Islamic Law and Gender: The Collapse of Oligarchical-Patriarchal Culture in the Konawe of Southeast Sulawesi

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Abstract

This paper focuses the efforts of women in the Konawe Region of Southeast Sulawesi in seeking to gain equal rights and freedom in the midst of an oligarchical-patriarchal culture. These women face the domination of religious interpretations of polygamy, divorce and other life conditions that are not women-friendly and pro-women. The rise of divorce cases in the Konawe society is a phenomenon and a symptom of women's awareness; it also indicates the collapse of the oligarchic-patriarchal culture that has been proposed by religious doctrine. By using a qualitative approach, interviews and interviews as well as analysis with a number of theories and concepts, this research finds that lawsuits in religious courts launched by women against their husbands are a form of discourse that challenges Islamic marriage laws that do not favor women's rights and freedoms. In addition, there are several types of women's awareness of their condition in Konawe society; *first*, socio-psychological awareness that appear in the domestic and public spheres. *Second*, ideological awareness that emerge from social pressure and underdevelopment. *Third*, awareness of diversity by consuming and producing gender sensitive religious interpretations

Keywords: Islamic Law; Gender; Oligarchical-Patriarchal.

Abstrak

Artikel ini focus pada kesadaran perempuan masyarakat Konawe Sulawesi Tenggara yang berupaya mendapatkan hak dan kebebasan di tengah budaya oligarkis-patriarkis masyarakat Konawe atau domonasi penafsiran keagamaan tentang poligami, perceraian dan kehidupan lainnya yang tidak ramah dan memihak pada perempuan. Maraknya kasus gugat cerai dalam masyarakat Konawe ini sebagai fenomena dan gejala munculnya kesadaran perempuan serta mulai runtuhnya budaya oligarkis-patriarkis yang sudah berkembang dengan legalitas salah satu penafsiran keagamaan. Dengan menggunakan pendekatan kualitatif melalui pengamatan dan wawancara di lapangan serta dianalisis dengan teori dan konsep, riset ini menemukan bahwa banyaknya kasus gugat cerai di pengadilan agama dari pihak perempuan terhadap suaminya merupakan diskursus dan upaya rekontruksi terhadap hukum pernikahan Islam yang tidak memihak pada hak dan kebebasan perempuan. Di samping itu terdapat beberapa kesadaran perempuan masyarakat Konawe; pertama, kesadaran sosio-psikologis untuk tampil di ranah domestik dan publik. Kedua, kesadaran ideologis untuk bangit dari tekanan dan keterbelakangan. Ketiga, kesadaran keagamaan dengan mengkonsumsi dan memproduksi penafsiran keagamaan yang sensitif gender.

Kata Kunci: *Hukum Islam; Gender; Oligarkis-Patriarkis*

Background

This article outlines the development of the women's movement which has become increasingly vocal in demanding equality in the marriage, especially from within the perspective of Islamic law. As Dupret's research shows, the methodology and epistemology used in this struggle requires a change in legal reasoning or even a transformation of the law itself.[1] For

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[1] Baudouin Dupret, 'Filling Gaps in Legislation: The Use of Fiqh by Contemporary Courts in Morocco, Egypt, and Indonesia', *Islamic Law and Society,* 26. 4 (2019), 405-436.

example, the basic clause of Malaysian Federal law and Islamic law stipulates the supremacy of Human Rights (HAM) rather than religious freedom. But on the other hand, the basic clause is inconsistent when following the plurality and exclusion of personal law through the principle of equality.[2] Islamic law is still proclaimed as the "source of legal principles"[3] and "the heart of Islam".[4] According to Gebara, independent legal reasoning (*ijtihad*) on Islamic law would allow Muslims to live in a secular state.[5] The implications of the application of Islamic law and the social reality that is subject to it are two entities that cannot be separated. Abbasi has explored a conception of Islamic law that is based on religious texts and provides space for social transformation.[6] As Taliaferro's research suggeests, the compromise between human law and God can be mediated through natural law as proposed by Ibn Rushd.[7]

Thus, the positional characteristics of Islamic law and social reality seem to be interrelated in their contribution to human life. This humanistic perspective can be seen from the life patterns of the people of the Konawe Region of Southeast Sulawesi, who combine Islamic legal rulings with local cultural values. For instance, certain social institutions such as marriage are more focused on realizing the welfare of women's lives. The interest in Islamic

law cannot be separated from its basic concept. Thus it is the goal that the rulings in Islamic law aim to realize. As a result, the legal rulings of marriage must have kindness as its objective.[8] This requires the legitimacy and acceptance of *khulu'*.[9] The Konawe community continues to transform their social norms, especially in the institution of marriage, by prioritizing women's benefit.

The women of the Konawe community see themselves not as objects that passively accept their condition. Rather, they have been able to position themselves as subjects who participate in the direction of her marriage. It is common for women in the Konawe community to use the right of divorce (*khulu'*) as a leverage to counteract their disadvantaged condition. One of the major problems they face is that they experience unfair polygamous marriage arrangements. This leads them to break away from the bonds of marriage. Now the principle of justice should have been a basic requirement, whether in pre-marriage arrangements,[10] in monogamous marriages, or in polygamous marriages.[11] The Konawe community—as well as the Indonesian society at large—are conservative and many till practice polygamous marriage.[12] However, in many areas, polygamy is still not egalitarian. Thobejane & Flora (2016)[13] said that the practice of polygamy is a-

[2] Farid Surfian Shuaib, 'Administration of Islamic Law and Human Rights: The Basis and Its Trajectory in Malaysia', *al-Jami'ah: Journal of Islamic Studies,* 56. 2 (2018), 281-304.

[3] Juan E. Campo, *Encyclopedia of Islam* (New York: Facts on Fire, Inc., 2009), p. 211.

[4] M. B. Hooker & Virginia Hooker, *Sharia*, in Greg Fealy & Virginia Hooker (ed.), *Voices of Islam In Southeast Asia: A Contemporary Sourcebook* (Singapore: ISEAS, 2006), p. 137.

[5] Rawaa el-Ayoubi Gabara, 'Islamic Law and Modernity', *Oxford Journal of Law and Religion*, 6. 2 (2017), 323-346.

[6] Muhammad Zubair Abbasi, 'Islamic Law and Social Change: An Insight into the Making of Anglo-Muhammadan Law', *Journal of Islamic Studies*, 25. 3 (2014), 325-349.

[7] Karen Taliaferro, 'Ibnu Rushd and Natural Law: Mediating Human and Divine Law', *Journal of Islamic Studies*, 28. 1 (2017), 1-27.

[8] M. Khoirul Hadi al-Asyari, 'Objektifikasi Hukum Perkawinan Islam di Indonesia Perspektif Maqashid Syar'iyyah: Upaya dari Integrasi Keilmuan Keislaman', *Yudisia: Jurnal Pemikiran Hukum dan Hukum Islam*, 7.1 (2016), 199-237.

[9] Nurhadi, 'Maqashid Syari'ah Khulu' dalam Hukum Pernikahan', *Jurnal Diskursus Islam*, 7. 2 (2019), 252-269.

[10] Ru'fah Abdullah & Tata Setiana, 'Prinsip-Prinsip Keadilan Wanita dalam Islam: Sebuah Kajian Pra-Nikah', *Jurnal Bimas Islam*, 9. 2 (2016), 371-400.

[11] Rahmin T. Husain, 'Polygamy in The Perspective of Hadith: Justice and Equality among Wives in a Polygamy Practice', *Madania*, 23. 1 (2019), 93-104.

[12] Wajiran, 'Polygamy and Muslim Women in Contemporary Indonesia Literature', *Humaniora*, 30. 3 (2018), 291-304.

[13] Tsoaledi Daniel Thobejane & Takayindisa Flora, 'An Exploration of Polygamous Marriages: A Worldview', *Mediterranean Journal of Social Sciences*, 5.27 (2014), 1058-1066.

humanist, especially for women as first wives[14]. Therefore, as concluded by Nurmila's study, the practice of polygamous marriage must be done legally, because this will have negative implications for women's rights[15]. However, when the egalitarian dimension was opened, it turned out to lead to destructive behavior, one of which is acts of terrorism as described in Fisher & Lee's research[16].

This study on the practice of divorce in the Konawe community is based on research done on the archives of the Kendari Religious Court. Between January to December 2019 there were 620 cases of sue for divorce and 237 divorce cases. This rate of divorce occurred in the midst of an oligarchical-patriarchal culture that has taken root in Konawe society. It seems that initiating divorce has become the answer to the subordinate conditions of women in the Konawe community. The women who take recourse to this procedure seek to improve their lives and obtain a more egalitarian position in society.

This article focuses on the efforts of the Konawe women who are trying to get an equal position in the midst of an oligarchical-patriarchal culture. Therefore, divorce claims are the main site through which this discourse on Islamic law is conducted. This research uses a qualitative approach based on empirical data that attempts to form a substantive theoretical perspective. The informants are determined by purposive techniques based on certain characteristics, namely: community leaders (such as the *Kiai* (a local religious authority), divorced women who were in polygamous marriages (practitioners), as well as academics in

the Konawe community. Our data collection uses in-depth interview techniques and participant observation, as well as data analysis using the interactive model of Miles and Hubermann.[17]

Islamic Law in the Midst of an Oligarchical-Patriarchal Culture

Islamic law is a system of rules that covers all human behavior, both in human relations and human relations with God. That is, Islamic law is a hermeneutic discipline that explores and interprets revelation through a scholarly tradition.[18] This understanding of Islamic law has similarities with the technical definition of the *shari'ah* as a system of divine legal norms that govern human relations with God, human relations with fellow human beings, and their relations with their environment. From this definition, we see an overlap between Islamic law and the *shari'ah*; but certainly there is no hard and fast boundary between them. It is common for the following term to be used to designate Islamic law (*fiqh*). Thus, we have the distinction between *shari'ah*, on the one hand, and *fiqh* on the other. There is ambiguity between these two terms. Some people opine that Islamic law (*fiqh*) no different from the *shari'ah*.

Indeed, there are also those in his analysis who hold that the *shari'ah* is a system of regulations that systematically outlines pious deeds of Muslims. Thus, at first is seems that the term *shari'ah* refers to Islamic doctrine in its totality, including the disciplines of *'aqida* (dogmatics) and morality. That is, *shari'ah* includes several dimensions, which include the realms of law, morality, and *'aqida* in Islam. As

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[14]Alean al-Krenawi, 'A Study of Psychological Symptoms, Family Function, Marital and Life Satisfactions of Polygamous and Monogamous Women: The Palestinian Case', *International Journal of Social Psychiatry*, 58. 1 (2012), 79-86.

[15]Nina Nurmila, 'Polygamous Marriages in Indonesia and Their Impacts on Women's Access to Income and Property', *al-Jami'ah: Journal of Islamic Studies*, 54. 2 (2016), 427-446.

[16]Daren Fisher & Jacqueline G. Lee, 'Testing the Universality of the Gender Equality-Peace Thesis: The Influence of Increased Gender Equality on Terrorism in Turkey', *Women & Criminal Justice*, 29. 4-5 (2019), 242-265.

[17] Mathew B. Miles and Michael Huberman, *Analisis Data Kualitatif: Buku Sumber Tentang Metode-Metode Baru* (Jakarta: UI-Press, 1992).

[18]Ashk P. Dahlen, *Islamic Law, Epistemology and Modernity: Legal Philosophy in Contemporary Iran* (New York: Routledge, 2003), p. 14.

a result, it involves both the inner and outer aspects of the faith. However, the term has recently been understood in a narrow sense, referring only to the outer matters. As a result of this, the term *shari'ah* has now become synonymous with *fiqh* (Islamic law or jurisprudence).[19] The present paper offers an integration between *shari'ah* and Sufism in the Islamic teachings. This matter seems to reveal that there is an "epistemological movement" that reduces the generosity of the *shari'ah* as a comprehensive system of the inner and outer dimensions of Islamic teachings to the merely legal dimension. This outer dimension is typically restricted to the rules of worship and social contracts (*mu'amalah*). The inner dimension is excluded from this reductive understanding of *shari'ah*. This can be said to be an "epistemological *ijtihad*" in the history of Islamic thought, which today still feels its effect.

Apart from that, the term *fiqh* as the anatomy in Islam can be distinguished based on its generic aspect, namely: *first*, the term *fiqh* literally means "understanding". It refers to the act and "science" of interpreting normative texts, namely the Qur'an and Hadith, the reports of the deeds and sayings of the Prophet Muhammad. *Second, fiqh* and science both refer to knowledge; thus, the two terms are often identical in usage. *Third, fiqh* can refer to a discipline in the Islamic scholarly tradition.[20] The *shari'ah*, on the other hand, etymologically refers to a "straight path" (*al-tariqah al-mustaqimah*); the source or flow of water used for drinking; or also stairs or a terraced climb.[21] From this perspective it can be said that the *shari'a* as *al-thariqah al-mustaqimah* refers to a

basic need that will bring good to humanity. In this context, religion provides instructions, paths, and signs that can lead human beings to ultimate happiness. *Shari'a* at this level refers to all the provisions of God that is codified in the Qur'an and Hadith. These include creed, rules of worship, and moral norms, all of which are needed in order for the believer to achieve happiness in this world and the hereafter.

The women of the Konawe community consider that Islamic law—in this case *fiqh*—has often been positioned as a standard rule that cannot be challenged. This sacred aura surrounding *fiqh* oriented their attitude towards a "resignation to accept" their conditions. Some realize that this attitude is a barrier against improving their circumstances. One of the consequence of this *fiqh*-inspired social norms that are considered as sacred and inviole is the dominating attitude of men towards women. It is natural for the women of Konawe to be placed in marginal positions and be "subdued" through personal and communal oligarchical-patriarchal power relations. Nurmila's study has shown how patriarchal culture shapes religious understanding.[22] An egalitarian society, however, should be able to enact equality in the distribution of work based on gender.[23] This is what needs to be initiated.

From this framework, it is very clear that the *shari'ah* should be the path for watering, the clear path (light) that must be followed and the path that must take the believer to receive guidance in this world and deliverance in the hereafter.[24] This means that Islamic law should be an egalitarian and humanist system that can

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[19] Budhy Munawar-Rachman (ed.al.), *Kontekstualisasi Doktrin Islam dalam Sejarah* (Jakarta: Paramadina, 1994), p. 124; Ahmad Sukardja, 'Pendahuluan', in Taufik Abdullah, *et.al.*, *Ensiklopedi Tematis Dunia Islam: Ajaran* (Jakarta: PT. Ichtiar Baru Van Hoeve, 2002), p. 2-3.

[20] A. Qodri Azizy, *Membangun Fondasi Ekonomi Umat: Meneropong Prospek Berkembangnya Ekonomi Islam* (Yogyakarta: Pustaka Pelajar, 2004), p. 181-183.

[21] Muhaimin, (*ed.al.*), *Studi Islam: dalam Ragam Dimensi & Pendekatan* (Jakarta: Prenada Media, 2012), p. 277.

[22] Nina Nurmila, 'Pengaruh Budaya Patriarki terhadap Pemahaman Agama dan Pembentukan Budaya', *Karsa: Journal of Social and Islamic Culture*, 23. 1 (2015), 1-16.

[23] Juan Carlos Campana, 'Gender Norms and the Gender Distribution of Total Work in Latin American Households', *Journal Feminist Economics*, 24. 1 (2018), 35-62.

[24] Mohammad Hashim Kamali, *Shari'ah Law: An Introduction* (Oxford: A Oneworld Book, 2008), p. 14.

increase the social status of women in the Konawe community.

Islamic law in the Konawe community has been positioned as a source of cultural authority and legitimacy that favors men's social status. Theoretically, *shari'ah* refers to the commands, prohibitions, guidance, and principles addressed by God to humanity that are related to their behavior in this world and salvation in the hereafter.[25] These are codified in the Qur'an and Hadith. In this perspective, the *shari'ah* is the laws that are instituted by God that are revealed to one of His prophets. There are laws pertaining to action, which are referred to as *far'iyah* ("branches") or *'amaliyah* ("act-related"); these are included under the discipline of *fiqh*. There are also laws pertaining to trust, which are referred to as *asliyyah* ("pertaining to matters of principle") or *i'tiqadiyyah* ("pertaining to faith"); these are included under the discipline of theology.

From the differentiation pattern based on the generic side, the difference between *fiqh* and *shari'ah* is very clear, especially in terms scope. The term of *shari'ah* refers to a collection of commands and prohibitions that God delivered through a messenger (in our case, the prophet Muhammad). These includes a belief system (*i'tiqadi*). They also consist of a collection of laws which are *'amali'* ("pertinent to action") that is referred to as *fiqh*. Promulgating and interpreting these *amali* laws is the realm of "scholarly effort" (*ijtihad*) carried out by the *ulama'* (Muslim scholars). To do this, they established methods such as *qiyas* (analogical reasoning), *bayan* (literary analysis), *nasikh* and *Mansukh* (theory of abrogation), juristic preferences (*istihsan*), perceived continuity (*istishhab)*, and other the rules of interpretation and reasoning.[26] The Konawe community enact laws based on the methods of the Pious Predecessors (*al-salaf al-salih*). However, the

resulting interpretations of the texts are gender biased and tend to preserve patriarchal power relations.

This collection of laws obtained from normative texts (i.e. the Qur'an and Hadith) through standardized rules apparently was not able to bring about equal social status for women. In fact, the Konawe community further strengthened their oligarchical-patriarchal culture through the interpretation of *shari'ah* (i.e. *fiqh*, or Islamic jurisprudence). In this context, Roibin's study has shown that the religion is a subjective human authority communicated through divine legislation (*shara'*), this means, religion is a subjective human action to follow *shara'*.[27] When the Konawe people translate the *shari'ah* in the form of Islamic rulings, they were not able to separate their oligarchical-patriarchal motives from it. This is precisely what underlies the emergence of gender-biased Islamic rulings, especially in the case of the practice of polygamy that has become a common practice among the Konawe people.

When the scope of operationalization has been mapped between *shari'ah* and *fiqh*, then the Konawe community prioritizes *fiqh* above the oligarchical-patriarchical culture. This phenomenon seems to have created a space that includes all the actions of the Konawe community towards women. Patriarchal applications of Islamic law regulate all dimensions of womanhood and categorizes them into various categories ranging from morality to daily behavior (such as eating, dressing, etc.). Thus, all actions are considered as *shar'i* (i.e. pertaining to *shari'ah*)—if Hallaq restricts as submissive to *shari'ah* regulations and therefore pronounced as law—the law becomes a legalistic moral order-[28] the actions of the Konawe women community need to be in accordance with Islamic law of these gender biases.

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[25]Kamali.

[26]Ahmad Hassan, *The Principles of Islamic Jurisprudence: The Command of The Syari'ah and Juridical Norm* (New Delhi: Adam Publisher, 1994), p. 13-14.

[27] Roibin, *'Agama dan Budaya: Relasi Konfrontatif atau Kompromistik?', Jurnal Hukum dan Syariah*, 1. 1 (2010), 1-7.

[28] Wael B. Hallaq.

Even the parameters of the *shari'ah* have the impact of separating the roles of men and women. This separation is often articulated as the classic dichotomy between the public and domestic spheres. It is natural that the teachings of the *ulama'* in the Konawe community tend to separate these roles and locus very strictly. When women enter into the public realm, it is usually considered as a deviant act and is thus categorized as "not *shar'i*". In this context, religion is used as the source of legitimacy of certain constructions of Islamic rulings. The Konawe people emphasize obedience to social norms that uphold oligarchical-patriarchic culture. This cultural construction does little to raise the potential and dignity of women. One of the conclusions of this research is that when religion becomes the domain of authoritative men, women do not have the power to bargain. Patriarchal, androcentric, and sexist lead to segregation and gender inequality.[29]

Nevertheless, the Konawe community understands that *shari'ah* and *fiqh* have the aim to manifesting all forms of God's commands and prohibitions. Since these rulings are codified in the Qur'an and Hadith, these texts become central for the legal perspective of the Konawe community. Although there are some scholars in the community who consistently try to restore the inner aspects of Islamic teachings, the interpretation of the texts which constantly wrestled with the culture of the Konawe community creates the real actions of the community. The oligarchical-patriarchal cultural constructions based on the legitimacy of religious reality that is inscribed in social norms do have a noble purpose. Cultural actions that are wrapped in religious values have the transcendental purpose of winning divine pleasure that leads people to the ultimate truth (God). Therefore, in this context, a person can achieve the title of a Muslim which means "the person who submits to God".[30]

Between Religion (Islamic Law) and Culture

Indeed, it can be said that law is a "mirror" of a social order. It functions to reflect and maintain the order of people's lives based on social or religious ideals. Therefore, every legal system will always be based upon the ideas, goals, and ideals of its people. Likewise, the existing social structure in the Konawe community is based upon their goals and ideals that give rise to a tradition. Muslimin has shown that the interpretation of *shari'ah* must refer to the norms of life that exist in traditional and local wisdom.[31] This pattern becomes the consensus of the *ulama'* in bringing up "local fiqh".

The ideals of the Konawe community that uphold the values of male superiority gave rise to an impartial Islamic legal system. The implication is that women's status is reduced to a subordinate class in the name of religion. This becomes codified in the local Islamic legal system. In this context, Rijal & Umiarso states that inequality between men and women arises due to an interpretation of normative-doctrinal religious texts that misconstrue or distort women's sexuality. This interpretation requires a reconstruction in order to arrive at a more inclusive perspective regarding gender relations and achieve egalitarianism.[32] Clearly, the oligarchic-patriarchal culture of Konawe society culture hegemonicized all the potential of women, especially when entering the marriage period. Furthermore, the community also

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[29]Inayah Rohmaniyah, 'Gender dan Konstruksi Perempuan dalam Agama', *Jurnal Studi Ilmu-Ilmu Al-Qur'an dan Hadis*, 10. 2 (2009), 207-230.

[30]Masoud Kheirabadi, *Religions of the World: Islam* (Philadelphia: Chelsea House Publishers, 2004), p. 3.

[31]JM. Muslimin, 'Law and Culture: '*Urf* as a Substance of Islam Nusantara as Reflected in Indonesian Religious Court Decisions', in *Proceedings of the International Conference on Culture and Language in Southeast Asia* (ICCLAS 2017), 153-156.

[32]Syamsul Rijal & Umiarso, 'Sex Workers' Religiosity and Faith in God: Case Study on "Ayam Kampus" in East Java, Indonesia', *Kalam*, 12. 2 (2018), 257-282.

embraced patrilocal residency so that a very strong patriarchal power relationship is found.

This unequal relationship tends to result in difficulty for women in the workplace, as shown by Adisa, *et.al.*[33]

One of the Konawe community actions that perpetuate injustice against women is polygamous marriage. It is through this principle of marriage that men's hegemonic actions toward women become stronger and more entrenched. The Konawe community considers polygamy marriage as the legitimate right for men which can be done at any time and without any procedural justification. Like the step of asking permission from the first wife to be given room for polygamy; and if the husband who is polygamous is not able to do justice to his wife and children, he tends to have no way out; as well as the psychological and social impact that polygamy causes on women and their children is relatively neglected. Konawe community leaders themselves stated to researchers that the Konawe community view women as inferior. It is undeniable that the legacy of oligarchical-patriarchal culture is strongly rooted in this community.

In this context, Islamic jurisprudence or *fiqh*, which is applied by the majority of the Konawe community, ultimately does not favor women. Instead, it is used as the legitimizing instrument to "subdue" and "control" women. When the researcher further asked one of the Konawe community leaders about the basic reasons for this cultural construction; they stated that in the Konawe society, men continued to occupy positions of "authoritative leadership" politically and intellectually. Thus Islamic doctrine was interpreted and applied according to male interests. This reality has long

been recognized by academics, such as Kumari's article, which argues that religion has been used as a justification for acts of violence against women. This model religion is a patriarchal legalist-formal conception of religion.[34]

In this context, the researcher found that the culture of the Konawe community places adult men in a very high position, most important and very central position, while women and children are positioned according to the pattern of male interests. That is, women are positioned as a complementary dimension with the task of assisting and serving their husbands in the domestic and public spheres. The position and role of these women in the Konawe community are considered to be natural facts that cannot be negotiated and changed. This has contributed to building a gender-biased and impartial understanding of religion. Perales & Bouma's study found that patriarchal beliefs are the source of inequality in the household.[35] Clearly, culture and religion have a close relationship in creating patterns and systems in the relationship between men and women.

The Konawe community itself views Islamic law as a driving force for creating a good society with strong values and norms. It is natural that the Konawe community would want Islamic law to be integrated into their life in a way that is consistent with their goals and ideals. As Sudarso argues, patriarchal culture is enshrined through religious dogma and has become a code of ethics of community life.[36] This results in strengthening the cultural value of men and their interests over women. For instance, one of the local religious leaders said in the interview that Islamic law positions

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[33]Toyin Ajibade Adisa, 'Mind Your Attitude: The Impact of Patriarchy on Women's Workplace Behaviour', *Career Development International*, 25. 2 (2019), 146-164.

[34]Fatrawati Kumari, 'Agama dan Kekerasan Terhadap Perempuan: Analisis Gender dan Filsafat Taoisme Islam', *Jurnal Ilmiah Ilmu Ushuluddin*, 10. 1 (2011), 153-165.

[35]Francisco Perales & Gary Bouma, 'Religion, Religiosity and Patriarchal Gender Beliefs: Understanding the Australian Experience', *Journal of Sociology*, 55. 2 (2019), 1-19.

[36]Sudarso, 'Gender, Relion and Patriarchy: The Educational Discrimination of Coastal Madurese Women, East Java', *Journal International Women's Studies,* 20. 9 (2019), 2-12.

women below men. In fact, it is said, women are only entitled to regulate the house and are required to be in the house; whereas men themselves have the authority to be outside the home and regulate public affairs.

The Konawe community itself is a religious community that is very obedient to their leaders' religious opinions (*fatwa*). This obedience is shown by the attitude that places the *fatwa* as a normative solution for social and religious problems. Therefore, the Konawe people would follow whatever *fatwa* is given to them authoritatively, whether it is discriminatory or liberating for women. It cannot be denied that religious understanding (*fiqh*) of Konawe society, especially on women's issue, is based on the authoritative interpretation of religious figures. This is preserved by the Church in the context of African Christians itself, as described in Wood's research.[37] The characteristics of the Konawe community have many similarities with the Madurese, which has been studied by Warits. In their case, he argues that liberating women from discriminatory attitudes can begin by advancing interpretations that are women friendly.[38]

The shackling of women in the Konawe community gave men a very wide opportunity to dominate. One of them is to legally gain control over women through polygamous marriage. It is common to find men in the Konawe community to have three, four or even five wives. They feel proud of the achievement if they have more than one wife. They will be seen to embody certain positive qualities, such as being physically strong, wealthy, and having a charismatic spirit. However, this dominance actually led to an imbalance of relations between men and women that harmed women

biologically, psychologically and economically. As Ibiloglu shows, the psychological harm experienced by women in polygomous relationships is characterized by a sense of worry, fear, and anxiety that is higher than in the context of monogamy.[39] Even male economic domination is even more detrimental to women. As Bohorquez et al has shown, increased income of women in rural areas actually reduces domestic violence; conversely, domestic violence increases as women's income decreases.[40]

The Collapse of the "Might" of Oligarchical-Patriarchal Culture

This domination, especially the dominance of the husband over his wife in polygamous marriages, is actually very detrimental to women. One of them - and is often done by the male- talaq rights which are on the male side are dropped according to his ego. This male domination, however, eventually opened the eyes of the women of the Konawe community to their situation. They carved for themselves a more egalitarian stance with respect to the domestic and public spheres. The drive to obtain equal social status was considered by many women in the community as an ideal goal. Although this aspiration is firmly rooted in some members of the community, the action of the Konawe women is deemed incompatible with the local culture. Therefore, there are those who refused to participate in this emancipatory movement.

In response to the swift rejection, the more women in the Konawe community began to participate in more drastic action in both the domestic and public domains. Even now, their involvement in the public sphere is accustomed

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[37] Hannelie J. Wood, 'Gender Inequality: The Problem of Harmful, Patriarchal, Traditional and Cultural Gender Practice in The Church', *HTS Theological Studies*, 75. 1 (2019), 1-8.

[38] Abd. Warits, 'Artikulasi Politik Perempuan Madura: Studi atas Hambatan Kultural dan Tafsir Agama pada Partisipasi Politik Perempuan di Sumenep', *Karsa: Journal of Social and Islamic Culture*, 19. 2 (2011), 183-199.

[39] Aslihan Okan Ibiloglu, 'Negative Effects of Polygamy on Family Members in the Province of Diyarbakir, Turkey', *Cukurova Medical Journal*, 43. 1 (2018), 982-988.

[40] Ana Maria Iregui-Bohorquez, 'Domestic Violence Against Rural Women in Colombia: The Role of Labor Income', *Journal Feminist Economics*, 25. 2 (2019), 1-27.

to and has been a tradition from generation to generation.

Not surprisingly, polygamous marriages presently do not show an upward trend and instead show a declining graph. Even now the response of the Konawe community regarding polygamy has been the same as the majority of other Indonesian people who have a multi-perspective on the issue, including accommodative groups (textualist), neither accepting nor rejecting (semi-textualist), and rejecting (contextualist), as shown in Nurmila's study.[41] This phenomenon indicates that the Konawe community is experiencing a cultural transformation towards a more gender-equal society. This action shifts the authority of men's roles in the domestic sphere as authoritative patrons and begins to compete with the domination of men's roles in the public sphere.

The efforts to enact a more egalitarian society in the Konawe community take the form of massive cases of divorce initiated by wives in polygamous marriages. Gradually the oligarchical-patriarchal culture was shaken by the actions of the women face an asymmetrical struggle for equality. The emergence of a harsh reaction was inevitable because for generations the Konawe community has lived by patriarchal dominance. They were shocked by the new culture. It is common if Konawe people less compatibility between action and orientation with a new set of norms. Moreover, the egalitarian movement of the women of the Konawe community conformed to none of the ideals of male superiority in the patriarchal-religious culture. This kind of egalitarian movement has been called by researchers as asymmetric gender movement.

In the present author's observations, the egalitarian movement emerged based on three kinds of awareness. *First*, socio-psychological awareness; this is the desire to achieve equal rights and opportunities in the domestic and public domains. It is reasonable for women of the Konawe community to create their own space in society. Tlaiss and Kauser have shown that women are able to build leadership and self-identity in the midst of patriarchal culture, even in the face of gender ideology.[42] In fact, women have the ability to increase their potential and compete with men.

Second, ideological awareness; this is the awareness that leads to the liberation of women. The emergence of this awareness always fosters a critical attitude towards their choices in life. This is even more so with the increasing influence of damaging ideologies such as neoliberalism which gave rise to exploitative, hegemonic, and hedonistic attitudes and paradigms. Therefore, dominating actions that can satisfy personal and communal interests have become a common thing to do. In the case of the Konawe community, men carry out hegemonic action and exploitation in the name of Islamic law. Through this paradigm, it is natural that men maintain their *status quo* superiority over women. Exploitative action and hegemonic control over women and their habits are legitimized by not only by cultural values and norms, but by normative-transcendental values such as religion. However, various ideological interests ideological will later influence the domestic circle (such as the family). As Devika writes, this hybrid of ideologies is *"glocally generated"*.[43]

The *third* is religious awareness; that is, a form of realization on the part of women that a greater understanding of their religion requires

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[41]Nina Nurmila, *Women, Islam and Everyday Life: Renegotiating Polygamy in Indonesia* (London: Routledge, 2009), p. 25

[42]Hayfaa A. Tlaiss & Saleema Kauser, 'Entrepreneurial Leadership, Patriarchy, Gender, and Identity in the Arab World: Lebanon in Focus', *Journal of Small Business Management*, 57. 2 (2019), 517-537.

[43]J. Devika, 'Women's Labour, Patriarchy and Feminism in Twenty-First Century Kerala: Reflections on the Glocal Present', *Review of Development and Change*, 24. 1 (2019), 79-99.

subordination to a male authority figure. In this situation, they are immersed in the *fatwa*s of Islamic law that are gender-biased, even though these religious opinions do not conform to the basic and fundamental objectives of the *shari'ah* (*al-maqasid al-shari'ah*). These *fatwa*s arise from oligarchical-patriarchal cultural norms that are deeply rooted in the ideological umbrella of the Islamic scholarly knowledge of the Konawe community. Winkel, in the introduction to the *Journal of Contemporary Religion*, when describing the relationship between religion and gender, proposes a theoretical approach that was sensitive to culture by drawing on a phenomenological understanding of culture based on the production of knowledge and meaning through the dimension of rationality.[44] Thus, the flow of socio-cultural transformation that continues to roll needs to get space to also influence the construction of knowledge and meaning. This fact really needs to be revealed and reconstructed in parts of the Islamic law that are gender-biased and contain elements outside the nature of humanity and/or even that are outside the will of God himself.

It is this awareness that drives the Konawe women to challenge the oligarchic-patriarchic culture of their community. The emergence of a movement asymmetrical gender in the middle of this culture will encourage efforts to reinterpret religious texts. The implication is that there will be a new formulation and compilation of Islamic law that is more egalitarian. Presently, there are movements that question the normative values of patriarchal socites and also to rethink the basic assumptions and models of interpreting traditional Islamic law, as described by Duderija.[45] In Rokhmad and Susilo's study, the reconstruction the authority of modern Islamic family law needs to start from the certainty of equal rights of women in the legal aspects. Therefore, this effort requires the involvement of women in public policymaking.[46]

Asymmetric gender is a movement that opens opportunities for women to position themselves as equals the midst of oligarchical-patriarchal culture. This movement also opens the boundaries between men and women. Finally, the oligarchical-patriarchal that is legitimized by Islamic law will eventually dissolve and expand into a more egalitarian culture that is liberating for women.

Conclusion

From this discussion, it seems clear that people who have a strong culture cannot be spared from social transformation. The oligarchical-patriarchal culture of the Konawe community that is based on gender inequality and exploitation of women is not exception. We have seen how this culture was established and develops through the legitimacy offered by the the interpretation of the *shari'ah*. However, when there was a massive movement in the form of an asymmetrical gender movement, a shock occurred which caused the decline of the oligarchical-patriarchal culture. As a result, a progressive movement that question the basic assumptions and models of interpreting Islamic law is a pillar of an egalitarian society. This effort needs to use a theoretical approach that is sensitive to local culture by providing a phenomenological understanding that can produce knowledge and meaning through rationality.

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