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# Agents for Change

## *Local Women's Organizations and Domestic Violence in Indonesia*

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### Abstract

The Indonesian government introduced the Law on the Elimination of Violence against Women in the Household in 2004 as a criminal-justice response to violence within the household. After more than a decade, it remains unclear how effective the law has been. Weak law enforcement, contrasting societal perceptions, structural barriers, and lack of access to effective support services and interventions are some of the challenges behind the under-reporting of domestic violence. This article discusses the work of women's organizations at the local level to address domestic violence, since the law itself stipulates a role for both government and non-governmental organizations. A case study of a women's legal aid organization in Sulawesi, LBH APIK Makassar, reveals how local activists help women to exercise agency and take action to achieve social and legal justice by working with women who experience domestic violence.

### Keywords

domestic violence – women's organizations – agency – paralegals – local activism – divorce

### Introduction

Late Thursday morning on 11 June 2015, news broke that a man had stabbed his wife and sister-in-law at Pengadilan Agama Kota Batam (Batam District Religious Court), on the island of Batam, off the north-east coast of Suma-

tra.<sup>1</sup> Rahmat, the man in question, then stabbed himself. His sister-in-law, Umi Khoirah, died instantly. Rahmat died two days later in the local hospital, while his wife, Sri Astuti, survived.<sup>2</sup>

Various news outlets reported that the couple had been in court attending the second hearing of their divorce proceedings, which would have included mediation.<sup>3</sup> The initial hearing took place on 28 May 2015, after Sri Astuti had filed for divorce on 6 May 2015. Rahmat was allegedly irritated by his wife's unwavering desire to divorce him, notwithstanding that he had apologized for his past wrongdoings. He had begged his wife to withdraw her divorce application, but to no avail. She was adamant that a divorce in the Religious Court was the only way to escape their violent relationship.

Marriage and divorce for Muslim couples in Indonesia is regulated under Undang-Undang Perkawinan 1974 (Law on Marriage No. 1 of 1974) and the 1991 Kompilasi Hukum Islam (Compilation of Islamic Laws) and falls under the jurisdiction of the Religious Court (Lindsey 2012). Both men and women have the same rights to petition for divorce to the court providing they meet one of the several grounds for divorce. Under Peraturan Pemerintah (Government Regulation) No. 9 of 1975 on Pelaksanaan Undang-Undang Perkawinan (Implementation of the Marriage Law) and the 1991 Compilation of Islamic Laws, divorce proceedings can be initiated by either husband or wife for any number of reasons, including adultery, gambling, substance abuse, the causing of bodily harm, the existence of longstanding disputes, a breach of the

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1 Indonesia's judicial system comprises four broad jurisdictions: Pengadilan Umum (General Court), Pengadilan Militer (Military Court), Pengadilan Agama (Religious Court), and Pengadilan Tata Usaha Negara (Administrative Court). The jurisdiction of the Religious Court covers matters of Islamic law pertaining to the person, including marriage and divorce, child custody, bequests, *waqf* (almsgiving), inheritance, and Islamic finance. Indonesia's Religious Court was first established during the Dutch colonial occupation. It was later reformed, in the 1950s, following Indonesia's declaration of independence. For details about the history and development of the Religious Court, see Lindsey 2012.

2 'Beginilah kondisi TKP penikaman suami terhadap istri di Pengadilan Agama', *Tribun Batam*, 11-6-2015. This tragic incident portrays the lack of protection for women, including in public spaces. The head of the police district headquarters where the accident took place admitted that public places like the Religious Court need to have a strict security system, as can be read here: 'Pengadilan Agama itu rawan walau cuma sidang cerai', *Tribun Batam*, 16-7-2015.

3 Keputusan Mahkamah Agung (Supreme Court Decree No. 1/2008) stipulates that the Religious Court is obliged to facilitate mediation between the conflicting parties once a divorce application has been submitted to the court. The mediation requires both parties, or their proxies on their behalf, to attend the session.

marriage vows by the husband (*taklik talak*), or one party leaving the Islamic faith.

Sri Astuti's case is one example of how a woman's agency to petition for divorce can be a trigger for her husband's violence (Aisyah and Parker 2014). The tragic story of Rahmat, Sri Astuti, and Umi Khoirah also reflects the seriousness of domestic violence and is indicative of the intersection between the civil and the criminal-justice fields. It reveals how domestic violence in Indonesia is more likely to be raised as a reason for divorce in the Religious Court than to be a cause for prosecution of the offending husband (Katjasungkana 2013). Looking at reports published by individual Religious Courts' websites, it can be seen that the reasons behind divorce applications by women range from physical violence (*kekerasan fisik*) such as battery (*dipukul*), verbal abuse (*kata-kata kasar*), substance abuse (*mabuk*), economic abandonment, to polygamy.<sup>4</sup>

The government introduced Undang-Undang Penghapusan Kekerasan dalam Rumah Tangga (Law on the Elimination of Violence against Women in the Household No. 23/2004; hereafter the Anti-Domestic Violence Law) in 2004, which is the Indonesian government's criminal-justice response to domestic violence. Even though the law provides for the prosecution of those who commit violence against any household member, this article focuses on domestic violence, that is, violence against women/wives. This is because, after almost ten years since its introduction, domestic violence against women as a criminal offence remains under-reported, as can be seen from the 2013 and 2014 annual reports of the Komisi Nasional Anti Kekerasan Terhadap Perempuan (National Committee on Violence Against Women; hereafter Komnas Perempuan).<sup>5</sup> The reports indicate that domestic violence continues to form the single-largest

4 Recent socio-legal research conducted in Bulukumba and Cianjur by Van Huis (2015) also confirms that women's petitions for divorce at Religious Courts in these two districts cited various elements of domestic violence as described within the Anti-Domestic Violence Law: psychological abuse, physical abuse, and economic abandonment.

5 Komnas Perempuan was established in 1998 by the Indonesian government. Komnas Perempuan's 2014 annual report reveals that cases of domestic violence significantly increased: from 280,710 in 2013 to 293,220 in 2014. See also the report 'Siaran pers Komnas Perempuan catatan tahunan (CATAHU) 2014: Negara segera putus impunitas pelaku', Komnas Perempuan, 6-3-2015, <http://www.komnasperempuan.go.id/siaran-pers-komnas-perempuan-catatan-tahunan-catahu-2014-kekerasan-terhadap-perempuan-negara-segera-putus-impunitas-pelaku/> (accessed 1-7-2015); see also the 2013 annual report 'Putusan pengadilan atas perkara kekerasan terhadap perempuan di ranah privat', Komnas Perempuan, 28-9-2013, <http://www.komnasperempuan.go.id/putusan-pengadilan-atas-perkara-kekerasan-terhadap-perempuan-di-ranah-privat/> (accessed 1-7-2015).

field of gender violence in the country. Of the total number of cases of domestic violence identified from official sources, about 96% of the 293, 220 cases in 2014 were drawn from divorce proceedings at the Religious Courts, where a number of forms of violence were cited as triggers for divorce. Only about 4% of the reported cases were based on complaints submitted to the 191 women's organizations that partner with Komnas Perempuan.

This article discusses the work of one women's organization in mobilizing its resources to intervene on behalf of, facilitate changes for, and respond to the needs of female victims of domestic violence. The focus on the work of this women's organization has arisen because the law stipulates that both government and society, including non-governmental institutions, have obligations to prevent and eliminate domestic violence, and provide women with protection. In doing so, this article presents a case study of the work of one local women's organization in the province of South Sulawesi.

The work of Lembaga Bantuan Hukum Asosiasi Perempuan Indonesia untuk Keadilan (LBH APIK, Women's Association for Justice and Legal Aid) in Makassar reveals the important contribution of this local women's organization in facilitating the personal agency of those most heavily affected by domestic violence through its role in communicating with, and informing and educating villagers about, their legal rights and the services they can access, and advocating for them. It reveals how LBH APIK's paralegals and/or activists work as village-based volunteers, and that their engagement with the campaigns against subordination, oppression, and discrimination against women stem from their own lived experiences, generating a form of collective agency in the process. This case study challenges some perspectives on the work of non-governmental organizations, specifically concerns that international agendas can distort local responses to modernization. Research on women's organizations in the province of Aceh found that local women's NGOs are capable of expressing and advancing the interests of women otherwise unable to have a public voice (Afrianty 2015).

This article starts with a discussion of the Anti-Domestic Violence Law and its relationship to Indonesia's international human rights obligations. It discusses the role of women's organizations in demanding that the Indonesian government considers a criminal-justice response to domestic violence. Second, it explores the contribution of women's organizations in addressing violence against women, from promoting legal reform to providing legal aid. Lastly, it explores the work of LBH APIK and paralegals in South Sulawesi by analysing a case study in which one female victim of domestic violence, by exercising her personal agency, successfully brought criminal and civil lawsuits against her violent husband. The wife initially demonstrated resilience by staying in her

abusive marriage, finally making the decision of her own volition to not only obtain a divorce from the Religious Court, but also to send her violent husband to prison.

The initial observations of this article result, in part, from studying court judgements of a number of first-instance Religious Courts.<sup>6</sup> This observation reveals that the reasons why women initiate a divorce include being physically, psychologically, and economically abandoned, which all fall under the category of domestic violence. The work of LBH APIK Makassar forms a case study, with evidence collected over several visits from 2013 to 2015, during which interviews were conducted with its paralegals.

### Indonesia's Anti-Domestic Violence Law

Violence against women is regarded as a pervasive violation of international human rights. The introduction of the Anti-Domestic Violence Law is part of Indonesia's commitment to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which was ratified in 1984, and the 1993 United Nation Declaration on the Elimination of Violence Against Women. Article 2 (1) of CEDAW recognizes and condemns violence against women as a rampant form of perpetual discrimination against women. Article 4 of the United Nation Declaration on the Elimination of Violence Against Women stipulates that states are to 'pursue by all appropriate means and without delay a policy of eliminating violence against women, and to exercise due diligence to prevent, investigate, and in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the state or by private persons'.

Under CEDAW and the UN Declaration on the Elimination of Violence Against Women, violence against women within the family is regarded as a violation of women's human rights and has become the centrepiece in the campaign for women's rights (Merry 2009). Indonesia's women's organizations became very active in demanding that the government address domestic vio-

6 Under Indonesia's court transparency programme introduced in 2007 by the enactment of Keputusan Ketua Mahkamah Agung Tentang Pedoman Pelayanan Informasi di Pengadilan No. 1-144/KMA/VIII/2007 (Chief Justice's Decree on Providing Court Information No. 1-144/KMA/SK/VIII/2007), court judgements from Religious and General Courts are made available online at the individual Religious Court and Supreme Court websites. The court judgements provide details of the parties such as addresses, level of education, employment, and economic status. It presents information on the judge's reasoning and legal references.

lence, violence against women, and rape in marriage following Indonesia's ratification of CEDAW (Blackburn 2004:194). The reluctance to address domestic violence in the previous period was linked to the strong cultural resistance to discussing domestic violence, as it was seen as a private matter (Blackburn 2004). It was the UN Declaration 1993 and the Beijing Conference 1995 that lifted the lid on the enthusiasm of women's activists to discuss violence against women in public. Following the UN Declaration and the Beijing Conference, Indonesia's women's organizations started to receive significant support from foreign aid organizations to undertake studies and to take action against domestic violence and violence against women.

Like any other country, Indonesia must follow this international law to pursue all necessary means to intervene, prevent, investigate, and introduce legislative measures to punish all acts of violence against women occurring in the public or private sphere (Kapai 2012:337). Indonesia's Ministry of Pemberdayaan Perempuan dan Perlindungan Anak (Women's Empowerment and Child Protection) together with Komnas Perempuan submits periodic reports to the Komite Penghapusan Diskriminasi terhadap Perempuan (Committee on the Elimination of Discrimination Against Women) (Article 18).<sup>7</sup>

In addition to being an international and constitutional obligation, the introduction of the law was also the result of years of intense lobbying by Indonesian women's organizations. These groups actively engaged in international policy forums, conducted local research, took action to address gender violence, and demanded a criminal-justice response to violence against women, particularly domestic violence (Blackburn 1999).

The introduction of the law is seen as a progressive response by the government and a demonstration of its serious intention to eliminate violence against women, promote gender equality, and challenge cultural and religious understandings. The latter is important, as domestic violence in particular is largely seen as a private matter, which therefore should not be a matter for state intervention (Munir 2005). Some also consider the passing of the law as a significant success for the secular women's movement in bringing sexuality and sexual violence, which it has highlighted as issues since the 1990s, into policy action (Blackburn 2010:27). Female Muslim scholar Lily Zakiya Munir (2005:5) considers the legislation to be progressive, as it reflects the fundamen-

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7 See, for example, 'Laporan independen Komisi Nasional Anti Kekerasan Terhadap Perempuan (Komnas Perempuan) kepada komite CEDAW', Komnas Perempuan, 10-10-2011. <http://www.komnasperempuan.or.id/wp-content/uploads/2014/02/Laporan-Independen-Komnas-Perempuan-kepada-Komite-CEDAW-2011.pdf> (accessed 3-3-2016).

tal principles of ‘the protection and enforcement of human rights, promotion of gender equality, justice, and equitable social relations and protection of victims.’

The law acknowledges that women constitute the largest category of victims of violence in the household (paragraph D of the ‘Consideration’ section). The law defines domestic violence as ‘any conduct towards a person, especially a woman, that results in physical, sexual, or psychological oppression or suffering, and/or domestic neglect, including threats to do something, coercion, or deprivation of freedom, contrary to the law, in the domestic sphere’ (Article 1(1), my translation).

Although the law emphasizes women, the criminalization of violence in the household includes violent acts perpetrated against husbands, children, wives and any member of the household (Article 1(2); Article 2).

In criminalizing abusive and violent acts, Law No. 23/2004 requires the mandatory arrest and/or prosecution of offenders. The law stipulates that perpetrators can be arrested and prosecuted, and may face fines from IDR 15 million up to IDR 45 million (AU\$1,500 to AU\$4,500 or EUR 845 to 2,535) and up to 15 years imprisonment for injuries resulting in death (Article 44).

While the law treats domestic violence as a criminal offence, it appears that many victims do not follow the criminal-justice procedure. This makes it difficult to obtain accurate data with which to establish how many domestic-violence cases were brought to court as criminal offences. Research conducted in the district of Banyumas in East Java showed that reports made by women of their violent experiences were not considered as crime reports by the police but rather led to officers suggesting a form of mediation, in which women and their abusers were told to return home and try to harmonize their relationship (*mengharmonisasikan kehidupan rumah tangga*) (Johny 2011:218). This illustrates one institutional challenge that contributes to the under-reporting of domestic violence. Apart from this, under-reporting also results from contrasting cultural perceptions; difficulties in accessing the legal system due to, among other issues, prohibitive costs and distances; and a lack of institutional support.<sup>8</sup>

The Anti-Domestic Violence Law also emphasizes social responsibility. While the state—represented by the police, prosecutor office, courts, and health services—bears the full responsibility for the elimination and preven-

8 Venning 2010:405; Katjasungkana 2013; see also ‘Decade-old law failed domestic abuse victims: LBH APIK’, *The Jakarta Post*, 15-4-2015. <http://www.thejakartapost.com/news/2015/04/15/decade-old-law-failed-domestic-abuse-victims-lbh-apik.html> (accessed 16-3-2016).

tion of violence, non-state and informal institutions, such as families, lawyers, and social and religious organizations, must take their share of the burden by contributing to the prevention of violence, providing protection, and supplying medical, psychological, religious, and counselling support (Article 10). The legislation also requires government offices at the national and local levels to provide certain services for victims, including the provision at every police station of a special *Pelayanan Perempuan dan Anak* (PPA, Services for Women and Children) unit, and social workers, healthcare staff, and religious counsellors to assist victims in coping with their psychological trauma, as stated in Article 13. There are currently 305 PPA units in more than 305 police stations at the district- or municipality-level and 63 crisis centres operating under the authority of government hospitals throughout Indonesia (Iskandar 2016).

One major achievement of the Anti-Domestic Violence Law is that it acknowledges sexual violence within marriage and marital rape as criminal offences (Idrus and Bennett 2003:45). It classifies sexual violence as a form of criminal offence and defines sexual violence as

sexual coercion of a person who resides in the aforementioned domestic sphere; sexual coercion of a person in the domestic sphere with another person for sexual and/or other specific purposes.

Chapter 8 of Law No. 23/2004

Marital rape was not previously regulated under any legislation, and was not subjected to the *Kitab Undang-Undang Hukum Pidana* (Criminal Code). The Criminal Code stipulates only 'physical forms' of violence against women and does not recognize the existence of other forms of abuse, such as, psychological (verbal and emotional abuse), economic violence, threats of violence and sexual abandonment (Idrus and Bennett 2003:45). The Criminal Code criminalizes actions that violate sexual decency (*kejahatan kesusilaan*), including adultery, rape, and child abuse (Chapter 14). In terms of physical violence, the Criminal Code lists five forms, including rape outside of marriage, statutory rape, forced abortion, the kidnapping of women, and the sale of women. Article 285 of the code defines 'rape' as an 'act of forced penetration or threat by men towards women that takes place outside of marriage'. It does not recognize marital rape and domestic violence, as it only regulates penalties for the perpetration of violence or rape in public spaces (Munir 2005:5). The lack of recognition in Indonesia's Criminal Code of marital rape and other forms of sexual violence shows a longstanding and critical absence of legal certainty in addressing violence against women.



In 2016, the Indonesian law makers prepared two draft laws related to the elimination of sexual violence.<sup>9</sup> In October 2016, Dewan Perwakilan Rakyat Republik Indonesia (National Parliament, or DPR RI) converted a regulation in lieu of law (Peraturan Pemerintah Pengganti Undang-Undang or PERPPU) into Undang-Undang Perlindungan Anak (Law No. 1/2016 on Child Protection). The passing of this PERPPU into law was the government's response to the seriousness of the issue of sexual violence against children; the PERPPU introduces harsher punishments, including chemical castration, for perpetrators (*kebiri*).<sup>10</sup> In addition, parliament is still preparing the RUU Penghapusan Kekerasan Seksual (Draft Bill on the Elimination of Sexual Violence), which is endorsed by Komnas Perempuan. The proposed bill argues that the Criminal Code and the Anti-Domestic Violence Law have not covered many other forms of sexual violence, including sexual harassment, sexual exploitation, forced marriage, forced sterilization, forced prostitution, sexual torture, and sexual slavery.<sup>11</sup>

This recent development reveals the seriousness of gender violence in Indonesia. It is further reinforcement of the critical need to look at the way women's organizations act to address violence against women and contribute to the implementation of the law in practice.

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9 'House may pass sexual violence regulation despite shortcomings', *The Jakarta Post*, 20-6-2016. <http://www.thejakartapost.com/news/2016/07/20/house-may-pass-sexual-violence-regulation-despite-shortcomings.html> (accessed 18-10-2016).

10 For more on the problem of sexual violence against children, see *Jurnal Perempuan* (2016) vol. 21-2. Komnas Perempuan and civil-society organizations criticize the introduction of chemical castration as a form of punishment regulated under the PERPPU (Candraningrum 2016). Asosiasi Dokter Indonesia (Indonesian Medical Association, IDI) also declared its objection to any of its members carrying out such a procedure; see Cochrane 2016. However, despite strong criticisms, in October 2016 the national parliament passed the PERPPU into law, with only two parties, the Gerindra Party and Partai Keadilan Sejahtera (PKS, Social Justice Party), rejecting the PERPPU; see 'DPR sahkan PERPPU Perlindungan Anak menjadi undang-undang', *BBC Indonesia*, 12-10-2016. [http://www.bbc.com/indonesia/berita\\_indonesia/2016/10/161012\\_indonesia\\_perppu\\_perlindungan\\_anak\\_sah](http://www.bbc.com/indonesia/berita_indonesia/2016/10/161012_indonesia_perppu_perlindungan_anak_sah) (accessed 20-10-2016).

11 'Ini isi RUU Penghapusan Kekerasan Seksual versi Komnas Perempuan', *Hukum Online*, 11-5-2016. [www.hukumonline.com/berita/baca/lt5733216560b1b/ini-isi-ruu-penghapusan-kekerasan-seksual-versi-komnas-perempuan](http://www.hukumonline.com/berita/baca/lt5733216560b1b/ini-isi-ruu-penghapusan-kekerasan-seksual-versi-komnas-perempuan) (accessed 18-10-2016).

## Agency and Women's Organizations in Indonesia

In most cases, victimization, marginalization, and discrimination against women is systematic, and perpetrated not only by individuals but also by groups, including the state. Thus, agency often emerges, not as individual action, but in the context of a group, where it resists subordination and oppression, and is manifested through collective action directed at cultural and political, as well as individual, targets (Abrams 1999:807). In the context of Indonesia, women articulate individual concerns about their status, their experience of discrimination, and oppression by organizing themselves into women's organizations and by directly speaking to parties, and governments, in a more sustained and organized way than is possible as individuals (Blackburn 2004:11).

Literature on domestic violence acknowledges that women's lived experiences are different, as they are subject to complex socio-legal contexts and therefore exercise their agency differently (Connell 1997). While some consider women leaving an abusive marriage as a form of agency, others consider that women's resilience against abuse by staying and tirelessly trying to make the relationship work, and reducing the abuse, is in fact a form of agency in itself (Connell 1997:119). This article, however, frames the events led by paralegals and wives in Makassar as a form of agency in which a woman, as Connell argues (1997:118), exercises 'any measure of resistance and self-determination to regain control in her life, and in her attempt to stop the abuse she experiences'. Some women exercise their agency having gained it as a matter of individual ability, while others do so through social and legal inquiry, and deal with the societal and legal context of oppression (Mahoney 1994 cited in Connell 1997:118). Thus, this article perceives the Anti-Domestic Violence Law as a legal framework that enables women to exercise their agency in fighting against any discriminatory acts and in combatting oppression (Abrams 1999:805).

The work of women's organizations in Indonesia has centred on advocating for reform at both institutional and societal levels. Throughout the nation's history they have played a significant role in socio-political, religious, and legal reform promoting social justice and gender equality. Similar to other women's movements in Third World countries, the birth of women's movements coincided with the rise of the nationalist movement (Blackburn 2010). Women's congresses were held in 1928, 1935, 1938, and 1941, at which demands for greater emancipation for women in regard to civil liberties were made (Katz and Katz 1975:657). During the early period of post-colonial state formation, women's organizations fought, for example, for statutory reform of Muslim marriages as introduced by the Dutch colonial government, which left the rights of women in Muslim marriages and divorces subject to customary law (Katz and Katz

1975:654–8). The result was the introduction of Law No. 1/1974 on Marriage, which for the first time required, among other things, the civil registration of marriages, divorces, and reconciliation (meaning the reuniting of a husband and wife after an initial declaration of divorce by the husband); regulation of child custody and polygamy; and stipulations on the marriage age for girls and boys (Katz and Katz 1975:670–77).

Under Soeharto's New Order government, which came to power in 1967 and ruled until 1998, civil-society movements were repressed. Women's movements were extensively curbed with the objective of domesticating Indonesian women (Blackburn 2004; Wieringa 2015). In the 1980s, educated Indonesian women began to establish new women's organizations as a result of the New Order government's dependence on global financial institutions, which forced the government to take into account gender issues in its development policies (Sen 1999). The result was that by 1998 there was a growing number of women's organizations playing a crucial role in leading democratic reform in Indonesia. It was the *Suara Ibu Peduli* (Voice of Concerned Mothers), a women's organization established in response to the 1997–1998 economic crisis, that organized the first series of protests that led to the large mass students' demonstrations that led to the downfall of the Soeharto regime in 1998 (Robinson 2009:51; Mulligan 2005:121).

The 1998 Reformasi further paved the way for the growth of women's organizations. Following instances of mass rape against the ethnic Chinese during the May 1998 riots, women's organizations demanded action from the government against gender violence, which resulted in the government establishing *Komnas Perempuan* in 1998 (Mulligan 2005:121). Women's organizations began to establish women's crisis centres and monitor numbers of reported cases of sexual violence; they were also highly involved in the promotion of legal reform, including the drafting of the Anti-Domestic Violence Law (Blackburn 1999:434; Munir 2005:4).

Literature on the prevention and elimination of domestic violence against women agrees that the presence of legislation alone is insufficient—an effective judicial system is required along with competent institutions. Failure to provide this will severely impact reform efforts and result in the perpetuation of the discrimination and subjugation of women, in particular domestic violence (Kapai 2012:336). The section below discusses the role of *LBH APIK Makassar* in addressing domestic violence at the provincial and village level.

### LBH APIK Makassar and Domestic Violence

LBH APIK is one women's organization that has been actively campaigning against gender violence, from promoting policy reform to providing shelters, counselling, and legal aid. LBH APIK believes that gender violence stems from a number of factors, which are mainly derived from the state's gender ideology. One of the founders of LBH APIK, Nursyahbani Katjasungkana, believes that patriarchal religious teachings and culture are the most important obstacles in addressing gender violence and in implementing the Anti-Domestic Violence Law (Katjasungkana 2013:170).

LBH APIK is considered to be one of the most prominent women's organizations in Indonesia and it continues to build an impressive reputation as an advocate for women's rights and social justice (Blackburn 1999:434; Katjasungkana 2004:149). Established in 1995 by a group of seven female lawyers in Jakarta, it is now a leading women's organization which provides assistance, counselling, and legal aid, and works with female victims of violence, including state violence, along with other women's organizations such as Kalyanamitra, Rifka Annisa, and Solidaritas Perempuan (Katjasungkana 2004:147).

The establishment of LBH APIK was inspired by the work of LBH Jakarta (the Jakarta Legal Aid Organization), the first civil-society organization established in the early days of the New Order administration in 1970. LBH Jakarta is committed to challenging the root causes of human-rights violations and poverty. It introduced 'the structural legal aid' approach to providing access to justice (Zen 2004). According to Lev (2000:283), the specific nature of the work of LBH Jakarta makes it an outstanding legal-aid and civil-society organization compared to any other public and private institution, because it does not simply focus its work on providing legal assistance to the poor, but also promotes a vision of 'grander political, legal, social reform, addressing the decrepitude of the legal system, political injustice and socio-economic inequalities'.

Likewise, LBH APIK, inspired by feminist legal theory, introduced a new concept called 'gender transformative legal aid', which aims to transform society by 'correcting the unjust gender relations from working through women's experiences in dealing with the legal system' (Katjasungkana 2004:150). This evidence-based approach legitimizes the work of the organization in policy advocacy, equality awareness campaigns, and reform of government legislation and social policies. The organization has also adopted the concept of 'the triangle of empowerment', which promotes the equal and critical roles of civil society, parliament, and the government in drafting policy advocacy and reforming government policies (Katjasungkana 2013:172). These concepts have formed the basis and platform for LBH APIK to work across the govern-

ment sector at the national and provincial levels, for instance, with the office of the public prosecutor; the police; judges and administrators at the Religious Courts; the Ministry of Religion; and other civil-society organizations, including Muslim-based organizations. There are currently 12 LBH-APIK offices in provinces across Indonesia, which function independently from the office in Jakarta. Each office operates its own administrative structure and financial system, and has the autonomy to work with any organization.<sup>12</sup>

In order to provide legal aid, the organization employs pro-bono lawyers and recruits legal-aid activists and paralegals to voluntarily assist the organization in socio-political and legal activism. Based on Undang-Undang Bantuan Hukum (Law on Legal Aid No. 16/2011), the Indonesian government accredited LBH APIK as an official legal-aid provider in 2014, allowing the organization to receive reimbursement from the government for the costs incurred in cases they litigate. The Law on Legal Aid also acknowledges the work of paralegals in providing legal aid. In the context of Indonesia, paralegals do not necessarily possess legal training or qualifications. Rather, as in the case of South Sulawesi, they can be village-level activists who have attended a 15-day training programme, conducted by certified lawyers, which provides a basic knowledge of Indonesia's legal system. These paralegals then act as villagers' main points of reference for first-hand information on legal issues (Afrianty 2014). Paralegals do not litigate cases, but assist during the initial process, such as connecting victims to social services, reporting to the police, and completing paperwork.

Some paralegals are themselves former victims of domestic violence, who at one time have received counselling and legal assistance from LBH APIK. While undergoing counselling, some of the victims joined the 'self-help groups' facilitated by LBH APIK. Such forums enable victims to support each other based on their experiences. Some of them eventually developed an interest in becoming paralegals, thus attending legal training as mentioned before. They also attended special trainings on gender, structural legal aid, CEDAW, and domestic violence. The organization's paralegals in Jakarta and Makassar operate 'paralegal posts' (*pos paralegal*) in their neighbourhood, many located in their own houses. This *pos* network allows victims to report abuse, to obtain counselling if they experience violence, and to seek legal assistance.

The branch of LBH APIK under consideration here was established in 2001 in Makassar, the capital city of South Sulawesi Province, in eastern Indonesia. The province is considered a stronghold of Islam, with the majority of the Mus-

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12 For information on LBH APIK's provincial offices, see <http://www.lbh-apik.or.id/lbh-apik-daerah.html> (accessed 22-1-2018).

lim populations being of Bugis and Makassar ethnic backgrounds. Following political decentralization and due to the growing Islamization movement in Indonesia, South Sulawesi has the second largest number of sharia-based by-laws after the Islamic Province of Aceh (Buehler 2008:256). Most of the regional sharia-based by-laws in South Sulawesi regulate women's clothing, the requirement to read the Qur'an, and the payment of *zakat* (or almsgiving).

At the time of my research there were four lawyers and 107 paralegals at LBH APIK Makassar, with most of the latter working on a voluntary basis. Paralegals operate in seven villages in the district of Makassar, the provincial capital. Paralegals who volunteer for LBH APIK come from different socio-economic backgrounds and are mostly single women, mothers, or female heads of households, with the majority of them possessing only primary and secondary education. In 2014, LBH APIK Makassar received 243 reports of cases of violence against women, and it was the paralegals who first handled these cases.<sup>13</sup> Of these, only about five cases ended up in civil courts, as most of the cases were solved through mediation.

Cia is an example of a paralegal who volunteers for LBH APIK. She has extensive experience in providing basic legal information and counselling. Cia was only able to complete secondary-level education, due to her family's lower economic status. She experienced difficulty in finding work, but decided to get involved in village activities at the *kelurahan* (village office). This included helping the village office to organize community events, such as socio-religious gatherings or sport events.

Her first encounter with LBH APIK was when Cia attended a public gathering at the village office organized by the women's organization. This was an information-sharing event about the need for couples to register their marriage and divorce, and to obtain a birth certificate for every child. Muslim communities in South Sulawesi strongly uphold traditional customary law, in which communities arrange religious marriages through their religious leaders, known as *imam*, and ignore the state's marital regulations. Such practices can be found throughout Indonesia, and where this happens it results in unregistered marriages and divorces (Abdun 2016; Van Huis 2015).

After attending this event, Cia actively talked to the community about the importance of following the law, helped couples register their marriages and divorces with the Religious Court, and assisted parents in obtaining birth certificates. She later attended a legal-aid training course, which then qualified her as a paralegal. It was through this training that she learned how to sup-

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13 See <http://lbhapikmakassar.org/> (accessed 22-1-2018).

port victims of domestic violence. Her interest in domestic violence arose from meeting some women who sought advice about getting a divorce, after being continually beaten by their husbands.

As Cia explains, ‘most women keep their experiences to themselves, because there is social pressure not to speak up about their abusive husbands or ask for a divorce, as it is considered *sirri* (to be tarnishing their honour/to be a cause of embarrassment)’.<sup>14</sup> She continues: ‘Villagers are being taught that in Islam, men/husbands have the right to discipline their wives, including through the use of violence.’ This understanding forces wives to accept violence as a matter of fate. According to Cia, ‘it was after attending some of APIK’s activities at their village that many women started to understand that Islam does not teach violence’.<sup>15</sup> They also learned that under the Indonesian Marriage Law, wives have an equal right to petition for divorce at the Religious Court and that the Anti-Domestic Violence Law grants them the right to report their abusive husbands to the police and, potentially, send them to prison. Lawyers and paralegals at LBH APIK Makassar recognize the need to work with religious leaders, or *imam*, as they are highly respected and considered to have religious knowledge and authority.

There are cases in which villagers follow their *imam* rather than the state’s legislation and the local government officials.<sup>16</sup> The practice of polygamy among villagers, for example, is prompted by the conviction that approval from an *imam* to take an additional wife is sufficient; hence they ignore the regulation that requires them to have the consent of their first wife. At a paralegal meeting in October 2014, one paralegal showed a photo of an instance in which an *imam* had signed paperwork to grant a husband a divorce, which was then used by the husband to take a new wife.

LBH APIK and its paralegals understand that gender relations in their community are highly influenced by patriarchal culture and by a conservative interpretation of Islamic teachings.<sup>17</sup> In addition to having to fight against tradi-

14 Interview, 28-5-2015.

15 The works of Muslim feminists such as Asghar Ali Engineer, Fatima Mernissi, and Amina Wadud are widely read by Indonesians, and, in fact, were among the first items of feminist literature to be translated into Indonesian. These publications inspired Indonesia’s religious leaders, reformist Muslim leaders, and activists and led to the rise of modern women’s Muslim organizations, such as Rahima and Rifka Annisa, and the promotion of Islamic feminism in Indonesia. See Robinson 2009; Blackburn 2010.

16 Interview with Cia, 10-10-2014.

17 For more on gender roles in the Bugis ethnic group, see Idrus 2013, which discusses an old manuscript, ‘Lontara’. This manuscript is used to define the role of the wife in the

tional values that tolerate violent acts, they also have to deal with poor governmental infrastructures and incompetent officials. At the paralegal meeting mentioned above, one paralegal said that while the law requires every police station to be equipped with a PPA unit (Article 13), the police station in her district does not have one. This means every time there is a report on domestic violence in her village, the victim needs to travel far to go to the provincial police station. The paralegal continued:

I am assisting a wife who was the victim of domestic violence. She was badly beaten by her husband. Her face was battered (*babak belur*). When I found out about the incident, I took her to the police station. When we got there, we were told that the police headquarters does not have a PPA unit and were asked by a male police officer in that station to go to the provincial police headquarters, which is a long way from the village. But we went there regardless. When we arrived at the police station, our report was taken, then the police officer told us to go to the hospital to get a medical report (*visum*). The police officer did not accompany us, when, in fact, the law requires a police officer to accompany a victim seeking a medical report. When we arrived at the clinic, we were asked to pay a fee [it should be free] in order to receive the report. They insisted that we pay, but neither of us had brought any money. They only waived the fee after I finally told them 'I am a paralegal'.

Stories from paralegals in Makassar reveal the systemic challenges they face in implementing the Anti-Domestic Violence Law, ranging from problems with the government's infrastructure and issues with accessibility to the need to deal with challenges deriving from religious beliefs and traditions. The section below discusses how paralegals at APIK assisted a female victim of domestic violence to exercise her agency to making a life-changing decision by challenging contrasting societal perceptions and going through the protracted legal process.

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household as including, among other things: being obedient to her husband; providing food; washing her husband's clothing; and saying prayers for her husband's health, so that he can work and generate an income to fulfil the family's needs (Idrus 2013:97).



## Case Study

This story involves a woman, Siti (a pseudonym), who lives in the village of Ujung Tanah. Siti had been married to Khaidir (a pseudonym) since August 2002. Siti is a housewife and Khaidir is a casual labourer. Khaidir married Siti after his first wife had passed away. They were married at the Kantor Urusan Agama (KUA, Office of Religious Affairs) in the village of Maros, South Sulawesi. They had two children. They started to quarrel following the birth of their second child in 2007. Khaidir would often come home heavily intoxicated, before physically and verbally abusing his wife for no apparent reason, such as by making unwarranted and unfounded accusations that she was having extra-marital affair.

One night in 2012, Khaidir arrived home very late and heavily intoxicated. He grabbed an iron bar (*sebatang besi*), with which he struck Siti while she was sleeping. Siti was left in a state of shock and severely wounded. She escaped and ran to her sister's house, where she would stay for a month and a half. Khaidir then went to his sister-in-law's home to collect Siti and apologize for his actions. He promised he would change and would never beat her again. Siti agreed to return and they resumed living together.

In August 2013, Siti's husband returned home upset, yet again accusing her of having an extra-marital affair. The two argued. Scared of repeat physical repercussions, Siti left their home and moved to a friend's house. For two months, she and her husband lived separately and she received no financial support from him. She went back to her home and told her husband that she wanted a divorce. Khaidir rejected the idea and promised he would try to mend his ways. Siti acceded to her husband's wishes and decided not to file an application for divorce. Again, they resumed living as husband and wife.

Their reconciliation would not last long. In February 2014, they started to quarrel again, and this time Khaidir slapped Siti in the face. He continued to accuse her of carrying on an extra-marital affair with no evidence of there being another man in Siti's life.

Resigned to the fact that Khaidir's behaviour would not improve after years of continual physical abuse, Siti decided that the only way to extricate herself from the constant barrage of abuse was to file for divorce. She went to meet with her local *imam*, a highly respected religious and community figure in her village, to tell her story and get his opinion. She described her situation to the *imam* and told him how difficult her relationship with her husband had been. After listening, the *imam* agreed to endorse her entitlement to a legal divorce and he even agreed to grant her a religious divorce. Fortu-

nately, this *imam* had been involved in LBH APIK activities in the village and was one of the few *imam* who recognized the right of women to petition for divorce in the Religious Court. Understanding Siti's situation, the *imam* told her that he would be willing to support her application for a state-sanctioned divorce.

Siti went home and told her husband that she had talked to the *imam* about their marriage situation. She told Khaidir that she wanted a divorce. Khaidir was incredibly upset to learn she had received support from the *imam*. He beat and strangled her severely, causing her face to bleed. Her neighbours took her to the local hospital to get medical treatment.

Siti told paralegals who visited her at the hospital that she wanted to report her case to the police and to file for a divorce at the Religious Court. Knowing what she wanted, paralegals accompanied Siti to the police station to file her case, bringing the medical certificate she had received from the hospital.

As they arrived at the police station, a male officer immediately told them that he could not file the case and start an investigation, as they had not brought two witnesses. The two paralegals who accompanied Siti, Cia and Eni, informed him that under Article 19 of the Anti-Domestic Violence Law, the police must immediately investigate any case involving domestic violence once a report is made. Only after a long argument did the male officer accept the case and start the investigation by first calling witnesses to come to the police station. Cia and Eni believe that if it had only been Siti who had gone to the police station, the officer would have dismissed her report. This is the typical response to victims when they make the effort to come forward. The *imam* and Siti's brother testified to the police and criminal charges were brought against her husband.

Siti filed for a divorce at the Religious Court.<sup>18</sup> In her application, she included the police report, a medical certificate, and witness accounts as primary sources for the consideration of the court. The Religious Court acceded to her application for an irrevocable divorce (*talak satu ba'in sughra*). Meanwhile, the Criminal Court sentenced Khaidir to three months' imprisonment for his violent treatment of his wife. Siti was finally able to enjoy her independence, while Khaidir's violent and abusive conduct was met with a three-month prison sentence.

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18 The case was registered as case no. 341/2014 at Makassar's Religious Court.

## Discussion and Conclusion

According to Rosmiati Sain, the director of LBH APIK Makassar who is also a lawyer, 'in fact, a much heavier punishment should have been given to Khaidir'.<sup>19</sup> She added, 'this should be seen as a positive outcome: the story reveals how a community contests family violence, including how an *imam* begins to understand that violence within the household is unlawful'.

Local activists and paralegals, as discussed above, address gender violence and domestic violence in particular by breaking the cycle of violence that emanates from cultural norms while pursuing legal processes. Violence in this community is justified by a cultural and patriarchal understanding of their religion, Islam. The local tradition of *sirri*, or embarrassment, is used to silence women to accept their husbands' violent behaviour. Siti's decision to stay in her abusive marriage for almost seven years shows her resilience and her agency as she made efforts to accept and ease the pain, while also negotiating cultural norms. After seven years of abuse, Siti learned that there was a different way to exercise her agency. She challenged the tradition of *sirri* by speaking up and seeking counsel from the *imam*, finding out about the choices she could make in petitioning for a divorce, and by filing criminal charges against her husband. The villagers' initiative in protecting Siti, taking her for medical help and seeking assistance from paralegals, reveals another important aspect in addressing domestic violence in small communities: there is a collective response, and a shared commitment towards challenging established cultural norms, and in facilitating access to help, as well as access to justice.

Individual women petitioning for divorce at Religious Courts might be seen as exercising a form of agency, because it is the women who 'leave'. However, as Komnas Perempuan suggests in its 2015 Annual Report, the Religious Court does not look at the criminal aspects of the case, even when it is clear that the reasons cited for divorce are physical and psychological violence, which have a serious impact on the women.<sup>20</sup> According to Komnas Perempuan this creates a culture of impunity towards male violence. In other words, the objective of the Anti-Domestic Violence Law is not achieved.

From the perspective of a women's organization, the story of the paralegals working for LBH APIK shows the connection they have with the people they work with, in this case women, and the issues they are working

19 Interview, 28-5-2015.

20 'Kekerasan terhadap perempuan: Negara segera putus impunitas pelaku', Komnas Perempuan, 7-3-2015. <http://www.komnasperempuan.go.id/catahu-2015-kekerasan-terhadap-perempuan-negara-segera-putus-impunitas-pelaku/#more-15391> (accessed 10-3-2015).

on. This is important, since literature on women's organizations identifies a polarization of arguments on the role of women's organizations in promoting gender equality, poverty reduction, and social justice within development practices (Narayanaswamy 2014). It is argued that local women's organizations are 'disconnected', as they work mainly to fulfil the agendas of their donors, or that they mainly represent the interests of elites at the national level (Narayanaswamy 2014:278).

However, this cannot be said to be the case for LBH APIK. While the organization may have occasionally run programmes based on funding received from donors, in terms of addressing gender violence and domestic violence within local society, most of their activism is self-motivated. It is their new understanding of their legal rights and what their religion says about women's rights that motivates them to actively engage with the campaign against violence. The socio-legal and economic inequalities they experience reinforce their gender and religious identity to collectively negotiate and challenge injustices.

The campaign against gender and sexual violence in Indonesia has been largely part of a broader, secular women's movement since the 1990s. For women in places like Makassar, whose lives are strongly influenced by religious values, their mobilization is also inspired by new forms of religious understanding. This has been enabled by processes of modernization that have allowed women to gain more authority through acquiring education and being part of social movements and organizations. Education and social mobility have inspired women to understand that they do not have to accept being subjected to violent behaviour.

Paralegals and activists from LBH APIK work voluntarily and are connected by their similar, lived experiences of being victims. It is this connection that makes their roles instrumental in providing legal information, legal aid, and other forms of social support to victims of domestic violence. While they don't litigate for clients, paralegals at LBH APIK educate and inform villagers about the need to stop family violence.

Finally, the work of paralegals at LBH APIK is especially significant as the government, which bears the primary obligation for law enforcement and service delivery, has not effectively executed its responsibilities. Paralegals at APIK are not only successful in building consciousness among women, but also in mobilizing them and in collectively addressing discriminatory cultural practices. While critics of women's organizations often focus on the fact that their work is dependent on funding received from donors, the case of activists and village paralegals in Makassar shows the ability of local activists to remain vigilant and be pro-active even in the absence of funding. It is these local activists who continue to shape the contemporary women's movement in

Indonesia. This shows that women's organizations remain important representatives for gender issues in development practices, including in Indonesia, as Narayanaswamy (2014:577) rightly argues.

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