

Pornography in Diversity: A Study of the MUI's *Fatwa* on Pornography

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ABSTRACT

Pornography has been one of the most controversial issues among Indonesian over decades. This article explores Indonesian Muslim views and conceptions of pornography by examining MUI's (Indonesian Ulama Council) fatwa. In a plural society like Indonesia, Muslims have used an Islamic perspective to the scope and meanings of pornography in order to support the government plan to issue the porn bill (RUU Anti-Pornografi). The author argues that religious and cultural diversities in Indonesia have challenged Muslim discourse about pornography, partly because local culture and customary laws in certain regions of Indonesia hold different views in defining what pornography is. In a broader context, this article suggests that religion has become increasingly influential to pattern of state's discourse about pornography and the porn bill.

Keywords: pornography, fatwa, MUI, Islamic law.

ABSTRAK

Pornografi adalah salah satu isu kontroversial di kalangan Muslim Indonesia selama beberapa dekade. Artikel ini

membahas pandangan Muslim di Indonesia tentang pornografi dengan mengkaji fatwa-fatwa Majelis Ulama Indonesia (MUI). Dalam masyarakat Indonesia yang plural, kaum Muslim menggunakan perspektif Islam dalam merumuskan cakupan dan makna pornografi juga dalam upaya mendorong penetapan Rancangan Undang-undang Anti Pornografi. Penulis berpandangan bahwa diversitas budaya dan agama menjadi tantangan tersendiri bagi diskursus kaum Muslim tentang pornografi karena budaya lokal dan hukum-hukum adat di banyak daerah di Indonesia memiliki pandangan berbeda tentang apa yang dalam diklasifikasikan ke dalam definisi pornografi. Dalam konteks yang lebih luas, artikel ini berargumen bahwa agama semakin berpengaruh terhadap bentuk diskursus negara tentang pronografi dan juga RUU Pornografi.

Kata Kunci: pornografi, fatwa, MUI, hukum Islam.

INTRODUCTION

Pornography is an interesting issue to study. It is clearly a representation of typical problems which the modern world has brought to many people, both on theoretical and practical levels. Pornography, though simple it may seem, is a complicated question, which modern media usually intermingled with other issues such as morality, criminality, art and religion. Various scholars have studied the issue of pornography in Indonesia. To mention a few, Pam Allen wrote an article about the anti-pornography bill and its potential challenge to the plurality of cultures and religions in Indonesia. She describes the resistance to the bill among various

elements of Indonesian society as a symbol of their fear of growing Islamic influences in the state's policies.¹

She connects the bill with other phenomena such as *shari'a* by-laws in certain districts in Indonesia and the banning of Ahmadiyya as well as the increasing number of Muslim conservative organizations as a sign that in the future Islam will have more power in the state. With the same tone, Maren Höpfner studied the same porn bill and came to more or less a similar conclusion as Allen did. She regards anti-pornography bill and *shari'a* by-laws as a sign of slow but sure Islamisation of the State.²

Thomas Barker studied the phenomenon of pornography itself by analyzing six porn VCDs made by Indonesians in 2000 until 2003. He regarded this phenomenon as a new history in Indonesia, along with recent technological development which made the rapid widespread distribution of pornographic materials possible, especially in the VCD form. However, he also attributed that phenomenon to the current social fragmentation in the post reformation Indonesia.³ On another level, Bart Barendregt highlights the role of the media, particularly mobile-phone in the development of pornography in Indonesia, confirming Barker's conclusion that technology has opened new possibilities for young Indonesians to try new things challenging social and religious norms. Barendregt also stated that the relation between technology and pornography is not a unique symptom in Indonesia among other countries of the world, but the new post-Suharto era has sharpened its effects.⁴ On the other hand, Kim Andren in her thesis studied Indonesian feminists and their reaction against Islamic law and the porn bill

(RUU Anti-Pornografi). Andren's work is useful to assess divergent perspectives of different feminist organizations having emerged in Indonesia.⁵

Unfortunately, in discussing the issue of pornography in Indonesia, those scholars do not put attention to a *fatwa* on pornography which was issued by MUI in 2001. This *fatwa* is important in the context of debates on pornography in Indonesia because it is used as a religious argument by Muslim supporters of the anti-pornography. In this paper, I will focus on the *fatwa*, its background and impact in Indonesia with the hope to enrich the studies already available on this subject.

DEFINITION OF PORNOGRAPHY

First of all, I would like to give a general account of the issue of pornography by accessing its definition and the views of Islam on it. The views of Christianity and Hinduism are also given, because in the contemporary Indonesian context, communities of both religions have made important contributions to the debates on pornography.

Pornography comes from two Greek words: *porne* and *graphein*. *Porno* means 'whore' and *graphein* means 'painting'. The definition of pornography by the Williams Committee, a British committee which was established in 1977 to review the laws dealing with that issue in England and Wales, in my view is comprehensive enough to use in this paper: "the term 'pornography' always refers to a book, verse, painting, photograph, film or such thing –what in general may be called a *representation*... a pornographic representation is one that combines two features: it has a certain function or intention, to arouse its audience sexually, and also a certain content, explicit representations of sexual material

(organs, postures, activity, etc.). A work has to have both this function and this content to be a piece of pornography".⁶

So, in this definition, a pornographic book or a pornographic photograph is an object which aims at arousing its users sexually by containing explicit sexual materials. But, if it contains sexual materials but not intended to arouse sexually, as we often find in medical books, it cannot be categorized a pornographic book. In the law of anti-pornography (*UU Anti Pornografi*) in Indonesia, there are lists of the objects or materials of pornography: books, newspapers, magazines, videos, CDs, DVDs, cassettes, films, radio, television, SMS, telephone, multimedia messaging service, the internet, letters, pamphlets, leaflets, booklets, posters, song lyrics, poetry, illustrations, photographs and paintings.⁷

In Indonesia, there is another term closely related with pornography but not identical with it, namely *pornoaksi* (literally: porno-acts). Ade Armando, one of the Indonesian experts on pornography, excludes *pornoaksi* from the definition of pornography. In his opinion, pornography always has to deal with media, while *pornoaksi* can be shown without using media, such as when a woman exposes nudity in a pub.⁸ In fact, MUI's *fatwa* in 2001 is entitled *Fatwa MUI tentang Pornografi dan Pornoaksi*. This term began to be very popular in 2003 when Inul, a popular *dangdut* singer, introduced a new style of dancing called *goyang ngebor* (literally: 'to bore' dancing).⁹ The term *pornoaksi* refers to acts or behavior which can attract people sexually, including striptease (the extreme form), sexy dancing like Inul's *goyang ngebor* and Madonna's sexy dancing, music concerts and music shows for parties and feasts in the urban and rural areas in which sexy dancing and "dirty" songs or

lyrics are showed to the public. If the behavior is showed in the media (such as on television), it is called pornography. In my opinion, the term *pornoaksi* was coined because it is difficult to categorize acts which are seen as not only stimulating sexual arousal but also understood as morally improper. The standards of morality, of course, vary from place to place and from people to other people. The traditional clothes among certain tribes in Papua, Indonesia, are considered as morally improper by many people in other parts of Indonesia. In the debates around pornography in the Indonesian context, as I will elaborate later in this paper, this concept of *pornoaksi* and the related-discourse on traditional cultures have attracted different opinions among scholars, artists, and also lay people. This is not only due to the fact that the definition of pornography is socially constructed but is also a modern discourse.¹⁰ It is also the reason why the definition of pornography in the RUU APP was fiercely debated.¹¹

Neng Djubaedah, one of the members of the DPR (Indonesian Lower House Parliament) committed with a special task to discuss RUU on pornography, wrote that in the Indonesian context, one should consider three categories upon considering the question of pornography, especially when it comes to transforming it into a state law: residence (city or village), religion and culture (*adat*).¹²

ISLAMIC VIEWS ON PORNOGRAPHY

The stance of Islam against pornography is clear. Pornographic representation of all kinds is *haram* (forbidden). Pornography itself has no exact meaning in the Qur'an. But, if we look at the definition of pornography, we have at least two different kinds of *haram*

activities related to pornography: showing 'awrat and seeing 'awrat of other people. 'Awrat refers to things which must be covered by someone because if he or she exposes it to other people, he/she will be ashamed and displeased. In everyday language of Muslim communities, also in Indonesia, 'awrat means parts of a person's body which must be covered or veiled due to religious reasons.¹³

In Islam, it is forbidden or *haram* not only to show one's own 'awrat in public but also to see the 'awrat of other people which are not a person's *mahram*. The Qur'an *surah an-Nur* 30-1 states that it is forbidden for the woman to show her 'awrat, except to some categories of people most of which are called her *mahram*.¹⁴ According to a *hadith* by Muslim, Ahmad, Abu Dawud and Tirmidzî, "It is forbidden for a man to see another man's 'awrat as also for a woman to see another woman's 'awrat." If it is forbidden to see the 'awrat of the person of the same sex, it is more detestable in Islam to see the 'awrat of people from the other sex, even if one sees it without lust. A man's 'awrat in Islam is from his navel until his knee and a woman's is all the parts of his body except face and palm of both hands. This view is shared by many Islamic scholars (*ulama*), including the Shafi'ites which is followed by the majority of Indonesian Muslims.¹⁵

The Arabic term for showing 'awrat is *tabarruj*. A woman is not doing *tabarruj* if she "lows down her face" (*ghaddhul basar*) (Qur'an: *An-Nur* 30) and does not *ikhtilah* (associate) with man so that they do not touch each other and not show the 'awrat.¹⁶ Islam also forbids men and women alike to approach *zina*, in the sense that the ways leading to *zina* which is *haram* are also *haram* (*Al-Isra*' 32). Pornographic material is seen as a medium

which can undoubtedly lead people to approach *zina* as also *khalwat* (illicit seclusion of people from different sexes) and obscene songs.¹⁷ So, according to Islamic law, there is no way to treat a painting as artistic and not *haram* if it contains pornographic material. Pornographic materials have clearly far exceeded the prohibition. Unlike the debates whether a Muslim woman is obliged to wear headscarf, that pornography is *haram*, as far as I know, has never been contested by any Muslim in religious or intellectual discourses.

OTHER RELIGIONS' VIEWS ON PORNOGRAPHY

Just as Islam, Christianity has also its own view on sexuality and pornography. Sexuality in Christianity is principally seen as a natural goodness given by God to humanity. However, because this desire is so central in the nature of human being, effects of its corruption are more dangerous than those of any other desire. "Human sexuality is a mix of God's original good design and humanity's sinful effacement of that design".¹⁸ Thus, it is in continuous need of control and right direction in order that humans live according to God's original design, enabled by active responding to God's redemptive salvation. Pornography is sinful because it dictates human desires, whereas what should dictate the desires is the Spirit. Pornography is dangerous, especially in the modern world, because it leads people towards fantasy without limits. "Pornography creates a certain kind of world, and it is a world out of harmony with the Gospel. It is not a world where the truth will set us free, rather it oppresses women as it pollutes the general cultural landscape."¹⁹ The remedy lies in becoming true Christians leading a marital

life filled with fidelity, respect and modesty.²⁰

A subject which shows a distinctive Christian attitude towards sexuality is art. Christianity is criticized of having religious works seemingly containing pornography, such as Song of Solomon and nude statues of Virgin Mary. In Christian art, especially for religious symbolism, eroticism is admitted but not pornography.²¹ The difference between pornography and “erotic” Christian art is that the latter indeed contains sexual themes but it focuses on commitment and religious feelings and not on sexual arousal as pornography does²². In pornography, both the art and the illusion implied by it are abused; thereby, it has no symbolic meaning. Meanwhile, “erotic” Christian art puts attention to the relationship between people and not to solely physical pleasure.²³ In addition, Christian art expresses peculiar Christian conceptions of the world, God and human beings.²⁴

Thus, we can see that Christianity also refuses pornography as Islam does, but its “language” is different from the latter. In Indonesia, Christian communities who are the supporters of anti-pornography tend to use such religious arguments.²⁵ Nevertheless, when they attempted to reject RUU APP, they did not use religious arguments. The Catholic Church in Indonesia, for instance, rejected RUU APP because it held that morality is a religious and private matter and it cannot be regulated by a state legislation.²⁶

Hinduism’s views on pornography are not less interesting. One should always differentiate between popular practices and mystical currents in Hinduism. In popular Hinduism, pornography is seen as a “sin”, in the sense that it is morally improper to show and see pornographic materials.²⁷ In mystical Hinduism we are faced with diverse opinions. Some

currents of Hinduism like *tantrayana* treat sexual themes as a matter of doctrine. It is possible to see nude images of women and sexual scenes in a temple of this mystical current. They do not consider the images as pornographic, but as having symbolic and spiritual meaning.²⁸

However, for Hindu communities in Indonesia and for some tribes in other provinces like Papua, nudity is not always improper or sinful. On the contrary, it can be seen as sublime and symbolic. They do not see the body as a sexual object only, but also a spiritual and philosophical entity. In Bali, as in India, it is easy to find artistic works which visualize sexual materials (such as *lingga* and *yoni*) and scenes, not only for the purpose of commerce but also in temples. Balinese people, especially artists and intellectuals, have different opinions of what pornography actually is. They do not look at such works as sexually arousing, but as aesthetical objects. The phenomenon has been deeply rooted in the daily life of Balinese people and transformed into various kinds of arts.²⁹

The view of the Balinese on pornography and sexuality in general is indeed influenced by their religion, but it has more to do with mystical aspects of Hinduism. For an ordinary Balinese, if he is asked whether it is good or bad to see pornographic images and movies as represented in various media, he will say that it is bad, as is the case with most Indonesian people. In that sense, religion is understood in its moral dimension. However, if we talk about the forms of Balinese art some of which seem to contain sexual scenes, it is not really about morality, but about symbolism. Notwithstanding, when there are other hidden motives apart from spiritual symbolism, like making a nude statue or painting in

order to sell it to tourists, the case is more complicated.

Broadly speaking, Christian and Hindu communities in Indonesia indeed refuse pornography, but some of them cannot fully agree with some interpretation of pornography, especially as elaborated in RUU APP, and the regulating of pornography in such a state law as UU.³⁰ This bill, which was finally approved to become law on pornography (*UU anti-pornografi*), was seen as a threat to arts, customs and the ways of life of some Indonesian people or, in general, the plurality of cultures and religions.

MUI'S FATWA ON PORNOGRAPHY

In this section, an attempt is made to deal with MUI's *fatwa* on pornography in particular. In the background of the *fatwa*, I will explain more about the history of pornography itself in Indonesia prior to the issuing of the *fatwa* in order to relate the MUI's religious views to the current conditions in the country. MUI (*Majelis Ulama Indonesia*=Indonesian Religious Council) was founded in 1975 at the initiative of the President Soeharto. It was hoped to function as an institution which will connect the government and the Muslim community in communication and interaction at the national level. The government initiated this institution because it wanted to involve the *'ulama* in its policies.³¹ The source of the religious authority of this institution is its composition of religiously qualified and respected Indonesian *'ulama*. Kaptein also adds another source which is not really related to the religious authority: being a part of the state bureaucracy.³²

In the beginning of its foundation, MUI was suspected of being the government's

collaborator to control the Muslim public opinion in the Indonesian society. However, the *fatawa* issued by MUI sometimes went against the government's policies, such as the *fatwa* in 1983 on the *haram*-ness of *vasectomy* and *tubectomy*.³³ One of the most important activities of MUI has been to issue *fatawa* to Indonesian Muslims at large and also to the Indonesian government. The government tries to find religious legitimation of its developmental activities by asking MUI's opinions on certain socio-religious subjects related to the government's future policies. The *fatawa* given by MUI cover a wide range of subjects, from the problems of ritual and ceremony to the social and political spheres. Since its establishment, MUI's *fatawa* have not always been welcomed by all Indonesian Muslims. Some controversial *fatawa* were sometimes challenged, such as the *haram*-ness of the ideas of pluralism and secularism and also, in more recent time, the *haram*-ness of smoking.³⁴

As far as I know, the *fatwa* on pornography by MUI has never been challenged by any intellectual Muslim or any Indonesian *ulama*. The *fatwa* is used as a religious ground by the Muslim supporters of the anti-pornography movement as we find in the works of Neng Djubaedah and Azimah Soebagijo.

In order to understand the background of this *fatwa*, it is important to observe the phenomenon of pornography in Indonesia. After the Independence of Indonesia in 1945, pornography began to pave its way via media, mostly magazines and newspapers. The government was sometimes repressive to this phenomenon by closing the publishers of the pornographic media and by conducting very strong censorship. Beginning in the 1950s, there were reports of magazines which

contained pornographic readings and obscene images of Western women. They were checked by the governmental institution for controlling proper conduct in media. In the 1960s there were many cases of that kind. On 25 October 1967, the government banned nine publishers in Jakarta and Bandung because they included pornographic materials in their publications. A decade later, far from declining, pornography reached its peak in the history of Indonesia so that some people called that decade as “the golden age of pornography”.³⁵ In this period, not only was pornography found in magazines and newspapers, but also in new media such as porn movie theaters. Though the New Order government had declared “war” against pornography three times (in 1971, 1984 and 1994), porn media never faded away in Indonesia.³⁶

After the reformation of the state’s political and legal systems in 1998, the freedom of press has been guaranteed by the amended constitution. People feel more free than before to express themselves and sometimes they would exercise criticism against the policies of the government. However, the same concept of freedom has also been used by some people to publish with pornographic materials through media. The rapid development of the production of new electronic media, such as VCD, DVD, mobile phone and internet, has helped them to reach many consumers in a relatively short time. Before the Reformation in 1998, it was very difficult to have videos of young Indonesian teenagers who made amateur porn video themselves. Barker, after having analyzed six porn VCDs made in 2000-2003, maintained that the phenomenon of the production and distribution of such locally made films with very

explicit pornographic contents is the first in Indonesian history.³⁷ Meanwhile, according to Barendregt, mobile-phones which can also be used to record and store porn videos have become another feature of the popular culture among young Indonesian people.³⁸ The young Indonesians have shown the more open attitude towards sexuality because of media and modern technology. MUI perceived the need to issue the *fatwa* on pornography as a response to the situation. The *fatwa* was issued on 22 August 2001. As far as I know, it is the first *fatwa* which MUI issued in this regard.

Before UU Anti-Pornografi was approved at the end of 2008, pornography has been regulated only in KUHP (state criminal laws which do not need the agreement of the parliament as UU does), in articles 281, 282, 532 and 533.³⁹ The cases of pornography in the history of Indonesia as indicated in the previous page were handled by considering these articles of the KUHP. The articles themselves are not fully devoted to pornography, but they mainly regulate the proper and improper conduct of the media. When the supporters of RUU APP demanded to enhance the regulation on pornography in Indonesia to the state of UU, they believed that the KUHP was still not effective to minimize the rapid distribution of pornography. In addition, they were sure that the contents of the KUHP were already obsolete and not suitable in the contemporary Indonesian context.⁴⁰

MUI’s *fatwa* on pornography has been published in an official book issued by Lembaga Informasi Nasional. The most important part of the *fatwa* is the decision (the “*Menetapkan*” section) or the *fatwa* itself, especially the sub-section *Hukum*, consisting

of eleven points, namely:

1. To visualize, directly or indirectly, erotic conducts, in the form of painting, images, writing, sound, advertisement, and sayings, both in printed and electronic media is *haram*.
2. To make 'awrat open or wear tight or transparent dress with the intention to be visualized in the media is *haram*.
3. To take the visualization of the second point is *haram*.
4. To do sexual conducts or performances in the public and to see them is *haram*.
5. To multiply, distribute, sale and buy products with sexual materials is *haram*.
6. To do *khalwat* (intended seclusion between two different sexes not yet married) is *haram*.
7. To show 'awrat for Muslim men and women is *haram*.
8. To wear transparent and tight clothing is *haram*.
9. To do or to say something which can lead to sexual relation outside marriage is *haram*.
10. To help or to let all the *haram* things as mentioned above to happen is *haram*.
11. To get money, gain benefit or facilities from the above mentioned activities is *haram*.⁴¹

We can assume that not all Indonesian Muslims would follow the exact contents of the *fatwa*. As in the points 7 and 8, which regulate certain ways of dressing, it is not clear to what extent the *haram*-ness of wearing tight cloth is different from the explicit or vulgar showing of 'awrat. It is also not obvious whether the showing of hair for a Muslim woman is a minor sin or already a grave one. The phenomenon of showing 'awrat as

indicated in the points 7 and 8 of this *fatwa* can be observed in many places in Indonesia, in cities and villages alike. Culture or custom is one of the important reasons why many Indonesians do not to observe the dressing conduct as lined by *shari'a*.⁴² Though many of them are aware that it is forbidden in Islam to show 'awrat, they sometimes find it unpractical to obey all these rules of conduct or sometimes they have different interpretations of the 'awrat in Islam.

It is important to note that the *fatwa* itself was not intended for non-Muslims in Indonesia. However, it clearly recommends the government to pay due attention to this *fatwa*. In *Rekomendasi* (Recommendation) MUI members stressed the significance of four points; the first, the publishers should not be allowed to publish pornographic materials; the second, the government itself should be active in fighting against pornography; the third, the Indonesian society in general should participate in combating pornography; and the last, legal institutions in Indonesia should enforce laws on it.⁴³

COMPARISON WITH OTHER FATAWA ON PORNOGRAPHY

It is useful to compare MUI's *fatwa* on pornography with that by other 'ulama. The database of the famous website www.islamonline.net contains many examples of *fatawa* on this subject. Dating in 2 February 2005, there is a *fatwa* issued by Sheikh Ahmad Kutty, a senior lecturer and Islamic scholar at the Islamic Institute of Toronto, Ontario, Canada, to a questioner from Japan. One of the questions is whether it is permissible in Islam to watch porn movies with one's married couple. To this question, Sheikh Ahmad Kutty replied that it is forbid-

den in Islam to watch pornography either alone or with one's married couple. It is also forbidden to look at private parts of other people not of one's *mahram*. For him, pornography is the sign of degradation to humanity and the root of corruption. Pornography is also one among the most hated sins in Islam.⁴⁴

Concerning watching porn cartoons, there is also a *fatwa* issued on 13 September 2007. The questioner was from India. He asked whether it is permissible in Islam to see porn cartoons. To this question Sheikh Muhammad Nur Abdullah, former President of the Islamic Society of North America (ISNA) and a member of the Fiqh Council of North America, replied that it is a serious sin in Islam to watch pornographic cartoons as this may lead to *zina* (illicit sexual intercourse).⁴⁵

There are also *fatawa* on the English section of this site that offer Islamic remedy for porn addiction. Thus, a *fatwa* on 13 September 2003 issued by the above-mentioned Sheikh Ahmad Kutty, on answering the question by a newly converted Muslim stated that the most important way to overcome porn addiction is to summon the will power. To have this power, it is important to find counseling and therapy, preferably from religiously minded Muslim professionals. If they are not available, other people considered to be religiously and ethically excellent are also recommended.⁴⁶

The *fatawa* on pornography, by MUI or other 'ulama, tend to use the same religious arguments or *dalil*. They quote the Qur'an *al-Isra'* (17): 32 as a prohibition to approach *zina*; *an-Nur* (24): 30-31 and *al-Ahzab* (33): 59 for male and female Muslims to stay away from seeing and showing 'awrat in ways

prohibited by *Shari'ah*. There are also *hadits* in which the Prophet, for example, gave the dress code for Muslim women and prohibition of *khalwah* between two different sexes. Principles of *ushul fiqh* and *fiqh*, such as ÓĪ ÇáĐÑiÚÉ and $\text{ÍáÈ ÇáãŌÇáÍ ĨŃÁ ÇáãÝÇÓĪ āĐĪã Úài}$ are also expressed to support the argument.⁴⁷

THE DEBATES ON PORNOGRAPHY AND IMPACTS OF THE MUI'S FATWA

Perceiving what they have seen as "dangers" of pornography, some people demanded that the government should transform this *fatwa* into a state law. This aspiration faced a heated opposition from many groups of people. In what follows, we shall discuss the proponents and opponents of this demand.

THE SOCIO-RELIGIOUS IMPACT

The MUI's *fatwa* on pornography has its social and religious impact on Indonesian communities. A number of books and articles have been published in support of this *fatwa* in the framework of transforming it into a state law. It is the first time in the history of Indonesia that many authors have elaborated on the theme of pornography both in popular and scholarly ways. Books' titles such as *Pornografi, Pornoaksi dan Prostitusi: Strategi Barat untuk Menghancurkan Generasi Muda Islam: Analisis, Fakta, dan Filosofi* (Pornography, Pornoaction and Prostitution: Western Strategies to Destroy Young Muslims) and *Manajemen Syahwat: Terapi Islam Menyikapi Pornografi* (Syahwat Management: Islamic Therapy to Pornography) are among typical books written on the theme on behalf of Indonesian Muslims. The MUI's *fatwa* on pornography is also included in some of the

books which have a religious dimension, such as in Neng Djubaedah and Azimah Soebagijo, who strongly supported the transformation of the *fatwa* into a state law. Other authors have tried to discuss the phenomenon of pornography from sociological and feminist perspectives. These books and articles counter the religious views by having the opinion that pornography is not a problem as long as it has artistic qualities. This indicates that the *fatwa* has aroused a new discourse in post-reformation Indonesia.

It is rather difficult to see the direct impact of this *fatwa* among ordinary people in Indonesia, because MUI's *fatawa* do not reach all Indonesian people, especially if the *fatwa* is not controversial.⁴⁸ The *fatwa* might have invited the beginning of the heated debates on pornography which had their peak in 2006, but it happened when many parts of the Indonesian society concerned about the nation's morality felt pornography as an alarming issue. The role of the media is significant in shaping the process of the emerging awareness on the part of those concerned Indonesians. Compared to the situation in the history of Indonesia before the Reformation, this consciousness could be said at its highest level.

In 2006, the famous American porn magazine, *Playboy*, wanted to establish itself in Indonesia, but the publisher did not intend to make it like *Playboy* in USA which exposes female nudity. However, this initiative was met with fierce opposition among Indonesian communities, such as MUI, NU, *Muhammadiyah*, even political parties like PDI Perjuangan. When the first Indonesian edition of this magazine was finally issued, the above mentioned FPI brought it to the court. Vice-President Yusuf Kalla also raised his

objection to the publication of the magazine in Indonesian version.⁴⁹

The *fatwa* on pornography by MUI was supposed to be effective in preventing and minimizing the spreading of pornography. However, it seemed that after the issuing of the *fatwa*, the spread of pornographic materials was still difficult to control. The problem lay in the increasing availability of media and the weakness of legal apparatus. The two factors made the debates on pornography in Indonesia take a legal dimension.

THE POLITICAL AND LEGAL IMPACT

The legal discussions about this problem revolved around the question whether it is necessary or not to regulate the production, distribution and consumption of pornography and to what degree it must be regulated. Censorship on pornography involving special state laws seems to be a "modern" phenomenon, because in the ancient Greeks and in Roman times, there were no such laws and many people were not very concerned with the phenomenon. In England itself, the first regulation on pornography was made in the sixteenth century and in USA, in the early nineteenth century.⁵⁰ The motives to regulate pornography through laws are various. In 1983 for example, the Minneapolis city council stated that pornography is a discrimination against women and a serious violation of their rights. The council believed that pornography promotes acts of aggression and contempt for women, taking inspiration from feminist perspectives.⁵¹ In many cases, people have tried to promote the legislation of laws regulating pornography by using other arguments, such as religion, morality and, probably the most common one, its harmful effects on viewers. The legal course of action

to minimize the distribution and effects of pornography has always been met with challenges. It can be observed in media that in the debates on pornography, some people would argue that the application of strict legal restrictions on pornography will surely lead to the violation of personal freedom. They tend to opt for educational programs to handle this problem.

In contemporary Indonesia, political and legal issues of pornography took up more space and energy than the socio-religious ones. The RUU APP (Anti-Pornography and Porno-action bill) debates reached its peak in 2006.⁵² It is important to know that RUU itself was created long before the debates had emerged. Djakse, a Balinese member of the Indonesian parliament, said that RUU APP had already been proposed to DPR (the lower house of Indonesian parliament) eight years before 2006, i.e. in 1998, but the parliament decided to delay the discussion of the RUU due to other urgent points on political agenda, such as the amendment of Indonesian Constitution (UUD 1945), following the fall of Suharto which marked the beginning of the Reformation era.⁵³ The sudden re-emergence of the bill in 2005 was said to be initiated by Muslim members of the parliament and driven by outside pressures, especially from militant Islamic groups such as FPI. The head of the Balinese National Youth Committee, I Putu Gede Indriawan Karna, even stated that the bill was apparently an effort to apply Islamic laws in Indonesia.⁵⁴

The groups which support the legislation of RUU APP are MUI, ICMI, NU, PKS, *Muhammadiyah*, and many others (from Muslims as well as non Muslims). They supported the RUU because they held that this state needs to be protected against

negative impacts of Western influences such as anarchy, free sex, obscenity and hedonism (Allen 2007: 104). As Minister of Religious Affairs in Indonesia also believed that the country needs the UU in order to fight against pornography and to strengthen the legal system as well as to protect women against exploitation, whose opinion was also shared by the Minister of Women Affairs.⁵⁵

Meanwhile, the opponents of the law were mostly non Islamic organizations, such as *Dewan Pers* (Press Committee), *Komnas HAM* (National Committee for Human Rights), *Komnas Perempuan* (National Committee for Women) and PGI (The Association of Indonesian Christian Churches). Several provinces in Indonesia also opposed the RUU. Some Muslim famous figures such as the former President and a leader of NU, Gus Dur, and Muslim organizations such as JIL or *Jaringan Islam Liberal* (Liberal Islam Network) were among the opponents. However, the parties that supported RUU APP outnumbered the ones that opposed it.⁵⁶ Each party used its own peculiar arguments and organized demonstrations which were mainly directed against the parliament.

As has already been mentioned, out of thirty three provinces in Indonesia, only five declared their opposition to the legislation of RUU APP. All the five provinces are where other non-Muslim communities are the majority, namely Bali (Hindu majority), NTT, Papua, North Sulawesi and North Sumatra (Christian majority). They did not criticize MUI's *fatwa*, but reacted to the RUU APP because they feel discriminated by the Muslim majority in Indonesia. In fact, there were also many Indonesian Muslims who opposed the RUU APP.

Al-Anshari lists many reasons why the anti-

pornography bill was rejected, among which are:⁵⁷

1. There are already existing laws which regulate pornography in Indonesia such as KUHP and other state laws, though not focusing specially on pornography.
2. The bill will restrict the freedom of expression as guaranteed in the Indonesian constitution
3. The concept of pornography in the bill is still vague and open to multi-interpretations.
4. The contents of the drafts of the RUU are not suitable in the context of plurality of cultures and religions in Indonesia.

Similar to the fourth point mentioned above, Djakse argued that RUU APP has no clear-cut definition or obvious standards of pornography and porno-action. She feared that many artistic masterpieces of the past like Javanese *wayang* with the stories of Centini and Purwakala will not be allowed to be performed in public anymore. Djakse saw the RUU as an effort of some people to replace some features of Indonesian cultures with those of Middle Eastern ones.⁵⁸ Her opinion indeed confirmed what Höpfner said that for some people pluralism in Indonesia is being threatened by the process of Islamisation⁵⁹.

Bali, the only province in Indonesia with the Hindu majority, has played an important role in the effort to fight against the passing of the bill on pornography. This province was the first to file the formal rejection of the RUU-APP. Many elements of Balinese community, including government officials, lawmakers, right activists, intellectuals, artists and tourism entrepreneurs, participated in campaigns to refuse the RUU AP. The

gouvernour of Bali, Made Mangku Pastika, said that the province could not accept the RUU because it went contrary to the cultural and religious life of the Balinese people.⁶⁰ A leader of *Golkar* party from Bali, Cok Budi Suryawan, stated that the RUU would threaten pluralism in Indonesia and tend to regulate people's private behavior.⁶¹ Others said that the legislation will pave the way for Muslim extremist groups to force their values on Balinese people. They also considered the bill as a serious threat to their customs and to tourism.⁶²

Not only have the Balinese written books to counter the supporters of RUU AP, but they also arranged and joined in demonstrations to express their protest against the legislation. Long before the RUU AP was agreed upon by the Indonesian parliament at the end of October 2008, components of Balinese people, under the governor of the province and also the local parliament, asserted their refusal of the still processed RUU APP.⁶³ Even, the parliament of the province had issued two letters of refusal to the RUU, the first on 15 Maret 2006 and then on 15 September 2008.⁶⁴ Though the RUU was finally approved, the opposition to the law by the Balinese people has not diminished until today.

How about Christian communities composing the major number of religious minorities in Indonesia? As has already been indicated in this paper, some church organizations stated their refusal of the bill and all provinces where Indonesian Christians are majority also opposed it. If it is true that Christianity stands against pornography as we have mentioned before, their position was not really based on religious arguments. They refused RUU APP for the same reasons

which al-Anshari listed in his book, with the main argument that the contents of RUU APP will threaten the plurality of cultures and religions in Indonesia.⁶⁵

Some Indonesian feminist groups, such as *Srikandi Demokrasi Indonesia*, also took the opposition side in the debates on the ground that this law implied that women are the most responsible for the nation's moral degradation.⁶⁶ Kamala Chandrakirana, who leads the *Komnas Perempuan* (National Committee for Women), regarded the RUU APP as restricting human rights of Indonesian women because it tries to regulate women's dress codes and behavior.⁶⁷ They also arranged demonstrations to protest against the RUU APP, such as the one on 11 May 2006, which coincided with the International Women's Day.⁶⁸

The debates in the parliament in many ways represented the general debates among the public opinion. In June, PDI Perjuangan, a party with many members in parliament, stated that the RUU APP should be revised in order to accommodate the more suitable situations in Indonesia. It demanded that the title of the bill be changed to *RUU Penyebaran Barang Pornografi* (the bill on the restriction of the distribution of pornographic materials) and the number of articles of that law be reduced from 93 to only 17.⁶⁹ On the other hand, the chairman of the parliament, Hidayat Nur Wahid (who comes from PKS party that supported the RUU) said that there was no need to revise the contents of the bill because it did not portray particular views of a certain religion (i.e. Islam). He indicated that there were no Quranic verses in the bill and the supporters of the bill were not only Muslims.⁷⁰

There were some political dimensions of

the debate. PKS, a party with Islam ideology, was criticized by the opponents of the bill as justifying the image that it wanted to establish an Islamic state of Indonesia if it persisted to approve the bill. If it wanted to avoid being of the image, the party should not support the RUU.⁷¹ The Islamic party's strong support of the bill was also ascribed to its ambition to get many Muslim voters in the election 2009 (Höpfner 2009: 36). The issue also invited Indonesian people to reflect on their state ideology, which is Pancasila and not Islam. Pancasila is a pluralistic ideology, which takes account of different cultures and religions adopted by Indonesian people. In the debates on pornography this ideology was provoked by opponents of RUU APP to prevent the legislation of RUU APP, precisely because this bill, in spirit and content, was seen as derived from a particular religion's point of view and regarded as anti-pluralistic.⁷²

MUI was also active in supporting the RUU APP. To follow up the *fatwa* on pornography in 2001, it also participated in the debates on pornography. On 27 May 2006, MUI issued some *fatawa*, one of which was to demand the legislation of RUU APP.⁷³ On 9 October 2008, Amidhan Shaberah, MUI's chairman, said that the delay of passing the bill to be approved as law which was previously scheduled on 23 September was a form of the "tyranny" of minority. The chairman also said that there was no good reason to delay the legislation of the bill because moral decadence had long threatened Indonesian people and that the people who refused this were really a-social and a-national.⁷⁴ The bill itself was, however, finally approved as law (called *Undang-Undang* or UU) on 30 Oktober 2008 by the lower house of the

Indonesian parliament (DPR).⁷⁵ Thus, it took 10 years until its complete legislation. The law consists of 44 articles and in many aspects can be considered as a partial fulfillment of the recommendation contained in the MUI's *fatwa*.⁷⁶

CONCLUSION

In the debates on pornography in Indonesia, there is little attention paid to MUI's *fatwa* on the issue. While there are many articles that discuss the debates on RUU APP, the *fatwa* remains in the background. It may be due to the fact that the MUI's *fatwa* is not controversial, unlike some of its *fatawa* which have aroused much attention and reaction on the national level. However, *fatwa* had its impact on the Indonesian society, directly and indirectly. Used as a religious argument by some Muslim supporters of the RUU APP, the *fatwa* has given the interpretation of pornography an Islamic dimension. The assumption of some scholars, such as Pam Allen and Maren Höpfner, that there has been increasing influence of Islamic groups and discourses upon the State seems to be reasonable.

Nevertheless, discussing pornography in Indonesian context will not be complete without considering the plurality of opinions, cultures and religions. When Islam itself has its own view towards pornography, as elaborated in MUI's *fatawa*, other religions have different views about the same issue. Furthermore, different customs from place to place and from island to island in Indonesia can produce different interpretations of what pornography is. Finally, I hope I have shown in this paper how a *fatwa* is involved in the social and legal discourse of the time and not made in an empty space.

ENDNOTES

- ¹ Pam Allen, "Challenging Diversity?: Indonesia's Anti-Pornography Bill," *Asian Studies Review*, Vol 31, No. 2 (2007), pp. 101-15.
- ² Maren Höpfner, "Das Pornografie-Gesetz in Indonesien: eine Gefahr für den Pluralismus?", *Journal of Current Southeast Asian Affairs*, Vol. 28, No. 1 (2009), pp. 31-45.
- ³ Thomas Barker, "VCD Pornography of Indonesia," in Adrian Vickers and Margaret Hanlon (eds.), *Asia Reconstructed: Proceeding of the 16th Biennial Conference of the ASAA*, 2006, Wollongong, Australia, p. 10.
- ⁴ Bart Barendregt, "Between M-governance and Mobile Anarchies: Pornoaksi and the Fear of New Media in Present Day Indonesia" (Unpublished Paper). Leiden University (2006), p. 20.
- ⁵ See further Kim Andren, "Prostitution, Pornography and Islamic Law: Women's NGOs Confronting Islamic Conservatism in Post-Authoritarian Indonesia," *Master Thesis*, The University of Sydney, 2007.
- ⁶ Quoted in Gordon Hawkins and Franklin E. Zimring *Pornography in a Free Society* (Cambridge: Cambridge University Press 1988), p. 22.
- ⁷ Pam Allen, "Challenging Diversity?," p. 102
- ⁸ Ade Armando, *Mengupas Batas Pornografi* (Jakarta: Kementerian Pemberdayaan Perempuan Republik Indonesia 2004), p. 3.
- ⁹ *Dangdut* is one of popular genres of music in Indonesia. The genre is typical of Indonesia, though elements of India and Arabic music can be clearly traced. Inul, a newcoming singer, introduced her *goyang ngebore* to the displeasure of many senior dangdut singers because her style of dancing was seen as *pornoaksi* and spoiling the image of the *dangdut* music in Indonesia. Azimah Soebagijo, *Pornografi: Dilarang tapi Dicari*. (Jakarta: Gema Insani, 2008), p. 32.
- ¹⁰ Thomas Barker, "VCD Pornography of Indonesia," p. 2.
- ¹¹ Maren Höpfner, "Das Pornografie-Gesetz in Indonesien", p. 37.
- ¹² Neng Djubaedah, *Pornografi dan Pornoaksi Ditinjau dari Hukum Islam* (Jakarta: Kencana, 2003), p. 137.
- ¹³ See *Ensiklopedi Islam Indonesia*, p. 135.
- ¹⁴ Nevertheless, it is allowed in Islam to show 'awrat to other people who are not one's own *mahram*, for example, to a doctor, when one has to be cured or checked at certain parts of his/her body. There are also other reasons which make the showing of 'awrat justified, such as for urgency or emergency (*darurah*). See *Ensiklopedi Islam*, p. 135.
- ¹⁵ Budiatul Muchlisin Asti, *Remaja Dirantai Birahi: Kupas Tuntas Pornografi dalam Perspektif Islam* (Bandung: Pustaka Ulumuddin, 2004), 47. This view is different from the view of the Hambali *madhab*, which considers all parts of a woman's body as her 'awrat. See *Ensiklopedi Islam Indonesia*, p. 136.

- ¹⁶ Budiatal Muchlisin Asti, *Remaja Dirantai Birahi*, pp. 50-51.
- ¹⁷ Budiatal Muchlisin Asti, *Remaja Dirantai Birahi*, pp. 59.
- ¹⁸ Todd L Lake, "Worship Service," in Robert B. Kruschwitz, (ed), *The Pornographic Culture: Christian Reflection*. Texas: Baylor University, 1989), p. 11.
- ¹⁹ Susan Dolan Henderson, "Reeducating Our Desires," in *The Pornographic Culture*, p. 78.
- ²⁰ Susan Dolan Henderson, "Reeducating Our Desires," p. 82.
- ²¹ John Peck, "Erotic but not Pornographic," in Robert B. Kruschwitz, (ed), *The Pornographic Culture*, p. 71.
- ²² John Peck, "Erotic but not Pornographic," p. 76.
- ²³ John Peck, "Erotic but not Pornographic," p. 74.
- ²⁴ John Peck, "Erotic but not Pornographic," p. 76.
- ²⁵ We can see their views in Christian internet forums in Indonesia such as in www.akupercaya.com.
- ²⁶ Pam Allen, "Challenging Diversity?," p. 111.
- ²⁷ If the materials are indeed pornographic as we define in the page 1 of this paper.
- ²⁸ Yogi, P.G., "An Analysis of Tantrayana (Vajrayana)." *Bulletin of Tibetology* Vol. 3, No. 3, (1998), p. 16.
- ²⁹ See <http://www.balebengong.net/kabar-anyar/2008/09/13/komponen-bali-tolak-pengesahan-ruu-pornografi.html> (Accessed: 26 September 2009) and <http://www.balebengong.net/topik/budaya/2008/09/18/ruu-pornografi-tubuh-hanya-dilihat-sebagai-objek-seksual.html> (Accessed: 26 September 2009)
- ³⁰ Fauzan Al-Anshari, *Pornografi No RUU APP Yes* (Yogyakarta: Hujjah Press, 2006).
- ³¹ N.J.G. Kaptein,, *The Voice of the 'Ulama: Fatwas and Religious Authority in Indonesia* (Working Paper). Singapore: Institute of Southeast Asian Studies, p. 9.
- ³² N.J.G. Kaptein,, *The Voice of the 'Ulama*, pp. 9-10.
- ³³ N.J.G. Kaptein,, *The Voice of the 'Ulama*, pp. 9-10.
- ³⁴ N.J.G. Kaptein,, *The Voice of the 'Ulama*, p. 10.
- ³⁵ Budiatal Muchlisin Asti. *Remaja Dirantai Birahi: Kupas Tuntas Pornografi dalam Perspektif Islam* (Bandung: Pustaka Ulumuddin, 2004), p. 22.
- ³⁶ Thomas Barker, "VCD Phornography of Indonesia," p. 2.
- ³⁷ Thomas Barker, "VCD Phornography of Indonesia," p. 2.
- ³⁸ Thomas Barker, "VCD Phornography of Indonesia," p. 19.
- ³⁹ Alex A. Rahim (ed), *Pornografi dalam Pers Indonesia*, p. 37.
- ⁴⁰ <http://sites.google.com/site/arifbijaksana/anti-pornografi-dan-pornoaksi/ade-armando> (Accessed: 9 October 2009)
- ⁴¹ I can only give the most essential parts of the sentences, because if all words in all parts of the *fatwa* are translated it can take up more than seven pages. For the complete text of the *fatwa*, refer to <http://www.mui.or.id/files/fat-pornografi.pdf>. *Lembaga Informasi Nasional*, 2003, pp. 14-16.
- ⁴² For example, many Muslim Javanese women in the villages are accustomed to using very simple dress called *kemben* in their everyday activities. In other parts of Indonesia, especially where the temperature is hot, it is also usual to encounter such a phenomenon. Alex A. Rahim (ed), *Pornografi dalam Pers Indonesia: Sebuah Orientasi* (Jakarta: Dewan Pers, 1977), pp. 136-7.
- ⁴³ *Lembaga Informasi Nasional* 2003, pp. 16-7.
- ⁴⁴ See http://www.islamonline.net/servlet/Satellite?pagename=IslamOnline-English-Ask_Scholar/FatwaE/FatwaE&cid=1119503549496 (Accessed: 24 September 2009)
- ⁴⁵ See http://www.islamonline.net/servlet/Satellite?pagename=IslamOnline-English-Ask_Scholar/FatwaE/FatwaE&cid=1188044109596 (Accessed: 24 September 2009)
- ⁴⁶ See http://www.islamonline.net/servlet/Satellite?cid=1119503547396&pagename=IslamOnline-English-Ask_Scholar%2FFatwaE%2FFatwaEAskTheScholar (Accessed: 24 September 2009)
- ⁴⁷ The first means: all activities leading to *haram* is *haram*. And the latter means: It is better to avoid bad things than to do good things (of one and the same situation).
- ⁴⁸ For example, the *fatwa* of the *haram*-ness of smoking by MUI.
- ⁴⁹ Pam Allen, "Challenging Diversity?," p. 104.
- ⁵⁰ Donnerstein et al, *The Question of Pornography: Research Findings and Policy Implication* (New York: Free Press, 1987), pp. 145-6.
- ⁵¹ Donnerstein et al, *The Question of Pornography*, p. 137.
- ⁵² RUU APP was changed to RUU AP (*Anti-Pornografi*, thus without *Pornoaksi*) in the course of the process of the discussion in the parliament.
- ⁵³ Sukmadewi Djakse, *RUU APP Bukan Tiket ke Surga* (Jakarta: Srikandi Demokrasi Indonesia, 2006), p. 70.
- ⁵⁴ Pam Allen, "Challenging Diversity, p. 103.
- ⁵⁵ Maren Höpfner, "Das Pornografie-Gesetz in Indonesien", p. 38.
- ⁵⁶ Fauzan Al-Anshari, *Pornografi No RUU APP Yes*. (Yogyakarta: Hujjah Press 2006), p. 59.
- ⁵⁷ Fauzan Al-Anshari, *Pornografi No RUU APP Yes*, p. 2.
- ⁵⁸ Sukmadewi Djakse, *RUU APP Bukan Tiket ke Surga*, pp. 78-80.
- ⁵⁹ Maren Höpfner, "Das Pornografie-Gesetz in Indonesien", p. 32.
- ⁶⁰ Maren Höpfner, "Das Pornografie-Gesetz in Indonesien", pp. 40-1.
- ⁶¹ Maren Höpfner, "Das Pornografie-Gesetz in Indonesien", p. 39.
- ⁶² See <http://www.expressindia.com/latest-news/Exotic-Bali-up-in-arms-over-Indonesia-porn-bill/363006/> (Accessed: 8 October 2009)
- ⁶³ See [DOI 10.18196/AIJIS.2013.0022. 95-111](http://www.expressindia.com/latest-news/Exotic-</p>
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- Bali-up-in-arms-over-Indonesia-porn-bill/363006/ (Accessed: 8 October 2009)
- ⁶⁴ See <http://www.kompas.com/read/xml/2008/10/30/16292868/rakyat.bali.tegas.tolak.uu.pornografi> (Accessed: 8 October 2009)
- ⁶⁵ See <http://www.kabarindonesia.com/berita.php?pil=26&dn=20081012182547> (Accessed: 8 October 2009)
- ⁶⁶ Pam Allen, "Challenging Diversity?," p. 106.
- ⁶⁷ Kim Andren, "Prostitution, Pornography and Islamic Law," p. 53.
- ⁶⁸ Pam Allen, "Challenging Diversity?," p. 105.
- ⁶⁹ See <http://www.indonesiamatters.com/416/ruu-app-debate/> (Accessed: 24 September 2009)
- ⁷⁰ <http://www.indonesiamatters.com/416/ruu-app-debate/> (Accessed: 24 September 2009)
- ⁷¹ <http://www.indonesiamatters.com/416/ruu-app-debate/> (Accessed: 24 September 2009)
- ⁷² Pam Allen, "Challenging Diversity?," p. 112.
- ⁷³ See http://id.wikipedia.org/wiki/Undang-Undang_Pornografi
- ⁷⁴ See <http://www.detiknews.com/read/2008/10/09/151635/1017746/10/ruu-pornografi-tak-disahkan-mui-ancam-turun-ke-jalan> (Accessed: 24 October 2009)
- ⁷⁵ The UU was issued although two political parties, PDS (*Partai Damai Sejahtera*= Welfare and Peace Party) and PDIP, walked out from the building of the parliament. See <http://www.kompas.com/read/xml/2008/10/30/13264812/Akhirnya.RUU.Pornografi.Disahkan> (Accessed: 24 September 2009)
- ⁷⁶ I don't get the book or manual of the UU, so the only way is to search its contents in the internet. See <http://www.detiknews.com/read/2008/09/16/080110/1006768/10/inilah-isi-ruu-pornografi>.

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