)	Islam, Protestantism, Catholicism, Hinduism, Buddhism and Confucianism are officially recognised
Islands (Census 2010 in Susilo, Herna and Sari 2015a)	Over 17,000
Official languages	Bahasa Indonesia
Mention of religion in the Constitution	Yes
Type of governance/form of government	Democratic Republic
Gross National Income per capita (2013) (World Bank)	\$9,270 PPP*
Rate of economic growth (2014) (World Bank)	5%
Poverty Headcount Index (National Poverty Line 2014) (World Bank)	11.3%
Population growth rate (2013) (World Bank)	1.2%
Maternal mortality ratio 2012 (BPS et al. 2013)	359/100,000
Total fertility rate (2012) (Susilo, Herna and Sari 2015b)	2.6
Adolescent (15-19 years) fertility rate 2012 (BPS et al. 2013)	48.4/1000
Contraception prevalence rate and unmet need 2012 (BPS et al. 2013)	61.9% and 11.4%
Use of modern contraception by women 15-49 years (BPS et al. 2013)	58%

Source: Susilo, Herna and Sari. 2015a and 2015b, World Bank 2016, BPS, BKKBN, Kemenkes-MOH, & ICF-International. 2013.

Note: *Purchasing Power Parity

Sexual and Reproductive Health and Rights (SRHR) indicators in Indonesia present a mixed picture and this section provides an overview of the key issues related to child marriage. The obstacles to the provision and access of critical Sexual and Reproductive Health (SRH) services are many, including poverty, the health system as well as marginalisation based on gender, ethnicity, socio-cultural beliefs and inequalities despite

the availability of special provisions for those identified as poor¹⁶ (Susilo, Herna and Sari 2015a). Decentralisation has also enabled health service access at regional levels to a certain extent, which has enabled outreach of SRH services at district and provincial levels. However, accessibility of these services continues to be problematic, especially for unmarried women and girls (Amnesty International 2010 in Susilo, Herna and Sari 2015b).

¹⁶ For instance, the *Jaminan Kesehatan Masyarakat (Jamkesmas)* programme is an insurance programme providing financial coverage for reproductive health services such as contraceptives, antenatal care, skilled birth attendance, care for normal deliveries, for complications arising in deliveries, and postnatal care (Susilo, Herna and Sari 2015a).

Maternal mortality, many of the deaths occurring during or immediately after delivery, continues to be a challenge in the country. The Maternal Mortality Ratio (MMR) increased in 2012, despite decrease in previous years: from 228 in 2002 to 359 in 2012 and was highest in the age groups 25–29, 30–34, and 35–39 years (Central Bureau of Statistics, NFPCB, MOH, & ICF-International, 2013 in Susilo, Herna and Sari 2015b). Abortion is another contributing factor to these deaths. While the data points to a low proportion (1%) the figure is estimated to be higher as many cases of unsafe abortion and related complications are recorded as infection and haemorrhage (Yuliandari 2006 and Swaminathan, Matsumoto, and Nugent 2010, *ibid.*).

The Contraception Prevalence Rate (CPR) remained stagnant from 2003–2005 (60.3%) to 2012 (61.9%). Married women who use modern contraceptives (mainly injectables and pills) are at 58% (NFPCB, Central Bureau of Statistics, MOH, and ICF-International 2013 in Susilo, Herna and Sari 2015b). The unmet need for contraception is influenced by limited knowledge on contraception availability and services amongst poor married women and girls, requirements of husband's consent and limited choices available for these women. Unmarried women have less awareness and limited access to information and services that are generally made available to married women (Amnesty International 2010 in Susilo, Herna and Sari 2015b).

The Population and Family Development and the Health Law (No. 36/2009) allows only married women to have access to family planning services thereby excluding adolescent and unmarried women. The law lacks implementing regulations. Abortion is still illegal under the law except when the life of the mother or foetus is in danger and in the cases of pregnancy resulting from rape and incest. The inclusion of this provision was controlled and limited by religious leaders. Menstrual regulation also became controversial with the enactment of the Health Law as it was considered to legitimise abortion in the early stages of pregnancy (Susilo, Herna and Sari 2015a).

Sexually active women and girls who are not married are at greater risk of unwanted pregnancy and sexually transmitted infections as a result. Furthermore, pre-marital sex is taboo, and women, including younger women, who become pregnant outside of marriage are forced to terminate pregnancies (*ibid.*).

Religious beliefs influence contraception use on the basis that the religion does not allow for it, as there is a need to increase

the number of believers, and that all children are blessings from God (Rumah Kitab 2013 in Susilo, Herna and Sari 2015b).

Although people living with HIV/AIDS are guaranteed access to healthcare free of discrimination (Regulation No. 21/2013), implementation is influenced by views of morality. Affected people face stigma and discrimination in the workplace, schools, and when accessing public and health services. Knowledge of HIV/AIDS, including amongst younger people, is low (Susilo, Herna and Sari 2015a).

Gender-based violence continues to be an underreported and unaddressed issue in Indonesia, as in many other countries in the region. Reporting is low as women fear loss of status within the household, dependence on the husband, and other socio-cultural factors. They have limited information and understanding of the services available to them. Sexual violence is considered a personal issue by the authorities and other actors. In the penal code, sexual assault is considered as an offence against decency, linking violence to women's morality and the fault of victims. The enforcement of the law is severely lacking. The Elimination of Domestic Violence Law (No. 23/2004)¹⁷ criminalises physical, psychological, and sexual violence, including economic abandonment within the domestic sphere and marital rape, while providing for recovery programmes and prevention of further abuses. The responsibilities of governments and other stakeholders, healthcare personnel, and social workers in providing integrated recovery support to survivors are also recognised but hardly implemented (Susilo, Herna and Sari 2015a). Indonesia does not have a specific law or regulation on sexual orientation or gender diversity. Existing laws or the penal code do not prohibit homosexuality or changing sexual orientation. The Law No. 39/1999 on Human Rights stipulates that every person is treated equally and no person should be discriminated against on any grounds. However, there has been increasing attacks by conservative groups targeting homosexuals and transgender people and denouncing sexual diversity, despite greater historical acceptance in Indonesia of these gender identities (*ibid.*).

¹⁷ In addition to this, the Penal Code (Section 285, 286, 287, 290, 291 2. Law No.23 of 2004 on the Elimination of Domestic Violence Section 8 (b), 47, 48; the Law No. 21 of 2007 on the Eradication of Trafficking in persons, Article 1 (3.7) and Law No. 23 of 2002 on Child Protection Article 1 (15), 17 (2), 59 and 66 (1,2), 69, 78 and 88 aim to address violence.

“ There is no age stated under Islamic law in Indonesia but the age of majority linked to puberty and sexual maturity (cited as 9 years) is used to allow children to get married. Customary law allows *Sunda* marriages, where girls are married before they are nine years old and sexual relations between husband and wife is postponed (UNICEF 2013). ”

Young people’s SRH is of growing concern in Indonesia. More young people are becoming sexually active; a third of young people would have had at least one sexual encounter by 17 years. Women between 15–19 years have difficulty accessing healthcare services due to cost, location, poor quality, stigma of service providers, lack of privacy and confidentiality, taboos associated with unmarried women accessing SRH services and gender inequality norms (ibid.). Religious and cultural norms hinder young people’s access to comprehensive sexuality education and youth-friendly SRHR services (Susilo, Herna and Sari 2015b).

The Extent and Effects of Child Marriage in Indonesia

Child marriage, which is the marriage of girls below the age of 18 years, is a significant problem in Indonesia, with some regions being more affected than others. Research, analysis and secondary material presenting an in-depth analysis on the issue in the country is very limited. Much of the international literature tends to identify Indonesia as a lower prevalence country in comparison to countries in South Asia and Sub-Saharan Africa. While reductions in marriage rates of young girls have been attributed to better education and improved wellbeing, the role of culture and religion in perpetrating the practice has not been sufficiently explored nor should it be underestimated. Furthermore, according to Marshan, Rakhmadi and Rizky (2010) the regional variations in the average age of marriage, in some regions such as West Java, which have more girls who were married at a young age, indicates a much more complex problem than meets the eye.

According to the 1974 Marriage Law¹⁸ girls can marry at 16 years and boys at 19 years while all marriages under 21 years require parental consent. Proof of age is not required

at marriage. Petitions to marriage officers or district-level religious courts can be made for exemptions for girls to be married earlier. In addition to going against international human rights laws, the Marriage Law goes against the Law on Child Protection of 2002, which bans marriage under 18 years, and a child is defined as someone under the age of 18 years. There is no age stated under Islamic law in Indonesia but the age of majority linked to puberty and sexual maturity (cited as 9 years) is used to allow children to get married. Customary law allows *Sunda* marriages, where girls are married before they are nine years old and sexual relations between husband and wife is postponed (UNICEF 2013).

The Central Statistics Agency’s report in 2016 states that 23% of marriages were child marriages in 2015, only a marginal reduction from 24.5% in 2010 (Jakarta Post 2016). East Java and West Java have the highest numbers of female adolescents who were married (236,404 and 220,501 respectively) followed by Central Java (160,273). Female adolescent marriage rates of 20% or higher were prevalent in 106 districts, the highest being in Central Java, East Java and South Kalimantan (UNICEF 2013). In some regions of Bogor and Cianjur districts, the number of child marriages and maternal deaths is high (Susilo, Herna and Sari 2015a).

Marriage of girls below the age of 15 years has been declining, especially in rural areas and across all provinces, with the exception of Central, South, East and West Kalimantan provinces (UNICEF 2013). Sixty-four per cent of the female population aged 10 years and above who ever married at an age below 18 years reside in the rural areas (Marshan, Rakhmadi and Rizky 2010), yet cases in urban areas are also documented. Furthermore, each year, 50,000 girls still marry before they reach 15 years. Differing trends point to fewer girls marrying before reaching 16 years, but once they reach 16 years, an increasing number marry before they reach 18 years, indicating that marriage of girls aged 16 and 17 years is considered to be acceptable (UNICEF 2013).

¹⁸ See <https://www.scribd.com/doc/53066173/Undang-undang-Republik-Indonesia-No-1-Tahun-1974-Tentang-an>.

TABLE 6. Percentage of Married Girls by Age of Marriage at First Marriage (2011-2012)

Province	Age of First Marriage			
	9-15 years		16-18 years	
	2011	2012	2011	2012
North Sumatra	3.33	3.23	20.82	20.71
West Sumatra	7.34	6.76	25.95	26.04
Jambi	13.34	12.31	36.63	37.26
West Java	16.05	15.72	36.21	36.41
East Java	6.42	14.98	36.47	36.69
South Kalimantan	16.72	16.06	36.93	36.49
South Sulawesi	12.46	11.43	30.35	29.70
West Sulawesi	13.68	13.09	35.88	33.26
INDONESIA	11.52	11.13	32.33	32.10

Source: Susenas 2011-2012

Child marriage affects the overall wellbeing of a child, especially their physical and psychological wellbeing, as well as status and power in the household (Marshan, Rakhmadi and Rizky 2010).

Girls from the poorest 20% of households were more likely to be married before 18 years, compared to girls from the richest 20% of households. However, acceptance of the practice does not only stem from poverty, and financial security does not offer total protection as nearly one in six girls from richer households marries before the age of 18 (Marshan, Rakhmadi and Rizky 2010 and UNICEF 2013). Among child brides who were 10–14 years old in 2010, 74.5% were categorized as non-poor. Among females aged 15–19 years and 20–24 years who had married at an age below 18 years, 82.5% and 83.7% respectively were non-poor (Marshan, Rakhmadi and Rizky 2010).

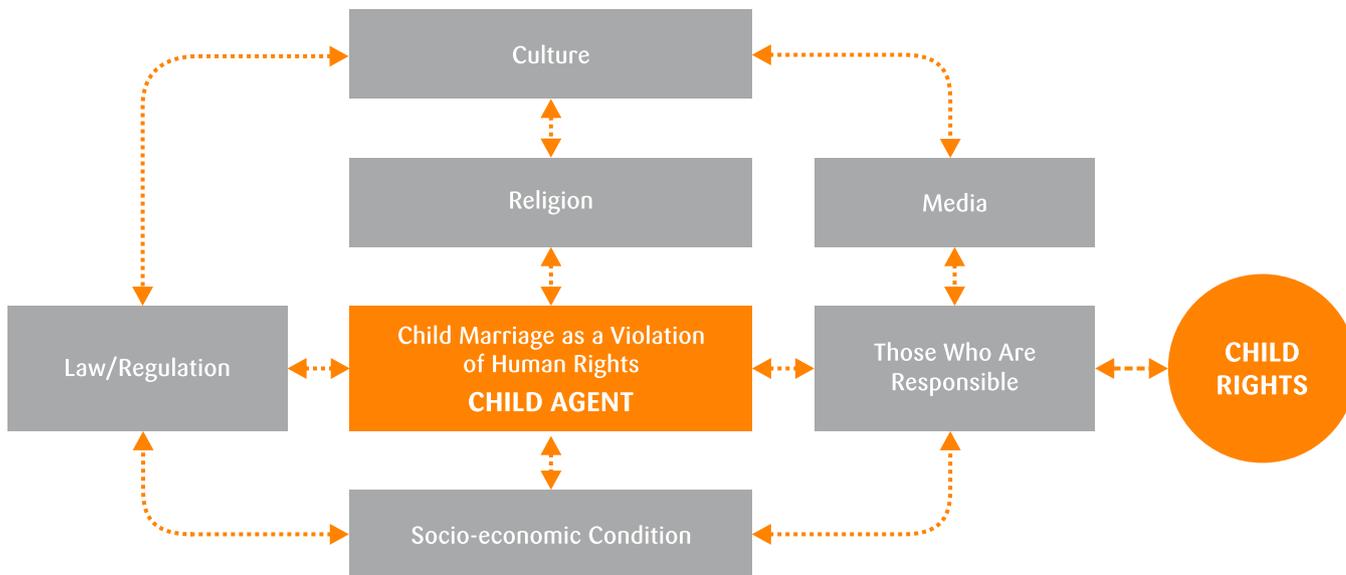
Many married adolescent girls do not complete education beyond the primary school level; nearly one-third of married girls report primary school as their highest level of educational attainment compared to unmarried girls (36% and 24% respectively). Evidence shows that secondary school provides the best protection for delaying marriage (Marshan, Rakhmadi and Rizky 2010 and UNICEF 2013).

TABLE 7: Average Age of Women at First Marriage According to Ethnicity (undated)

Ethnicity	Women (years)	
	City	Village
Aceh	23.9	23.0
Batak	24.7	22.7
Melayu	23.6	21.5
Banten	21.6	20.1
Sunda	22.2	20.4
Java	23.4	20.8
Madura	21.5	20.2
Sasak	22.6	20.7
Banjar	22.4	20.6
Gorontalo	22.7	20.6
Bugis	23.9	21.7

Source: Census statistic 2010

FIGURE 1: Child Marriage Framework



Source: Presented by Prof. Muhadjir Darwin, PhD University of Gajahmada, 2004

BOX 1: Advocating to Stop Child Marriage at the National Level

The Women’s Health Foundation (YKP) in Indonesia has been advocating against child marriage, particularly in Bondowoso, a region that is known for higher rates of child marriages. The YKP’s anti-child marriage campaign appealed for a judicial review of the Law on Marriage (No. 1/1974) to increase the minimum age of marriage. Their anti-child marriage campaign provides additional leverage to promote the Government’s 12-year compulsory schooling programme.

Activists raised several factors during 10 sessions with the Judicial Court:

- Marrying a girl whose age is still below 16 years is against the Indonesian Constitution, which states that every child has the right to follow the highest level of education (No. 23/2004).

- Marrying a girl below 16 years old has health, social and economic consequences since many girls deliver underweight and stillborn babies. The physical condition of such a girl also deteriorates as a result of the pregnancy as her body is not able to cope, affecting further development of her body.

The judges unanimously rejected the petition, upholding the 1974 Marriage Law’s provisions on age. They wrote that there “was no guarantee that with increasing the age from 16 to 18 [years] there will be a reduction of divorce rates, health improvements and reduction of other social problems.”

Source: Susilo, Herna and Sari. 2015a and Barr 2015

Increasing Conservatism and Fundamentalism in Indonesia

Conservatism and fundamentalism are increasing in Indonesia, more recently with the influence of Wahhabism from Saudi Arabia and the Islamic State propaganda that has been permeating all spheres in society, including displays of it through traditional clothing of men and women, intolerance of groups with alternative sexuality, liberals and non-Sunni sects, and state-enforced morality and its efforts to enact Sharia laws. There have been calls for the establishment of a Sharia state advocated by hardline groups, such as al-Qaeda-linked Jemaah Islamiyah (JI),¹⁹ Hizb ut-Tahrir,²⁰ Majelis Mujahidin Indonesia – Council of Indonesian Jihad Fighters,²¹ Front Pembela Islam – Front of Islam Defenders,²² Jemaah Anshorut Tauhid (JAT)²³ and Laskar Jihad – Warriors of Jihad.²⁴ The move towards establishing a Sharia state is considered as a manifestation of pride over one's religion as opposed to perpetrating notions of hatred, extremism and fundamentalism (Thomson 2015).

Fundamentalist views are shaped by the factors of subjective interpretation that is based on God's law, actions that are based on claimed truths, imposition on people and groups, and the violation of human rights. They regulate all aspects of life, from how women should behave and dress to how a country should be governed. Fundamentalism in Indonesia can be grouped based on motives that are faith-spirited or secular. Faith-spirited fundamentalism stems from a sense of an obligation to create a society that abides by God's law, whereby restrictions are placed and enforced with the belief that they have a divine right to do so. Inspiration for secular-goal fundamentalism comes from the desire for power, position and money as well as access to social networks and a sense of identity. Fundamentalism is a means to an end (Sumaktoyo and Rindiastuti, undated).

While the Constitutions protect religious freedoms, these grantees are coming under threat with the strengthening of such forces in Indonesia and the increased focus on protecting one ideology and related practices over pluralism and related rights. The perpetration of these ideologies is also enabled by the decentralized nature of government as well as policy and law making in Indonesia (Habib 2013). For instance, brutal punishments, such as caning, which are advocated by strict interpretations, are used in Aceh province as a form of judicial punishment. Religious minorities, including Ahmaddiya, Shias

and Christians face discrimination, intimidation and attacks (Amnesty International, *ibid.*).

Extremist groups have existed since the country's independence in 1945. For 32 years since then, under the Suharto dictatorial regime, militant Islamic groups such as Darul Islam (DI),²⁵ which declared an Islamic state in West Java, were brutally quashed. Post-Suharto, many of the groups that were suppressed, mainly JI, became more open and active, including adopting violent means despite crackdown by the State (John 2016).

New political parties also emerged, including many that were religious in nature. It was also during this time that there were many efforts to reintroduce into the Constitution that Muslims should live by principles of Sharia and design laws according to its principles. The post-Suharto era also saw a significant decentralisation of power to the cities and provinces, including the authority to pass local laws. As a result, many local governments introduced legislation that was derived from Sharia with ease (Sumaktoyo and Rindiastuti undated). In more recent times, the Islamic State has become more prominent in the country and there is evidence of growing conservatism in the country, with strict Islamic laws enforced in the northwest province of Aceh (John 2016).

While much of the attention more recently has been to mitigate the influence of radical groups and the perpetration of violence by these ideologies and their related factions, the influence they have on the lives of ordinary people, especially women and girls, has not received similar attention. This research aims to contribute an analysis to help meet this gap.

¹⁹ See here for background on JI: <https://www.nctc.gov/site/groups/ji.html>.

²⁰ A group that has global outreach. See here for Indonesia site: <http://hizbut-tahrir.or.id/>.

²¹ See <http://www.majelismujahidin.com/>.

²² See <http://www.fpi.or.id/>.

²³ See <http://jihadintel.meforum.org/group/82/jemaah-anshorut-tauhid>.

²⁴ Twenty-two local groups who have pledged allegiance to ISIS. Even though the state officially banned ISIS in 2014, the groups have yet to face any legal challenge to their dissemination of propaganda, gathering of funds or recruitment of Indonesians to fight for their hard-line vision of a "caliphate." See <http://time.com/4181557/jakarta-terrorist-attacks-indonesia-isis/>.

²⁵ See <http://www.mei.edu/content/map/contemporary-islamic-state-indonesia-threats-and-challenges>.

3. UNDERSTANDING THE LINKAGES

Women and the “Importance” of Marriage

Culturally, in Indonesia, as in many other countries in the South-East Asia region, a woman’s life is considered to be incomplete unless she is married. She is seen as needing a husband, who is considered her saviour, protector and provider. Before marriage, her father, who provides for her, would fulfil this role. Her virtue is thus protected and passed on by the father to her prospective husband, through the rites performed during a marriage ceremony traditionally defined under customary practices and religious interpretations. Through these processes, the norms of sexuality and sexual relations are considered to be well defined and unchangeable. In the case of Islam, while marriage rules and practices are claimed to be religious, the rights for women and men within the institution tend to be heavily influenced by male interpretations of the religious texts. The practices are also dictated by men and are insensitive to women’s realities and lives.

Despite the guarantee of equality between men and women in the Quran (Surah Ali Imran 3:195),²⁶ in practice, there are a number of instances of inequality. Narrow interpretations

ensure that women and girls are seen as incapable of making decisions, are devoid of choice, and are subservient to her father and other male family members, and then to her husband.

Wahid (2005) identifies three important junctures in life within Muslim families: “prosperity (*rizki*), finding a marriage partner (*jodoh*) and death are God’s will . . . every human being or every child has their own luck but to find a good marriage partner everybody should pray to God.” Wahid quotes and recognises the following text from the Quran:

“And among His signs is this: that He created for you mates from among yourselves, that you may dwell in tranquillity with them, and He has put love and mercy between your hearts. Undoubtedly in these are signs for those who reflect (Ar-Rum 30:21).”

“A woman” said the Prophet Muhammad (PBUH), *“may be married for four reasons: for her property, her status, her beauty and her religion, so try to get one who is religious”* (242 hadith found in ‘The Book of Marriage’ (Kitab Al-Nikah)) (Wahid 2005).

“ Culturally, in Indonesia, as in many other countries in the South-East Asia region, a woman’s life is considered to be incomplete unless she is married. She is seen as needing a husband, who is considered her saviour, protector and provider. Before marriage, her father, who provides for her, would fulfil this role. Her virtue is thus protected and passed on by the father to her prospective husband, through the rites performed during a marriage ceremony traditionally defined under customary practices and religious interpretations. ”

²⁶ See <https://quran.com/3/195>.

BOX 2: Implications of Child Marriage

When Mrs. Nuriya reached the age of 13 years she was married off by her parents since she was the only daughter in the family. In her society, a daughter was expected to have total obedience to her parents, not going against their wishes. When her parents told her about their plan to give her in marriage, she was expected to accept this decision without question. At the age of 13, her mother and grandmother told her she had reached the age of marriage. She did not meet her future husband prior to the ceremony. As a daughter, she said she accepted this fate as she was afraid of the repercussions of refusing it, which was expulsion from the family.

Her first child was born underweight and died at four months at the hospital having suffered diarrhoea for two days. When Mrs. Nuriya was 16 years old, she got divorced and not long after, she re-married. After seven months of living with her second husband she got pregnant and delivered a baby girl who was underweight. This baby also died at four months from diarrhoea. A third child also died at four months. At the time of the interview, she had gone through eight deliveries and had only three surviving children. She had not used any family planning methods stating the possibility of further losses and unwillingness to do so. When asked if she would marry her daughters when they reach the age of 13, her answer was “Never . . . I hope my daughter will not suffer like me . . . and today all my daughters are studying at junior and senior high school.”

Source: Case Study of Mrs. Nuriya in West Java

Wahid (2005) notes that a marriage based on religious considerations is regarded as the most valuable in the view of the Prophet. If someone chooses to marry on this basis, then he or she will not in any way suffer any loss or be disadvantaged (ibid.). This interpretation implies that single women are of lesser value than married women and their available choices and ability to make choices come within a restricted framework in society on the basis that they are

unmarried. On the other hand, a married woman who has a husband has a better life in terms of security, greater wellbeing and life experience. Thus, women’s wellbeing is inherently tied to a man.

In Astrada (2010), the Hadith from Ibn Majah is noted: “*You have seen nothing like marriage, for increasing the love of two people*” and is quoted to inform readers of the qualities of a good Muslim wife and the position she can aspire to have in a marriage if these qualities are displayed.

The quotes from the Quran, some of which are noted below, are used to justify inequality between a married couple and the need for guardianship of women. This is thus considered to be justified by God and as such has to be followed. If not, there are consequences including the use of violence.

Quran 4:34 (An-Nisa) – *Men are in charge of women by [right of] what Allah has given one over the other and what they spend [for maintenance] from their wealth. So righteous women are devoutly obedient, guarding in [the husband’s] absence what Allah would have them guard. But those [wives] from whom you fear arrogance – [first] advise them; [then if they persist], forsake them in bed; and [finally], strike them. But if they obey you [once more], seek no means against them. Indeed, Allah is ever Exalted and Grand.*²⁷

Quran 2:228 (Al-Baqarah) – *...But the men have a degree over them [in responsibility and authority].*²⁸

Quran 33: 39 - (Al-Ahzab) – *O Prophet, tell your wives and your daughters and the women of the believers to bring down over themselves [part] of their outer garments. That is more suitable that they will be known and not be abused...*²⁹

The concept of guardianship or Wilaya in Muslim marriage is “a legal authority vested in a person who is fully competent to safeguard the interests and rights of another person who is incapable of doing so independently. In case of marriage, Wali is someone who has been granted an authority to consent to marriage on behalf of someone” (Rafiq 2015, 1255). The following verses illustrate the concept of guardianship:

²⁷ See <https://quran.com/4/34>.

²⁸ See <https://quran.com/2/228>.

²⁹ See <https://quran.com/33/59>.

BOX 3: Girls Navigating the Limited Space to Make Choices

When she was still going to an elementary school, Mrs. Sgh was asked by her father to meet a man, who was his nephew. Since the father of Mrs. Sgh has a *pesantren* (boarding house), this man came to her father asking for accommodation in order to get the opportunity to gain admission to a university not far from Mrs. Sgh’s house. At that time this man was six years older than Mrs. Sgh. For two years, Mrs. Sgh did not know that her father already made a commitment with his nephew. As the oldest of three siblings she could not refuse her father’s plan for her life. As the eldest she was taught to take care of the young sister and brother, even though she was still 15 years old... she cooked and even managed the household money. When she was married in 1990, when she was 16 years old, her father asked her to manage the financial aspects of the *pesantren*.

Mrs. Sgh’s mother knew of her aspiration to study further and so she asked the permission of her father to support Mrs. Sgh to attend a better *pesantren*, which is located a 3-hour drive from her home. After three years she finally graduated and in all those years her husband regularly visited her and he was allowed to stay in her room since both of them were already married. Her mother had taken her to a midwife and since then she used contraceptives to prevent pregnancy. After nine years of marriage she got her first baby and right after the delivery she used an injection as contraception, which was provided by a midwife at the nearest Public Health Centre. After she graduated from the university, every year she had a new baby; she has five children at the age of 40. According to her, her husband would like to have eight children and she refused, and today uses an IUD. She refused to organise a marriage for her daughter when they are still less than 20 years old. “Girls should be given the opportunity to go to the university.”

Source: Case Study of Mrs. Nuriya in West Java

Quran 24:32 (An-Nur) – *And marry the unmarried among you and the righteous among your male slaves and female slaves. If they should be poor, Allah will enrich them from His bounty, and Allah is all-Encompassing and Knowing.*³⁰

Quran 4:25 (An-Nisa) – *And whoever among you cannot [find] the means to marry free, believing women, then [he may marry] from those whom your right hands possess of believing slave girls. And Allah is most knowing about your faith. You [believers] are of one another. So marry them with the permission of their people and give them their due compensation according to what is acceptable. [They should be] chaste, neither [of] those who commit unlawful intercourse randomly nor those who take [secret] lovers. But once they are sheltered in marriage, if they should commit adultery, then for them is half the punishment for free [unmarried] women. This [allowance] is for him among you who fears sin, but to be patient is better for you. And Allah is Forgiving and Merciful.*³¹

In the case studies it is apparent that a conservative interpretation of texts related to marriage is passed on to young girls. “Allah has made for you mates of your own nature (Quran 16:72 – An-Nahl)”³² is used to pass on this teaching. It was also noted that when a girl reaches the age of seven years she has already heard from her mother, grandmother and other relatives about what her future will be; teachings about a *jodoh* (soulmate) is passed on from generation to generation as well as during the weekly Quran reading groups where they are told about one saying of the Prophet in Hadith from Ibn Majah – “Paradise is a reward of a wife who pleases her husband until death” (Hadith of Ibn Majah).³³

In the Literalist school of thought, marriage is considered *fardh ‘ain* – an absolute and individual obligation.³⁴ Among the evidence they cite is the following verse from the Quran. In addition to 24:32 (noted above), 24:33 of the Quran is used.

“But let them who find not [the means for] marriage abstain [from sexual relations] until Allah enriches them from His bounty. And those who seek a contract [for eventual emancipation] from among whom your right hands possess

³⁰ See - <https://quran.com/24/32>.

³¹ See - <https://quran.com/4:25>.

³² See <https://quran.com/16/72>.

³³ See <http://www.islamwb.com/books/Sunan%20Ibn%20Majah-English.pdf>.

³⁴ Fiqh of Marriage, course material written by Jamal Zarabozo - See <https://www.scribd.com/document/212585380/Fiqh-of-Marriage-by-Zarabozo>.

– then make a contract with them if you know there is within them goodness and give them from the wealth of Allah which He has given you. And do not compel your slave girls to prostitution, if they desire chastity, to seek [thereby] the temporary interests of worldly life. And if someone should compel them, then indeed, Allah is [to them], after their compulsion, Forgiving and Merciful. [Quran 24: 33–An-Nur]³⁵

The following hadith of the Prophet (PBUH) appears to be a blanket “order” to all those who are of marriageable state or in a stage in their lives to get married:

“O young men, whoever among you has the ability, let him marry” [Bukhari 5065 and Muslim 1400].

Thus, the opinion in Islam is that marriage is the recommended or preferred (mustahab) to not being married, which hold rewards if carried out but not considered to be sinful if not. As such, it appears that the view of marriage to complete one’s life and being a religious obligation has limited bearing. Hadith by Ibn ‘Uthaymeen further points out that if a person desires to be married, it becomes even more important. In Surah Al-Anfal (8:73) the blessed Prophet cited the words of Allah: “... otherwise there will be discord and great corruption in the land...” This Surah referred to a man’s fear of Allah, all that happens is that he prevent his organs from responding to lust, thus preserving his modesty and chastity...That is why Ibn Abbas said “The devotion of the devotee is incomplete until he marries” while according to Qatada,³⁶ lust is what is hinted at in the Exalted One’s words:

Surah Al Baqarah (2:286) “...Our Lord! Do not burden us beyond our strength to bear it...”

Meaning that man cannot endure being without women. Marriage offers protection from the perils of lust, it is of religious importance for everyone who is not incapable through indigence (Adab Al-Nikah, Imam Al Ghazali).

BOX 4: Verses from the Quran and Hadith Used When Referring to Child Marriage

“And marry the unmarried among you and the righteous among your male slaves and female slaves. If they should be poor, Allah will enrich them from His bounty, and Allah is all-Encompassing and Knowing.” (An-Nur, 24-32)

“And they who guard their private parts (5). Except from their wives or those their right hands possess, for indeed, they will not be blamed – (6). But whoever seeks beyond that, then those are the transgressors.” – (7) ... Ayat Al-Mu’minun (23:6)

“O youthful people, if any of you have the means to, he should get married, as it lowers the eyesight and protects the private parts. Those who have not the ability to do so should fast, as it will be a shield for him.” Hadith of Bukhari (Book 20, Volume 20)

“Narrated by Aisha: that the Prophet married her when she was six years old and he consummated his marriage when she was nine years old, and then she remained with him for nine years (i.e., till his death).” Hadith of Bukhari (Book 62, Volume 7 and 64)

Allah’s Apostle said, “If a husband calls his wife to his bed (i.e. to have sexual relation) and she refuses and causes him to sleep in anger, the angels will curse her till morning.” Sahih Al-Bukhari Hadith (4.460) Narrated by Abu Huraira.

Source: Horii (undated)

Further there is a collective obligation (*fardh kifaya*) on the Ummah (Muslim community) as a whole to promote, defend and facilitate the institution of marriage. This is all clearly based on the command of Allah in the verse previously cited which starts out:

“And marry off the single among you...” (Sura An-nur 24:32 as translated by Khan).³⁷

³⁵ See <https://quran.com/24/32>.

³⁶ Ahu’l Khattab Qatada ibn Di’ama ibn Qatada as-Sadusi (d.A.H.118) Learned in Quranic exegesis an Islamic jurisprudence, he was also an authority on Arabic poetry.

³⁷ See <http://2pm.co/demo/2500/24/32/>.

According to Muslim jurists, marriage is a contract (*aqd*) between a man and a woman. In principle, Islamic legal tradition favours the formulation of a comprehensive marriage contract at the outset that regulates the terms and conditions of the marriage, including claims after divorce. Women entering marriage are allowed to insert clauses into the marriage contract as part of the betrothal agreement. Should the husband violate any of these clauses, the woman may bring the matter to a judge for breach of contract or conditional divorce (*taklik talak*) (Husein 2012).

Is the Consent of the Guardian Needed?

There are three prophetic reports that are immediately relevant to thinking about how a woman’s consent figures in a guardian’s decision to marry her off (Masuf 2013, 134-5). According to the first report, Prophet Muhammad distinguished women according to two indicators – whether a woman was an orphan or whether she was virgin – stating that in either case she should not be married against her will, but also that her silence can be taken to mean consent. A basic version of this hadith reads:

“Ask permission (tusta’maru) from the orphan girl (yatima) with regard to herself. If she is silent (sakatat) then this is her permission/consent (fa-huwa idhnuuha), but if she refuses (abat) (her guardian) has no licence/authority (jawaz) against her.” (Abu Dawud 1998, 25)³⁸

In a variation of this prophetic report, Aisha interchanged “orphan girl” (*yatima*) with “virgin” (*bikr*), telling Prophet Muhammad, “O Prophet of God, the virgin is embarrassed/ashamed (*tastahyi*) to speak.” He responded, “Her silence is her consent (*suktuha iqraruha*).” In yet another version of this same report, Prophet Muhammad said that both a woman’s silence (*sakatat*) and her crying (*bakat*) are indications of her acceptance (Abu Dawud, 1998, 25).

In the second hadith, under the heading “Chapter on the divorcee/widow (*thayyib*),” Prophet Muhammad provided guidance for the previously married woman as well as the virgin. He appears to have suggested that the previously

married woman does not require a guardian for marriage but that the virgin must be married off by a guardian and that her silence may be taken as her agreement to the marriage. The report reads,

“The widow (al-ayyim) has greater right over herself than her guardian (waliyyuha), and the virgin (bikr) should be asked permission about herself, and her silence is her permission (wa-idnuha samtuha).” (Abu Dawud 1998, 26).

The third and final hadith under study is not a statement of Prophet Muhammad, but a narrative about his behaviour. In this report, a woman named Khansa bt. Khidham was divorced from her husband because of her forced marriage. According to the report,

“The Ansari woman, Khansa bt. Khidham, reported that her father married her when she was a divorcee/widow (thayyib) and she disliked this, so she went to the Messenger of God and mentioned this to him, so he nullified (radda) her marriage.” (Abu Dawud 1998, 27).

In a similar hadith report, recorded under the subheading “Chapter concerning the virgin who is married by her father without her permission,” a virgin woman complained to Prophet Muhammad about a forced marriage imposed by her father and was similarly released from her marriage (Abu Dawud 1998, 26).

Together these *hadiths* pose challenges and opportunities for the feminist reader. The basic assumption about gender in all three reports is patriarchal. In all three reports, men are in guardianship roles, while women are categorized by their level of economic and/or social independence and their sexual experience, and thus by their sexual value to men. All three reports discuss the boundaries of a guardian’s power over his female ward, thus institutionalizing that power. In the third report, the guardian’s power over the woman is restricted by another man in the community, namely Prophet Muhammad, so there is some level of social oversight. The woman’s agency and power are primarily asserted through speech; she has the right to refuse a marriage (Messick 2009). However, this is also the precise point where her agency is easily erased, since the reports state that her silence is consent. One can imagine multiple scenarios in which a woman might feel unable to reject a marriage, ranging from shyness (as mentioned by Aisha), a feeling of obligation, or pressure. Having her silence and

³⁸ All of the hadith translations are my own. *Men in Charge, Rethinking Authority in Muslim Legal Tradition*. Edited by Ziba Mir-Hosseini, Mulki Al-Sharmani and Jana Rummingier.

“ Such quotes can be used in interpretations that Islam does not give the father the right to use his daughter’s wealth without her permission, and as such how can he be allowed to decide, without her permission, how her body (which is more important than her wealth) is to be used? ”

perhaps even her crying as indications of her consent lends itself to the institution of forced marriage. Furthermore, the reports do not specify whether others must witness the woman’s silence or how one might prove this silence (Mir-Hosseini et al, 2015).

A Fatwa from “Al-Masa’il ul-Mardiniyyah,” translated by Abu Abdullah Muhammad al-Jibali, on forced marriages (Imam Ibn Taymiyyah) states that a father may force his virgin daughter who attained puberty to marry. The opinion of Malik, ash-Shafi’i is that he may compel her and that of Abu Hanifah, which is more progressives, is that he may not. The very nature of the act i.e. the coercion towards the act of marriage is neglected here, particularly since it is in relation to being under-aged.³⁹

Abu Hurayrah reported that the Prophet (PBUH) said:

“A non-virgin woman may not be married without her command, and a virgin may not be married without her permission; and enough permission for her is to remain silent (because of her natural shyness).” [Al-Bukhari, Muslim, and others]

Aisha said that she asked the Prophet (PBUH) *“In the case of a young girl whose parents marry her, should her permission be sought or not?”* He replied, *“Yes, she must give her permission.”* She then said, *“But a virgin will be shy, O Allah’s Messenger.”* He answered: *“Her silence is [considered as] her permission.”* [Al-Bukhari, Muslim, and others]. Thus forcing a woman to marry without her permission, whether it be by her father or someone else is prohibited.

Such quotes can be used in interpretations that Islam does not give the father the right to use his daughter’s wealth without her permission, and as such how can he be allowed to

decide, without her permission, how her body (which is more important than her wealth) is to be used?

Strictly arranged marriages and endogamous marriages (within kinship groups) is not the only way a girl gets married. From observation and interviews in both study locations, there appeared to be a tradition where girls and boys can form friendships during certain events (during a badminton or basketball competition or a bull race in East Java). Furthermore, even though some authorities had established many prohibitions against the mingling of boys and girls, the tradition of giving a space for them to meet was tolerated. The time for such semi-secret dating is before dawn. Another time was during the fasting month when girls went to the mosque with their parents and relatives for the whole month. This opportunity was used by the boys to approach a girl, usually with a follow up of getting to know her better. Another space for mingling of a man with a woman is a wedding party, which lasts for the whole day; unmarried women or widows could find their future husband as interaction between the two sexes was easier.

Abdoerahman (1972) notes that the existence of child marriage (below 16 years) and divorce in Indonesia in the early 1900s, and the recognition of its increase during the first Women Congress held in Yogyakarta December 1928 by women activist raised. Unfortunately, the practice of marrying daughters continues as a custom in the study locations and parents have reasoning that justifies the practice. Once such justification is the stigma attached to rejected marriage proposals of the oldest girls in the family, which extends to younger sisters who, it is believed, will never marry. As such, parents use marriage at an early age as a means of avoiding such stigma. Maintaining the status of the family and avoiding the instance where a girl would choose to marry someone below the family status was another reason. From this study it is also obvious that marriage is seen as merely an institution for protection and as such

³⁹ See http://www.islamswomen.com/marriage/forced_marriages.php.

considered a domain the state should not interfere in. Moreover, sexual desire of human beings is also considered a natural act and one that should be accommodated.

In the Quran and Hadith there is no mention of a minimum age of marriage and several conservative clerics always referred to the example of Aisha; claimed to have married the Prophet at age nine. The conservative clerics justified a mature girl to be married when she gets her first menstruation; while a more progressive Ulama in Indonesia (Quraish Shihab) urges the use of *aqil baligh* in interpreting for maturity of a girl or a boy. According to him there is a very clear verse in the Hadith about *aqil baligh*. *Baligh* refers only to physical signs, such as menstruation for girls and wet dreams for boys, while *aqil* refers to mental and psychological maturity that is essential in managing a marriage and household.⁴⁰

The Nikah

The longing or hope to exhibit or feel sexual desire (*Syahwat*) according to Islamic law should be blessed by God, which can only happen if it is through a contract (*aqd*). The legal act of marriage is known as the *nikah*, which is also termed *aqd*, meaning binding in a knot. The act of divorce is *talaq*, which means being free from the knot (Zaid 2011).

Linguistically, *nikah* means embracing or penetrating. When it is pronounced *nokh* it refers to a woman’s vagina and is mainly used in the context of sexual intercourse. When it was used in reference to marriage it is because sex is considered a necessity in marriage; making sexual intercourse a key purpose of marriage (ibid.).

Authorities in Indonesia used the word *aqd nikah* for a Muslim marriage ceremony. During this ceremony the district religious authority (*penghulu*) will ask the father of the bride to recite the *ijab qabul*. The meaning of *ijab* is offering his daughter to be married with the man who sits in front him (the future husband). Immediately afterwards the future husband replies, “I accept your offer and I provide a *mahr* in kind (or in cash)” (ibid.).

Al Qur’an considered an *aqd nikah* as a serious contract. In this contract there is an element of offering a daughter (*ijab*) to a

man, who as the future husband (the groom) sits in front of the father at the same table and gives acceptance (*qabul*). This means that if a marriage is a social contract or a social transaction it should be considered a contract between a future husband with a future wife (Mulia 2010). However, the ritual of offering (*ijab*) and acceptance (*qabul*) where the father of the bride takes the hand of his daughter’s future husband looks like a marriage ceremony between two men. Moreover, very often the bride does not sit at the table during the oath of *ijab qabul*. It is interpreted to mean that the bride should just sit in her room/away from the ceremony and the oath is taken, on behalf of the girl, by the father or a guardian, who comes to the room and asks the bride whether she is agreeable to the marriage. If she is quiet and says nothing then this is taken as a gesture of agreement (ibid.).

By this gesture, it is obvious that without the presence of the bride at the *ijab qabul* table, the value of a woman is considered to be half that of a man, and she is considered not having the authority to decide to choose her own future husband. This is one of the reasons that all her male relatives have the authority to choose her future husband. A woman is still seen as being weak, particularly weak in intelligence and incapable of making her own decisions. This is despite there being a verse in the Quran which is very persistent in saying that only devotion to God (*taqwa*) makes a person different, not the gender (ibid.).

The Nushoose

The concept of *nushoose* or “disobedience” of a wife to her husband has been explained as follows. If a woman shows signs of disobedience to her husband, such as refusing sex, or responds to him reluctantly, or disdainfully, her husband may force her, and try to put the fear of Allah into her. If she insists on disobeying him, he may forsake her in bed as long as he wishes. If she insists on her attitude, he may beat her, but not severely. If both spouses claim that he or she is treated unfairly, the judge may send an arbitrator from the man’s side, and an arbitrator from the wife’s side so that the two would decide what is best for the couple; either separation or reunion (At-Tuwaijiry 2000).

The duties of the husband and wife have been interpreted in the following manner. It is the duty of the wife to beautify herself for her husband, obey, and respect him, not to frown in his face, nor to offend him. On the other hand, it is the duty of

⁴⁰ From author’s experience of working on the issue of child marriage.

the man to earn the living, and maintain his family. The duty of the domestic services as well as rearing the children rests with the wife (At-Tuwaijiry 2000).

It is considered unlawful for the wife to beautify herself for anyone other than her husband. On the other hand, it is commended for the two spouses to beautify themselves for each other. Allah says: And they (the wives) have rights over them (the husbands) just as they (the husbands) over them, with moderation.

BOX 5: The Role of Choices in Child Marriage

When she was 15 years old she was given in marriage by her grandfather who decided to ask a boy (a son of his best friend). From the start of the wedding ceremony Mrs. Ai felt uncomfortable with her new husband who, according to her, had no manners and very often forced her to please him during sexual activities. After six (6) months she asked for divorce while pregnant.

After her first child was born, her mother took care of the baby. When she was 17 years old, she met and married a boy who was 18 years old and came from a neighbouring village. According to her this second marriage was a marriage of love, but she refused to use modern contraception since according to her it goes against Islamic teaching. Today she has five children at 32 years old.

Source: Case Study of Mrs. Ai in West Java

Child Custody

There is no verse in the Quran on custody of minors but the classical Muslim jurists have referred to the verse of fosterage (*Ayat al Radha'at*) which says that mothers should breast feed their infants for two complete years. Therefore, through *Iqtada al Nass* it is interpreted that in the years of infancy the right of upbringing and fostering the child remains with the mother (Rafiq 2014).

In the light of hadith, three principles have been laid down while deciding the custody of a child. Firstly, the mother possesses priority right of child custody so long as she does not remarry. Secondly, in a situation where parents profess

different religions, custody of the child should go to the parent who follows the religion of Islam, and when the child has gone past the years of minority (seven years), he will be given an option to choose between both parents (ibid.).

A deviation from the above principles is observed during the time when *fiqh* was codified and the rulings of the masters of five leading schools of thought. According to Abu Hanifa, custody transfers to the father when the boy reaches the age of seven years and the girl when she attains puberty. In Imam Malik's opinion, the mother has the right to her son's custody till he is able to speak clearly and the daughter till her marriage (ibid.).

According to Shafi'i and Imam Hanbal, the mother has the right of custody or upbringing till her son or daughter is seven years of age. After this age the option will be granted to the children to choose with whom they wish to live. In *Shi'a fiqh*, the mother has the right to keep her son in her custody till he is two years old and daughter till she is seven. After this, the right of custody is transferred to the father (ibid.).

According to the principles of established Muslim Jurisprudence, the father is considered to be the child's natural and legal guardian because upon him is the responsibility of financial support provided for his child. Mothers are the custodians till a particular age after which the custody either reverts to the father, or the child is given the option by the court to choose between both parents, though no such age limit is stated in the texts (ibid.). The reality of financial support differs where women are the main providers for children bringing to question the operational aspects of such an interpretation as well as claims for equality between men and women in Islam. This is one of the reasons that in the study locations almost all girls were married off by her father or grandfather as they are considered the girls's guardians. Some classical scholars have claimed that it is detrimental for the child to live with his or her mother if she remarries, if she takes up a profession or if she converts to another religion, in which case the custody of children will transfer to the father – who is Muslim. Ultimately, it appears that it is to protect the male line and in turn patriarchal notions of male authority and decision-making. In *Nayl al Autar* it is stated that:

"It is essential to look into the interest of the children before they are given the option to choose between the parents for their custody. If it becomes clear about any one of them that he

or she would be more beneficial to the children from the point of view of their education and training then there is no need of *qur’an* or choice of the children” (Rafiq 2014).

The family has the right to accept or reject marriage proposals. Her consent is a prerequisite to the validity of the marital contract, according to the Prophet’s teaching. It follows that if an “arranged marriage” means the marrying of a female without her consent, then such a marriage may be annulled if the female so wishes:

Ibn Abbas reported that a girl came to the Messenger of Allah, and she reported that her father had forced her to marry without her consent. The Messenger of God gave her the choice...(between accepting the marriage or invalidating it) (Ahmad, Hadith No 2469). Another version of the report states that “the girl said: ‘Actually I accept this marriage, but I wanted to let women know that parents have no right to force a husband on them’.” (Ibn-Majah) (Badawi 2010).

The Economic Advantage of Marriage

The case studies are used in this section to show the interlinkages between religious interpretation and economic conditions in justifying marriage. In Indonesia, in the absence of adequate economic resources for women’s financial security, many women often resorted to a marital strategy called “*nikah siri*” (married just in front of a religious leader), which is not legally binding by the state since it is not registered. The marriage is just blessed by someone who is considered as an *ustad/ulama* (religious leader). Thus, a family with low prospects would accept the marriage offer of another family, which would offer a certain *mahar/mas kawin*. It is the bride’s right to receive the *mahar* (bride-price paid by the groom to the bride) for herself, but usually her parents will keep it, resulting in it being a dowry.

In some cases, consent is not considered or asked for. This is illustrated by the following example. It was clear from interviews, that at the ceremony a father was marrying off his daughter without the attendance of the daughter because she was never informed about the ceremony. She found out when she returned from school. “I was so surprised when I stood in front of my house and saw so many visitors were inside my house...later I had been told that my father had married me and that I should just accept it.”

Continuation of a Male Bloodline

Many factors are involved in decisions towards child marriage.

- Continuation of a bloodline and ensuring the status of the family. Parents, particularly those of families of a higher status, look for a husband from a similar status. When an opportunity arises, families are more willing to give underage girls in marriage so as not to lose out on the chance to ensure the preservation of the family status.
- Religious organizations: it is clear that from their statement read at the Judicial Court session held on 18 December 2014, that the Muhammadiyah, Nahdatul Ulama and Indonesian Ulama Council still endorse the legal marriage of girls under 16 years of age, on the basis that the Qur’an and *hadith* do not stipulate a legal minimum age of marriage. These three big organizations are not in agreement to raise the minimum legal age of marriage from 16 to 18 years.
- Three of the largest Islamic organizations mentioned at the Judicial Court (2015) that the minimum legal marriage age of 16 years for women should not be changed to 18 years to keep the way open for those girls who faced unwanted pregnancies since they could get compensation to marry officially.
- Local religious leaders: almost all informants mentioned that each of them was a member of a ‘*pengajian*’ group (Qur’an Reading Group) in their neighbourhood. From several phrases in the Quran and *hadith*, they were taught that no one can prevent a man getting married if he is eligible...since marrying a woman is a duty (*ibadah*). They note that husband and wife should not act against God’s will.
- The Marriage Law (No. 1/1974 and the regulation on Child Marriage) allows compensation from the District Religious Affairs Office for girls and boys getting married below 16 years, especially if such a girl is already pregnant.

This study identified a range of actors who influenced the act of parents marrying off their daughter: firstly, it is clear that parents, mostly fathers, were the one who pushed their daughter to getting married as soon as possible. From the interviews with mothers, it seems that although they still submitted to their husband’s act of marrying off their daughters when they were still under 16 years old, this was not a sign of agreement. Secondly, extended families from both the husband’s and wife’s sides still have quite a lot of influence in the practice of marrying their daughter at an early age. Thirdly, the girl herself planned to get married early in order to get freedom from household chores since a married woman is perceived to have more opportunities to make decisions.

BOX 6: Opportunities for Change Come from Women

Her father is a senior Islamic Party leader in the Nahdatul Ulama Party, which is the largest Islamic party in Indonesia. The party runs an Islamic Boarding School in Jombang, East Java. Her father's nephew came to him to ask for a teaching job at the boarding school after graduating from Senior High School. After some months of teaching at the school he decided to marry her. She had just graduated from junior high school and was 16 years old at the time. The marriage was registered, as it was not against the marriage law, which allows a girl of 16 years to marry.

"I agreed with my parents' decision since I know my duty is to be obedient to them. I am the oldest child and I used to take care my only brother and sister. Earlier I did not know that my parents intended marrying me off to my father's nephew...he was my younger brother and sister's teacher and both of them were already very close to him."

When her parents went on Haj when she was 11 years, she took care of her siblings and did the cooking for a month. Today she manages the boarding school.

"My mother was the one who taught me how to manage a household and she said that a married woman has more freedom to decide as well as to act according her own will... of course after asking permission from her husband."

"The first three years after the marriage ceremony I had no intercourse with my husband since I studied at a boarding school in Probolinggo, which was two hours by bus from my father's boarding school. After I graduated as a senior from high school, I moved on to study at Islamic University and graduated in 1997."

"During this period when I was studying at the University in Malang, I decided to live in the some rented house with my husband...My first child was born during the third semester

of the University in Malang (East Java) and at that time I was already 20 years old...I managed to postpone my pregnancy by using the pill and my mother was the one who brought me to a midwife and at that time I was 18 years old."

"I had to bring my baby to the university campus in Malang and started to use injection as a method to postpone the next pregnancy"...but in fact I felt unwell if I was injected for three months...and then I decided to stop with all contraception and since that day the next year I delivered a new baby...today I am 40 years old I have five children...and until this day I use the IUD to prevent another pregnancy."

"A year ago since the doctor did an USG (ultra-sound of the uterus) he found out that I have a myoma (benign growth in the uterus) and so I refused my husband's will to have another child. I have heard that marrying young and having many children are the cause of a myoma."

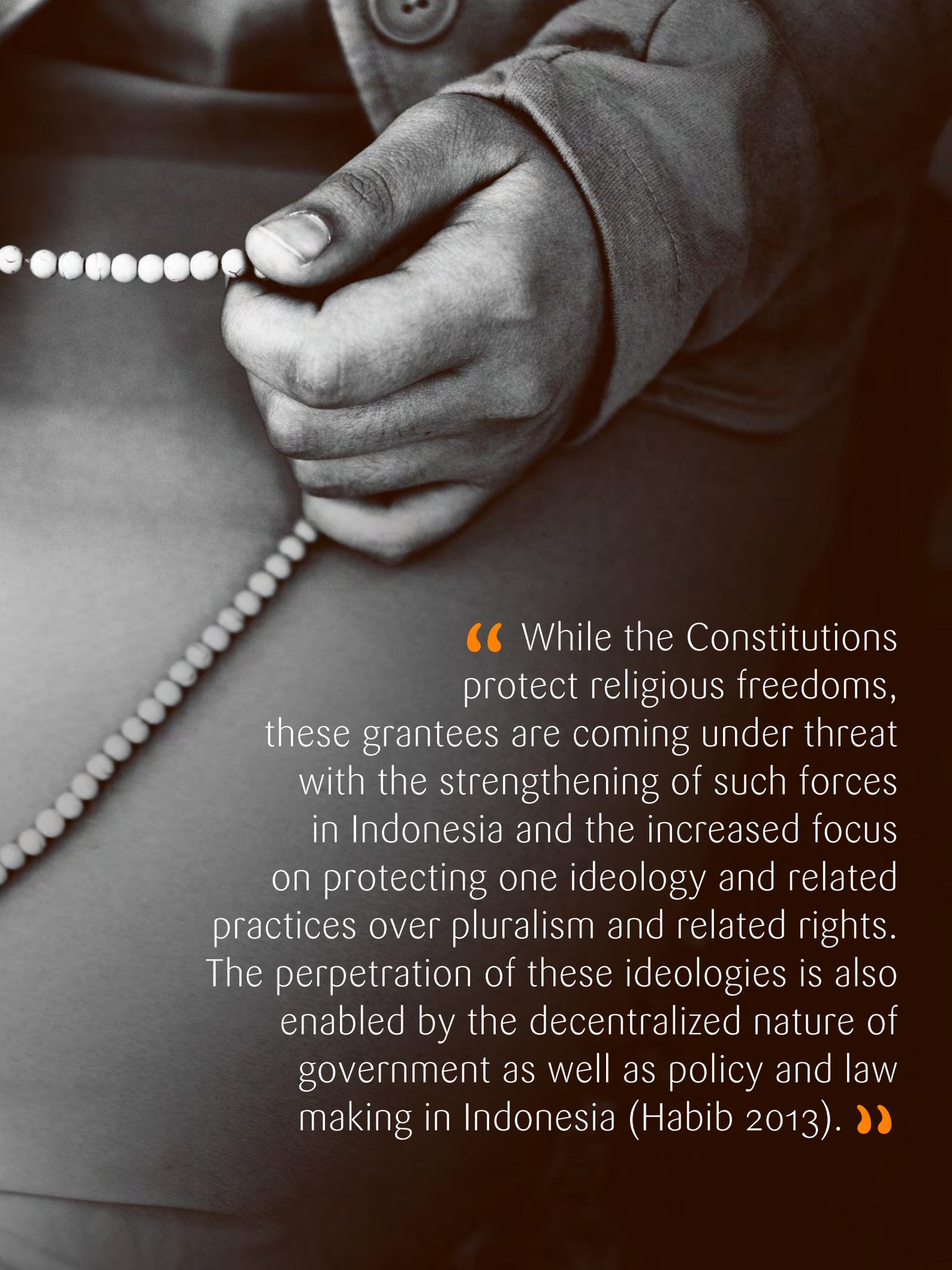
When she was asked whether she would also marrying off her daughter at a very young age...she said she wouldn't and that her eldest daughter is still studying at a university in Surabaya.

"I don't make a difference between a daughter and a son... all of them should first graduate from a university or complete their school and then get a job or start a business and then get married...Next year my eldest daughter will graduate as a pharmacist and I hope she gets a job and earns money before she got married...I refused to marry off my children before they at least graduated high school. I should look at the mental preparedness of each child since each of them is different...I certainly agreed that a girl should reach at least 18 years before marriage, while for a son the minimum age should be 21 years since he should be economic independent."

Source: Case Study of Nyai I, Female religious leader, 40 years in East Java

“ By this gesture, it is obvious that without the presence of the bride at the *ijab qabul* table, the value of a woman is considered to be half that of a man, and she is considered not having the authority to decide to choose her own future husband. ”





“ While the Constitutions protect religious freedoms, these grantees are coming under threat with the strengthening of such forces in Indonesia and the increased focus on protecting one ideology and related practices over pluralism and related rights. The perpetration of these ideologies is also enabled by the decentralized nature of government as well as policy and law making in Indonesia (Habib 2013). ”

4. CONCLUSIONS

Child marriage is widely practised in Indonesia and legally accepted as stipulated in paragraph 7 of the Indonesian Marriage Law (No. 1/1974) where the minimum legal age of marriage is 16 years for women and 19 years for men. Attempts by activists to revise the law have been unsuccessful. The two largest Muslim organizations – *Nahdatul Ulama* and *Muhammadiyah* as well as the Indonesian Ulama Council (IUC) – have shown consistent support for the practice of child marriage by refusing to change the minimum legal age of marriage for girls to 18 years, which is also evident from a rejection of an appeal to the Judicial Court in 2014-2015.

Marriage at a young age forces girls into adulthood before they are emotionally or physically mature, leading to a range of harmful physical and psychological effects and a limitation of a range of their rights. Child brides are often expected to bear children soon after marriage, which makes them vulnerable to pregnancy and childbirth complications; the babies born are more likely to die soon after, tend to have lower birth weight and weak immune systems, and face higher risks of malnutrition (WHO 2014). The cultural and religious implications of the practice are not to be ignored or its influence on child marriage cannot be underestimated.

Since independence in 1945 conservative religious forces in Indonesia have been trying to make their mark, including having an influence in encouraging practices such as child marriage. After the fall of the Suharto regime in 1998, conservative groups took the opportunity to expand their conservative beliefs and form new political parties as well as having an informal presence at the local level.^{41,42} For many decades, fundamentalist groups in West Java have operated with the aim of transforming the Republic of Indonesia into an Islamic State and moving away from the so-called Western influence.

This study unpacked the influence of conservative religious interpretations on child marriage. It aimed to understand the cultural and religious determinants that influence the practice of child marriage in West Java and East Java and to develop a way ahead to integrate this understanding into advocacy to eliminate child marriage in Indonesia. The study used the terms of conservative beliefs and interpretations of the religious texts in the context of Indonesia rather than religious fundamentalism focusing on variations in interpretations of the religious texts which are used in defending patriarchal doctrines and decisions. In Indonesia, as is the case with many other countries, these conservative interpretations urge women and girls to be completely submissive to their parents and later when they married, to their husbands, as this was the only way to an afterlife in paradise.

Similarly, a girl is under the guardianship of the father and seen to be the property of the father or grandparents. She has no say in any decisions regarding her life and wellbeing, including marriage, which is seen as an alliance between two families. During the wedding ceremony, the father (or guardian) is required to give consent on behalf of the daughter, not the woman herself.

At the same time, more progressive interpretations have been derived that are based on gender equity in Islam. The Quran has outlined several principles that guarantee the achievement of successful marriage. One of these requires that a husband-and-wife relationship ought to be a joint or a two-way relationship in which one side is equal to the other. In such an event and equal relationship, one acts as a companion who completes the other, with no superiority or inferiority involved (Badawi, 1995 and Mulia, 2010).

Beyond reasons of poverty and economic conditions, reasoning around control of women’s bodies, lack of respect and equality in all aspects of life and community within and outside the institution of marriage, have roots in conservative religious interpretations. In this interpretation, marriage is used to legitimize the subordination of women, and even ensure

⁴¹ <http://www.thejakartapost.com/news/2012/05/25/islamic-fundamentalism-and-democracy.html>.

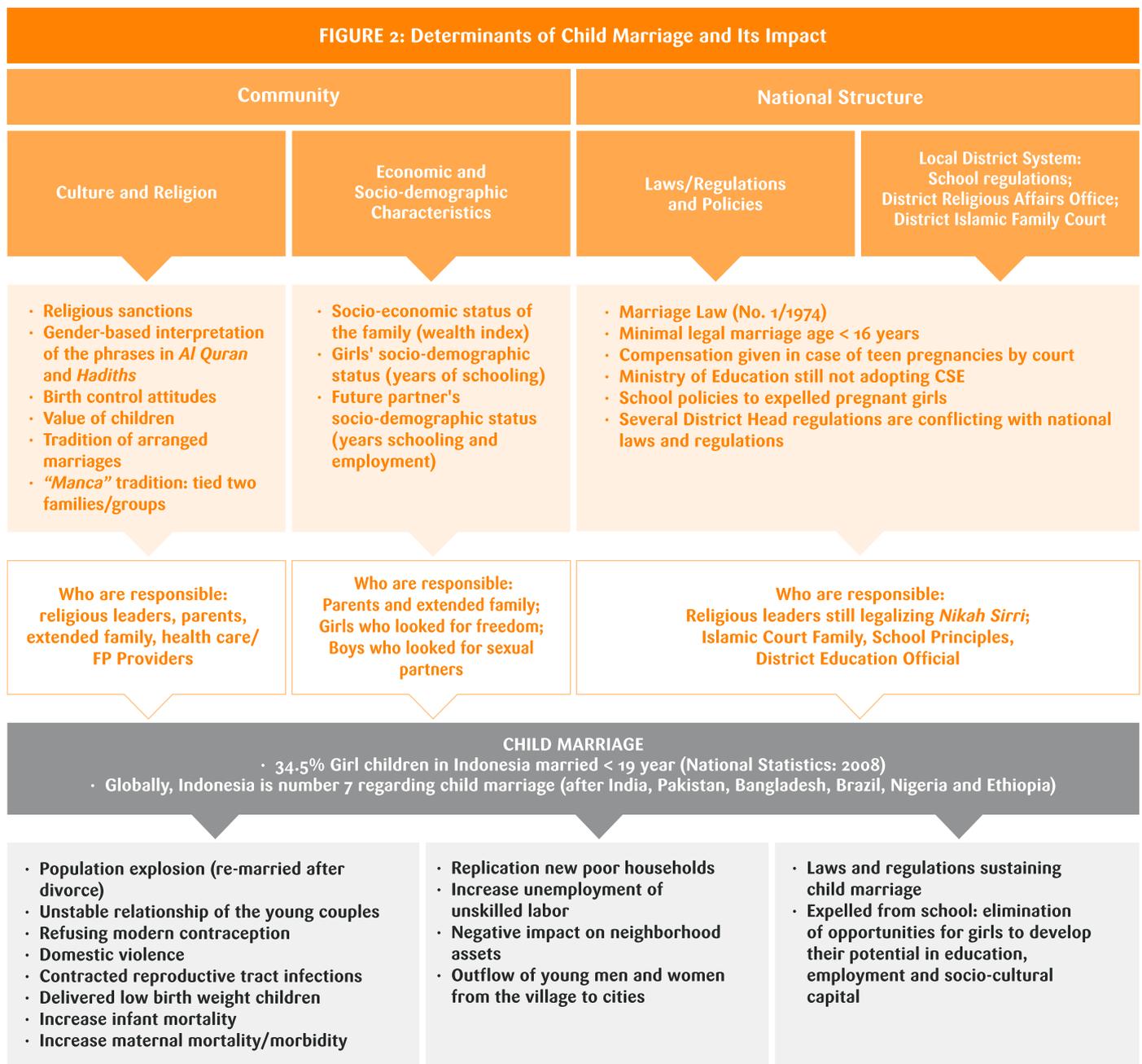
⁴² <http://www.ibtimes.com/rise-islamic-hard-liners-indonesia-turning-pakistan-1342233>.

repression. This is one of the obvious reason that the incidence of child marriage in Indonesia is perpetuated through religious influence.

The general view as expressed in the qualitative data as well as the literature reviewed on conservative interpretations is that total obedience and submission is the expectation. The highest authority in the family is usually a male member; the grandfather or father, while the role of the mother is to ensure

disobedience is curtailed in terms of operationalizing these views and norms. The daughter is seen as a burden (or liability) in a family and a potential source of threat (*fitnah*) to its honour requiring mitigating strategies that would help prevent dishonour i.e. marriage of girls as early as possible; such as at puberty. As such the misogynistic social construction enables child marriage. This study also finds that culture and religion worked together and were interwoven in order to facilitate child marriage.

FIGURE 2: Determinants of Child Marriage and Its Impact



5. RECOMMENDATIONS

Government

- Recognise that child marriage is a violation of the rights enshrined in the Indonesian Constitution and prioritise action to ensure an increase in the minimum age for marriage through changes in legislation and their implementation. The Constitution of Indonesia clearly stipulates that women enjoy rights equal to men in political, economic, cultural, social and family life. The Marriage Law violates the Constitution and conflicts with other existing laws. Change in the Marriage Law (No. 1/1974), particularly the paragraph on the minimum legal age of marriage from 16 years to 18 years, is required.
- Remove inconsistencies and contradictions in laws that limit child rights. Indonesia’s law on Child Protection (No. 23/2002), stipulates the right of a child to enjoy their potential development in education and health, which is in contradiction with the marriage law (No. 7/ 1974) where the minimum legal age of marriage is 16 years. Besides, the Law on the National Education System (No. 20/2003) stipulates that the state has the obligation to ensure that every child follows 12 years of schooling. This means that every child should be 18 years old before marriage to be able to complete the 12 years of compulsory education.
- Ensure perception changes in communities, and among parents and guardians that a girl child is not a property or liability, but is a human being who has her own will and rights to decide for her own future.
- Ensure that the wrong religious interpretations of some hadith on politics and society is minimal. Religion should not be hijacked by religious leaders with personal agendas, still reluctant to accept equality and equity between man and woman.

The Ministry of Education

- Provide comprehensive sexuality education (CSE) at school and/or out of school about all aspects of sexual health and reproductive rights. By knowing about their body and its functions as well as the importance of gender equality and

equity in Islam as the basic principles, the relationships between boys and girls will be seen as protectors of one another.

- Address limitations to providing CSE to young people including designing age appropriate curricular and content and capacitating teachers to deliver the training.
- Address issues related to perceptions and attitudes that act as a barrier to creating political will to ensure that related policies are implemented.

The Ministry of Religious Affairs, District Religious Affairs Officials and local authorities

- The Ministry should publish guidance on the progressive interpretation of the texts for teachers and other stakeholders.
- A Ministerial Decree should be enacted regarding the implementation of CSE in Islamic Boarding Schools.
- The Ministry and district religious institutions should have zero tolerance towards the acceptance and legalizing of child marriage by the Religious Court.
- Decentralization in the early 2000s led to significant variations in the delivery of the family planning programme across the country. The central authority of The National Family Planning and Population Board (BKKBN) continued to set policies, but the application of policies is dependent on district and local level authorities. Although BKKBN at the national level has policies regarding future planning for the youth, called *Generasi Berencana*, Indonesia’s gradual transition to a middle income country, has meant that commitments to family planning has declined. Furthermore, the stigma related to the use of contraception as a result of conservative and religious beliefs limits access and use, including for married girls. There is a need for strong political commitment and adequate resource allocation, at all levels, including at the local level, in this regard. Community involvement, including the involvement of progressive religious leaders in the community should be prioritised.

Parents and young people

- There is a need to ensure a change in mindset of how women and girls are perceived in Indonesian society as a whole. For instance, the role of both parents in preventing child marriage should be supported. Parents should respect and uphold the rights of the child and ensure that the best interest of the child is protected. Parents should not consider a daughter as an asset or a commodity or an object that can be exchanged.
- There is a need to empower children and young people so they are able to make informed decisions and choices that affect their lives. Awareness training of their rights should be conducted at schools. Children, particularly daughters, should know that to be obedient as a child has a limit and that a child has a right to reject their parents' plans for marriage.

NGOs and faith-based organizations

- Increase awareness among parents, extended families and neighbours on the implications of child marriage on girls throughout their lives by using progressive interpretations of religious texts and a rights-based approach. This can be done at schools, where parenting classes can be conducted, as well as at the neighbourhood level.
- The existing Youth Alliances and Networks should be expanded not only at the national level, but also at the district level.
- More progressive Qur'an reading groups should raise a dissenting voice.
- Muslim women must be encouraged to engage in reclaiming Islam and in the production of knowledge in progressive Islam. They should be empowered to speak out in order to claim their rights and actions towards improving their status.
- Encourage and support Muslim graduates and young scholars, especially female Muslim activists who become female religious leaders (*ulama perempuan*), who are at the forefront in teaching progressive interpretations at the Quranic reading groups.
- Publish easy-to-read pocket books using progressive interpretations in the male – female relationship which are based on equality, respect and dignity. In addition, produce articles on the subject and disseminate them via the media.

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7. APPENDIX 1

Glossary and Working Definitions

Term	Word in	Meaning
Adab	Arabic	Refinement/good manners
Adat	Bahasa	Custom/tradition/customary law
Aqd	Arabic	A contract; aqd nikah is: marriage contract
Aqil	Arabic	Intelligent in mind and emotion
Azl	Arabic	Known as coitus interruptus, is the practice of having sexual intercourse with a woman but withdrawing the penis before ejaculation
Baligh	Arabic	Refers to a person (male) who has reached physical maturity or puberty, and considered to have full responsibility under Islamic law (Sharia) as practised in Indonesia
Dalil-dalil Agama	Bahasa	Phrases or Verses in the Qur'an and Hadiths
Fardh'ain	Arabic	An absolute and individual obligation
Fiqh	Arabic	Full comprehension
Fitnah	Arabic	Temptation/trial/sedition
Fitrah	Arabic	Common sense of the noble savage
Ibadah/Diin	Bahasa/Arabiic	Obedience, submission, and devotion to Allah (God) along with the ultimate love for Him as stated in the Holy Quran (devotion to Allah)
Ijtihad	Arabic	Endeavour, strive, put oneself out/a revolutionary act to find out a new interpretation to a specific social realization (case/issue)
Hadiths	Arabic	The corpus of the reports of the teachings, deeds and sayings of Prophet Muhammad
Hijab	Arabic	A veil that covers the head and chest, which is particularly worn by a Muslim woman beyond the age of puberty in the presence of adult males outside of their immediate family in Indonesia
Jihad	Arabic	Interpreted as being a religious duty of Muslims. In Arabic, the word means struggle or resisting. The word has been interpreted in many ways.
Jodoh	Bahasa	Mate/marriage partner/match
Kafir	Arabic	A person who rejects or disbelieves in Allah (God) or who hides, denies, or pays no attention to the Islamic version of truth
Madrasah	Bahasa	Any type of educational institution, which is based on the Islamic religion
Mazhab	Arabic	An institution, not just one person, that follows certain rules
Mitsaqah ghaliza	Arabic	A serious contract
Muamalat	Arabic	Social transaction
Nafkah	Bahasa	All the needs of a household which should be provided by a husband

Term	Word in	Meaning
Nikh	Arabic	Marriage
Nikmat	Bahasa	Pleasure
Nusyuz/nushoose	Arabic	Disobedience of the wife to her husband
Pahala	Bahasa	Getting reward from God in the afterlife
Pengajian	Bahasa	Quran reading group in a neighbourhood or mosque
Penghulu	Bahasa	Representation of government officials tasked to marry the bride and groom to replace the guardian of the family
Pernikahan sirri	Bahasa	Marriage not listed and recorded in the Religious Affairs Office (KUA) but only in front of a religious leader
Pesantren	Bahasa	Islamic boarding school
Ruwatan	Bahasa	A Javanese practice where parents of the only boy in the family should conduct a special ceremony in order to praise God for protection of their son
Rizki	Arabic	Blessing (of God)/prosperity
Shariah	Arabic	Legal system of Islam
Sunnah	Arabic	Habitual practice
Syahwat	Arabic	Sexual desire which every human being as well as animals needs to fulfil
Taat	Bahasa	Total obedience
Taqwa	Arabic	Piety
Ulama	Bahasa	The religious elite of scholars at the top of the sectarian hierarchy in Indonesia (mostly male)
Zina	Arabic	Fornication/adultery

This research is an initiative of a regional partnership working on building the interlinkages of religion (fundamentalisms and extremisms) on Women's Sexual and Reproduction Health and Rights (SRHR). The ten partners are from India, Sri Lanka, Pakistan, Bangladesh, the Maldives, Indonesia, the Philippines, Malaysia, Morocco and Egypt. The regional partnership generates evidence on the interlinkages and the effects on wellbeing and human rights as part of national and international processes to achieve sustainable development and the realisation of human rights. The research for partners from India, Sri Lanka, Pakistan, Bangladesh, the Maldives, Indonesia, and the Philippines was supported by the European Union as part of the action "Strengthening the Networking, Knowledge Management and Advocacy Capacities of an Asian-Pacific Network on SRHR" and the Swedish International Development Cooperation Agency (Sida). The research for Malaysia, Morocco and Egypt was supported by the Norwegian Agency for Development Cooperation (Norad).

YKP-WHF is a non-profit welfare institution concerned with women's reproductive health issues, which are a result of the structural imbalances that create different roles, positions and rights for them as humans (gender roles) an because of discriminatory polices based on prejudice, bias, religious interpretations and misguided political policies. WHF's vision is to achieve an Indonesian society which guarantees that every woman receives her rights to sexuality and reproductive health rights without discrimination, without mistreatment, and without pressure or violence from any party, whatsoever, and is therefore free from exploitation, illness, and unnecessary death. Its mission is to: (1) work toward guaranteed legal protection for women, girls, the young, minority groups, and the differently-abled to enjoy their sexual and reproductive rights as part of their basic human rights, (2) realize universal access to reproductive healthcare that is of good quality and affordable for women and marginal groups, without discrimination, (3) raise the public's awareness about reproductive rights and equality of women and men so that they can actively demand their reproductive health rights, (4) urge the various authorities to reduce the maternal mortality rate, and (5) strengthen the organizational and institutional capacity of WHF to remain an effective organization in working for change in line with its vision by continuously applying the principles of good governance.

ARROW is a regional and non-profit women's NGO based in Kuala Lumpur, Malaysia, and has consultative status with the Economic and Social Council of the United Nations. Since it was established in 1993, it has been working to advance women's health, affirmative sexuality and rights, and to empower women through information and knowledge, evidence generation, advocacy, capacity building, partnership building and organisational development.

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