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1 2 3 Legal Space and Its Influence to Indonesian Women Victims of Domestic Violence in Accessing to Justice[1] Rika Saraswati, Ph. D Faculty of Law and Communication, Soegijapranata Catholic University, Semarang-Indonesia rikasaraswati@unika.ac.id

Abstract Discussion on 'legal space' involves the relation of law, power and space. The relation is believed to have a significant influence on women victims of domestic violence in regard to their accessing resources and seeking justice because the problem of domestic violence always has a depth-correlation to the issues of law, power and space. There is an assumption that women victims of domestic violence who have access to resources will have greater power to attain their goals and more control over the processes involved; however, debate has arisen over whether women become more powerful or not when they access resources in different spaces (which have been divided into 'private' and 'public' space. Debate occurred because resources are various, and every resource, either in private or public space, has its own 'law' and 'power' which can be an empowering and/or oppressive factor either singly or simultaneously for women victims of domestic violence in their effort to cope with domestic violence. Keywords: Legal space, justice, Indonesian women, domestic violence

1. Introduction The relation of law, power



and space is believed to have a significant influence on women victims of domestic violence in accessing resource and seeking justice. Law in general terms exists within social, ethnic and religious values and norms, and in specific terms within legal systems and regard to legal agents, legislation, and regulations, whether it relates or not to domestic violence, marital and divorce issues. The law, then, will give 'power' directly or indirectly to someone who holds, understands, or believes in it.[2] The implementation of power sometimes is very delicate and ambiguous as every individual is always ready to channel power to ensure certain goals. Power is central to the human condition since human beings exist in power relationships.[3] Space, as the last element, is developed through a 'unitary of space' that consists of the three intertwined elements of physical space (nature), mental space (formal abstraction about space) and social space (the space of human action and conflict).[4] the three forms of space create different results and vary overtime, and it has a significant effect in the creation of inequality of circumstances or marginalised peoples.[5] In the context of domestic violence, the spatiality of 'public' and 'private' has created such inequality; and, it seems hardly surprising since space is not a given neutral but rather is continuously produced through socio-spatial relations.



Accessing resources is believed by empowerment theorists as the way to raise the bargaining power of women victims of domestic violence to cope with domestic violence issues. However, obtaining the power and resources might also create additional difficulties for them due to the circumstances in which they find themselves, which had placed them as class subordinate to men,[6] a situation which may be uncondusive to the ready exercise of newfound power (and utiisation of those resources) or its exercise without recrimination and other negative personal and social outcomes (such as increased violence, worsening poverty and social ostracism) The experience of and the ability to access resources to cope with the violence and to obtain justice becomes the main discussion in this study. The obstacles faced by women victims of domestic violence which are derived from internal and external factors of the victim, such as element of 'law' and 'power' within different spaces (private and public) will be explored for the purpose of identifying the influence of the relations of law, power and space to women victims of domestic violence in accessing resource and seeking justice dealing with domestic violence cases. To examine the correlation of a power relation within the relations of law, power and space the experience of one of Indonesian women victims of domestic violence will be



presented below. 2. The Relations of Law, Power and Space and its influence to Indonesian Women in Accessing to Resource and The Justice System. According to Blomley, law and space have a relationship to each other since their initial establishment.[7] Law forms space, and this is established by certain socio-spatialities that exist at the same time. As consequence, according to him, a judge or subject of law is able not only to construct abstract distinctions between the public and private space, but also to mark the certain material spaces (workplace, home, street, court) and certain people (women, men, employee, citizen) which are encoded in different and distinct ways. In another words, social relations were constituted simultaneously both spatially and legally. Legal and spatial interpretation have created legal and geographical constructions, all of which are fused to each other.[8] It might be used to explain why special laws are established for a certain group of people based on abstract or arbitrary distinctions (for example, religion, ethnicity, race) and special material spaces also provided. In Indonesia, for instance, the Dutch colonists controlled the identities of Indonesian people through the law and its institutions. For example, for the settlement of civil cases, the religious court is established for Muslim Indonesians and is based on the Compilation of Islamic



Law, and the state court is established for Non-Muslim Indonesians, based on the Civil Codification or Kitab Undang-Undang Hukum Perdata (Burgerlijk Wetboek).[9] As a consequence, prior to accessing certain courts the subject must prove his/her identity and a decision be made as to whether the case is appropriate for the particular court or not. If the parties are reluctant to bring their case before the state?provided court, there are other alternative means to settle the case, namely by utilizing adat laws provided for certain communities based on a particular ethnicity. The decision or compromise reached as a result may not be recognised legally by the state but it will be binding on the parties. As a consequence, domestic violence victims have to think strategically and tactically about what to change and where, about how to change what and with what tools[10] in order to continue to live in this space by using all the capacities and tools they have such as their identities and their ability to access resources in order to gain more power. Women in such a scenario utilise effectively what power they possess in order to obtain greater power through access to resources within spaces. Therefore, law as the representation of power is not simply to be seen as a constraining force but is also facilitative, for example by empowering certainty individuals or groups within certain



spaces.[11] Within a space all social practices involve the application of power. In this respect, Foucault has argued that space is a strategy of power,[12] and power itself is represented by law.[13] Hence, there is an important intercorrelation among space, power and law which affects the lives of women, particularly the lives of women victims of domestic violence, who are predominantly assumed to be powerless; the intercorrelation needs to be consciously examined in order to enhance women's bargaining power within the imbalance of power present in an abusive relationship. Further, by arguing that power is not simply an oppressive force but it has been transformed into new form as knowledge/episteme, it means that such power may be more beneficial for women victims of domestic violence particularly in terms of gaining access resources and justice with such access then also serving to further increase their power through an accumulation of knowledge and through greater knowledge wisdom in its use. Moreover, since Foucault recalled that power as a knowledge/episteme is inextricably interrelated with space and law, it means that power is not solely occupied or allocated by the state anymore, but becomes something that everyone has.

2.1. The Case of MI: Confronting Power and Law

Patriarchal values had been embedded to MI from when she was child. As result, these



values shaped her attitude regarding the acceptance of certain patriarchal norms within the family, and (in particular), that in the relationship between a husband and a wife, a woman is to be obedient, a core belief that made her obey her husband despite the violence. Such a marital relationship and such beliefs are not static or unchanging, as is demonstrated by her changing reactions to her experiences of marital life as they accumulated. MI acknowledged that she had been taught to obey by her parents such that when her parents arranged a marriage to a man whom she did not know, she agreed to that marriage.[14] I used to be matched. Here is the story, my sister used to study in an Islamic boarding school, and she was going out with a boy. My parents considered it is taboo to have such a relationship so they went ahead and got married, afraid that things had happened [that] were not desirable. [This occurred] while, I was still in junior high school; I, in Javanese term, was 'bypassed', actually I didn't mind. After my sister got married, I was paired with someone [by my parents who were] afraid that I would be an old maid, because I had not married.[15] An arranged marriage is not always bad as long as the relationships between two parties are equal. Unfortunately, MI's husband had not a good attitude during the marriage. The response of MI to the arranged marriage arrangement was to



accept it without any complaint because she, as a Javanese girl, was taught to obey her parents; whatever the purpose of the parents, it is something that must be obeyed. She acknowledged that she was taught to obey not only her parents, particularly the father, but also a husband. Her obedience persisted from the first year of marriage in 1981 to 1985 despite his violence toward her. However, her resistance initially emerged after she delivered her first baby because her husband forced her for having sexual intercourse despite her health not being good. Her resistance was embodied in her consumption of contraceptive pills without telling her husband or asking permission from him; a decision that made her husband was very angry and, then, the pills were thrown away. In the early instances of violence MI did not have any power to oppose the violence due to her economic dependence on her husband and her own expectation that her husband's behaviour would change. Her response to not being given sufficient fund by her husband to cover basic living expenses in the five years of marriage was to work to look after the children. Her husband had neglected her by not giving her living in the five years of marriage, although he works for the Rail Corporation. In addition, her husband had also committed physical violence since his affair with another woman was disclosed.



Her husband had even made a formal statement that he would not repeat his violence; however, it useless because he continued committing the violence. MI went to family services in order to solve her marital problem. Family services which were used by MI were BP4 (that is, Badan Penasehat Perkawinan dan Penyelesaian Perceraian [Marriage Counselling and Divorce Settlement Body])[16] and as is in accordance with its duties she and her husband had been advised to reconcile. She was disappointed by the services from this body because the institution preferred to reconcile them despite the violence. At that time, there was no special legislation on domestic violence issues as both the Domestic Violence Act 2004 and the relevant provisions of the Penal Code were not in place, so the members of the body would probably not be aware of such an issue although they have knowledge about marriage law. However, the advice could not be implemented because MI's husband was again repeatedly violent. After the advice having had no significant effect to her marriage relations, MI responded by asking her husband to divorce her. Her husband finally filed for divorce but remain reluctant to make the required ikrar talak/ divorce pledge; as a result, the marriage remains intact. In accessing other resources, MI has major opportunities to socialise because she is a member of



group at her husband's workplace and she also joins in recitation. At the recitations, she has opportunity to meet many imams and she consulted them in regard to her marriage problems. Sometimes her husband had been asked to come and to be advised by the imam. She thought that imam's advice, because it had the strength of being from a religious source, might have more influence on her husband in comparison with that the advice of her parents and parent in-law; however, these efforts too seem likely to have had no significant effect on her husband's behaviour. Rather obeying the imam's advice, her husband turned to advise the imam instead. After several instances of physical and non-physical violence, MI shared her experience of violence with her sister who advised her to bring her case to a legal aid service that belongs to a non-governmental organisation that is concerned with such issues. She then showed further resistance by seeking from the LRC-KJHAM (the LRC-Keadilan Jender dan Hak Asasi Manusia or 'Legal Resource Centre-Gender Justice and Human Rights) and then joining a support group under its supervision. From her exposure to various concepts by this institution, she recognised her mindset was not right. She became more 'enlightened'; it increased her understanding of what comprises an equal relationship between a husband and a wife within



marriage, and of the issue of domestic violence, and increased her awareness of her rights as a woman. The intensity of her contact with legal aid and women support group continued to increase to date. Her subsequent involvement in a support group has led her to be a volunteer at a women crisis centre run by the local government in Semarang City. At this centre, her understanding and awareness of gender equality become stronger than before and she has become more active in helping and empowering other women victims of domestic violence. Being a volunteer has also strengthened her finances because the centre decided to give her some income for every month. The experience of MI has shown that during her hardship she obtained support from parents, sister, family services, imam, KJHAM, and her husband's workplace. Although the support received did not have significant impact in terms of stopping the violence, it has supported her psychologically. Her parents accompanied her to the court when divorce was proposed and to the hospital for a medical examination after she had been physically abused. When she proposed divorce and went to hospital, all fees were paid by her parents because she as a housewife could not afford the fee. Her sister also helped her by providing information about KJHAM that has assisted her to obtain the living costs from her



husband's workplace. The supports came to her because she asked actively to her sister who fortunately was well informed about the legal aid that are concerned with this issue. Initially, MI asked him to file for divorce; however, her husband did not want to divorce her. Her husband had proposed divorce to the religious court three times, but he always refused to make the divorce pledge ('ikrar talak'). She asked him to divorce her because she was not able to afford the court fee; besides, if he as a plaintiff asked her for a divorce, she would not lose her living rights. The reason for not pronouncing ikrar talak was that he did not want to pay the living for the iddah (the period of three menstrual cycles or three month after separation), an amount that totalled was IDR 8 million in this instance. Such an amount must be paid after the pronouncement of divorce. Given he refused to say ikrar talak, the court could not issue a decision in the case. The legal consequence of this refusal is to cancel the divorce; and thus, MI remains in an abusive marriage due to her husband's recalcitrance. The only way for MI to divorce him is as a plaintiff against her husband, but she must then bear the court fee; and, moreover, by suing her husband she, based on the Compilation of Islamic Law, would probably lose all her rights except that of the division of property since the legislation has



regulated divorce settlement in such a way.[17] This demonstrates that patriarchal values remain in the Compilation of Islamic Law which is used by the Religious Court to make decisions in divorce cases. It also can be said that in spite of the religious court having provided women with the opportunity to proceed with a divorce before the court, by no means have the patriarchal values of such courts been diminished. Under Islamic law, before the Marriage Law 1974 was passed, a man had an absolute right to divorce his wife unilaterally without grounds, simply by pronouncing the repudiation or talak 'I divorce you'. After the first or second talak, the husband may reconcile (rujuk) with his wife until up to three months after the divorce by simply pronouncing the reconciliation formula. After three talak or if the wife's waiting period (iddah) had expired, the husband had no right of reconciliation but could remarry the wife only after she had consummated a marriage with another man and divorced that man or been divorced by him. In contrast, under the Marriage Law 1974 and regulations implementing the statute, a man married according to Islamic law wishing to divorce his wife must now file a 'petition' with the Islamic court in his area declaring his intention to divorce accompanied by a statement of reasons. The court is directed to examine the petition, and is to convene for



the purpose of 'witnessing' the husband's divorce only if it finds 'sufficient' reasons under the statute. If the court assents to the divorce, the husband then appears in court and pronounces the talak in the presence of the judges. After witnessing the talak, the court certifies the result by issuing a 'Certificate Respecting'. The divorce is then deemed valid from the moment it is 'expressed' in court. In principle, women have no right of a unilateral divorce under Islamic law; that is, the permission of the husband must be obtained (and often - though sometimes alternatively - the approval of the religious court). The practice in Indonesia has long recognised various legal devices for implying in the marriage agreement or postponing the effect of a talak, which thereby permit a woman to obtain a divorce without her husband's consent. By far the most frequently used divorce option for women in Indonesia has been the 'conditional divorce' or taklik talak,[18] - a promise pronounced by the husband at the time of entering into the marriage that a talak would automatically be applicable if certain named conditions occurred. If the taklik talak had been pronounced by the husband at the time of the marriage, the wife could thereafter obtain a divorce by proving in court the occurrence of one of the stated conditions. Since the talak is deemed to occur automatically upon the occurrence of the triggering event,



proof of the event is tantamount to proof of a talak and entitles the wife to an immediate divorce. However, if a woman continues to file for divorce (which for several reasons, she may choose to do so) she can use the implementing regulation (Peraturan Pelaksana) of the Marriage Act 1974, namely the Implementing Regulation Number 10 of 1981, as the basis of her demand to get the living that is due to her if her husband is a public servant who is subject to this implementing regulation. Under this regulation a ground for divorce can be that a public servant who entered into a polygamous marriage (instead of the ground of violence or desertion) and she is also then entitled to a living. (It is worth noting that under the relevant legislation, such a marriage must have also have been entered into with the permission of the relevant departmental head). However, only if she can provide evidence that the polygamous marriage has a correlation with domestic violence and it has a significant harmful effect to her wellbeing, and judges are satisfied with the evidence, will she obtain her right to a living (maintenance) not only for herself but also for her children. Examples provided above demonstrate that the family law system (both state and religious), in fact, does not ensure that women victims of domestic violence become more empowered for in some instances women fail to use the



opportunity to pursue divorce due to cost and complexity or negative outcomes for the woman and who pursues divorce (and for her children). Divorce may be delayed through ignorance of the current legislation or due to social factors such as family disapproval. The system has continued to be criticised by feminists.[19] For the women victims who have no access to sufficient financial resources, lack of access to the legal system will be the main obstacle. Nevertheless, permitting women to file for divorce without the husband's consent is a breakthrough for developing equal power between men and women within the legal system, particular in regard to marriage matters. In addition, the court has facilitated access by the poor to court through making available 'pro bono' procedures. Several respondents in this study have experienced getting such a benefit, and it will be discussed in the next sections. The oppression created by MI's husband has actually given her the power to do something that might have never been thought of before. However, her ability to exercise her rights was not as easy as she thought since she found difficulties due not only her husband's action being generally considered her 'private' matter but also from her husband's workplace that having little awareness of her situation. Bearing in mind that MI's husband never gave her money to cover living expenses (that is, funds to look after the



children during the marriage), she prefers to obtain her rights from her husband's workplace rather than to file for divorce. However, obtaining her rights as an official wife of her husband is not easy because her husband has falsified the marriage certificate, identity card and family card which all are the basic requirements for marriage; and, all the requirements have been used to marry to another woman; and he delivered these to the manager at his workplace. Hence, she must give evidence that she is the legitimate wife and is still bound in the marriage to obtain her rights. Though it took her much times and energy, she tried to keep struggling and to be patient as access to part of her husband's salary is very important for meeting her children's needs. She in fact had two issues: maintenance due as a valid wife and the presence of domestic violence. The first time she reported the violence, the manager was emphatic to her situation; however, after a change of manager in the workplace, it seems more likely that the husband's workplace would tend to defend her husband as an employee rather than that her as the victim of violence committed by her husband and as a party entitled to certain rights in term of maintenance. Thus, she had to go to her husband's workplace many times to have contact with the manager despite the result repeatedly



disappointing her. (It should be noted here that in Indonesia, approaching a husband's superior in regard to such matters is not unusual). The manager referred to here is her husband's superior, and as the wife of a government officer she can report her husband's behaviour to the manager in order to have him disciplined or to advise her husband. Based on her report, the manager can determine whether the perpetrator of domestic violence will be given an administrative sanction or not. The sanction given usually will depend on the awareness, sensitivity and policy of the manager, largely exercised at the manager's discretion. In the case of MI, the world of work in terms of her husband's employment posed an intervention opportunity (as previously explained) but it did not have an immediately significant in regard to the violence; however, the chief of the Rail Corporation in which her husband works does (as his superior) have a role in minimising the effects of violence when she reported the violence to him. Her husband's manager had facilitated change by giving advice and providing mediation. The manager had made her husband sign a statement that he would not repeat the violence. In the event of a repeat of the violence, an employee can lose their employment. However, the imposition of such a sanction is a 'two-edged sword': it's threat might manage to cause a



husband to alter his behaviour or make him angrier with his wife and more violent, and its imposition can also have the potential to further adversely affect the victim, by worsening a couple's financial situation and provoking further or worse violence against the wife, particularly if she has no other means of support. In this instance, the corporation's administrative sanction in regard to terminating his employment was implemented; however, because of a change of staffing, a new manager with a new policy has ensured that her husband remains an employee of the corporation. How the manager wields his individual discretionary power is crucial to the imposition of sanctions he may or may not choose to believe the complainant and he may or may not choose to impose sanctions. The threat of sanction may or may not have the desired effect. My husband's boss had given advice and mediated; my husband had also made a statement that [he] would not repeat [the violence] again but he still did it. Administrative sanctions were present, at that time he was fired, but since there was the new boss he was not sacked. Each time I reported [the violence] the boss changed. Now, his new boss was half-hearted so he defended my husband... [20] She acknowledged the difficulties she further had in obtaining her rights within the Rail Corporation after her husband filed for divorce but



refused to pledge ikrar talak/divorce. The administration personnel of the corporation have argued that as she is a divorcee she does not have any right for asking for the wife's allowance. She, then, stressed that she was not yet divorced because there was no proof of a divorce verdict from the religious court. Of particular concern, the boss turned to my husband, [and] he accused me of lying [he said] that I had been divorced by my husband, I said "Where is the proof, sir, there has been no certificate of divorce." I explained that my husband has not dropped the pledge of divorce so I am still his wife. Then it was submitted to the law department.[21] After convincing them that she was still in a legal marriage with her husband, she finally could then ask them to process her application regarding the living allowance for a wife (and children). To obtain her rights, she must process the application for many times because her husband often breaks his promises to give an allowance to the children. The experience of MI has shown that while the social network could not change her husband's behaviour, it has given her opportunities and empowered her to implement her strategies and decisions. Her successful attempt to get the living from her husband's workplace has shown that the legislation provided by the state has crossed the two boundaries between private and public spaces when it was applied to the case. It has also shown that the problem in the private sphere has given power to MI to bring it into public spaces; the power belongs to the Rail Corporation which basically as laid down in the public spaces; this has been imposed and implemented in regard to the private sphere, such a move having been triggered by domestic violence issues. Thus, the Marriage Law which lay in



private law has been expanded to public domain, particularly for government officers with the existence of specific provisions for maintenance for spouse and children both within a marriage and after a divorce, and conditions for the receipt of such maintenance.[22] It can be said that the legislation for marriage and the relationship between a husband and wife has been brought from private space to public space in order to protect wives from neglect, unwilling participation in polygamy, or from becoming a victim of other forms of domestic violence. The legislation gives the wife rights for obtaining maintenance, and applies sanctions to male government officers who neglect, abuse or enter polygamous marriage without permission of the first wife. Through the legislation, power has been given to a wife to obtain her rights; but the wife must be active to report and apply to the institution for which her husband works and by submitting the evidence as required; this also takes time.[23] Although the legislation is already provided, implementation is not as always smooth as one might expect due to the extent of the bureaucracy involved and the lack of awareness of the bureaucrats with which the women have to deal. The experience of MI has shown that a woman can bring her issue from the private space into public sphere based on the legislation provided. However, for respondents whose husbands are not public servants, the only legislation that can be used to sue her husband for a living (or maintenance for herself and/or children) after divorce is the Marriage Act 1974. For Muslims the protection of their right to a living can be obtained under the Compilation of Islamic law only if they are sued for divorce by their husbands; the right to a living is lost if they



sue their husbands for divorce. The experiences of respondents who leave and divorce their husbands demonstrate this significant gender-role related power imbalance (see section on leaving an abusive marriage in this chapter). In 1985, when MI first experienced domestic violence, the issue of domestic violence was not as strong; exposure and discussion of domestic violence was then still strongly taboo because it was regarded as 'a family matter'. MI felt a sense of injustice when reporting violence against her to police because the police's response was simply to advise her to reconcile. She indicated that her husband seemed to have some negotiation with the police officer, by giving him a cigarette and talking separately to the police; afterward, the above advice was given. She recalled that there was a power imbalance between her husband and herself that had made the police take no action to her husband. The 'power' - the ability of her husband to communicate with the police officer (perhaps as 'man' to 'man', emphasising too their 'male solidarity') by giving cigarettes - could dilute the main role of the police officer as part of the legal apparatus there to protect the victim; it appeared to change the relationship between her husband and police officer, who then appeared to act as if they were friends (rather than police officer and person accused of or actual perpetrator of violence). This new 'friendship' made the police negotiate an important public issue as a private issue, and returned the matter to the husband's hands. Even though there was no indication that any money had been given to the police by MI's husband, the attitude of police was to ignore the case. This can be seen as a form of 'corruption'; the police officer knew what he must do, but he had



deliberately ignored the requirement to process the report. Further, the patriarchal attitude of the police officer (demonstrated by his asking MI and her husband to reconcile instead of arresting her husband) remained strong. Domestic violence still was considered 'a family issue'. The police officer also refused her to give a reference letter for visum et repertum as the next legal step in the process on the basis that it was a 'family matter'. This fact has shown that there was no recognition of her as first the victim of violence (which happened to be domestic), rather the fact that it occurred in the domestic sphere predominated in the police's reasoning. The husband's 'rights' as husband and man were given greater weight than the wife's rights as a victim of violence. Further, it has also shown that the firmly rooted attitude of the police officers as he ignored the presence of sections within the Penal Code that are there to provide protection to a wife and other family members from an abuser, and to ensure that an abuser faces justice. Though the Penal Code has been criticised as lenient in terms of regulation of domestic violence issues, it still had basic provision (even if limited) that addressed the issue at that time; the main problem that emerged in the circumstances in which the women victims were unprotected due to the mindset of the police which was a consequence of the absence of sufficient awareness of police officers of the women as victims and of what is then the appropriate and indeed legally mandated response of police in such situations. As result, the absence of state sanctions on her husband allowed him to repeat the violence. 5. Conclusion By implementing the concept of knowledge as power, including law as the representative of power developed



by Foucault, the accessibility of respondents to power, knowledge and law can be obtained through the resources which are available in private and public spaces. The experience of MI had shown that she had struggled to obtain her rights because she confronted the power exerted both individuals and institutions in private or public spaces and which acted as a means of oppression. Moreover, the existence of this power within the various spaces had also been justified by the law. Thus, it can be said that law, in reality, does not always empower the vulnerable - and this is true even of particular legislation that may have been initially enacted to empower the victims. The failure of the victim to seek or exercise her rights could not be blamed solely on the victim since there is an indication of a failure of the law apparatus (both persons at the 'coalface' such as police and magistrates and the legislation itself) to recognise relevant issues and a need for it to be more aware of and responsive to the needs of the victims and thus empower her. The phenomena in this study has shown the justice system is often the last resort for MI to obtain her rights, utilised despite the results that she obtained from accessing resources via personal approaches or from social networks members. The first justice system she approached was often the criminal law system when they contacted the police;[24] when the response from the police could not solve the matter, the respondents, then, resorted to the family law system and sought divorce as an alternative.[25] 6. References Blomley, Nicholas K, Law, Space and the Geographies of Power (Guildford Press, 1994) Busch, No?l Bridget and Deborah Valentine, 'Empowerment Practice: A Focus on Battered Women' (2000) 15(1) Affilia 82,



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 of Community Psychology, 169, 170 ----- [1] This paper is
 presented in LSAANZ Conference, Flinders University, Australia, 30 November-3
 December 2015. [2] Law can be defined as definitional (for example, by stating
 the terms of reference of domestic violence), status conferring (by designating
 certain roles, such as the role of husband and wife within a marriage
 relationship, the public official and so on), and facilitating (by empowering
 certain individuals or group). These definitions and the implementations, of
 course, need power and spaces. ⁴ See Malcolm M Feeley, 'The Concept of
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 Law & Society Review 497, 497? [3] 523. See also Andrew Terry and Des



Giugni, *Law in Society* (Harcourt Brace, 1996); Rika Saraswati, *Public and Private Dichotomy in the Legal System*, [4] Jean Lipman-Blumen, *The Existential Bases of Power Relationships: The Gender Role Case* in H. Lorraine Radtke and Henderikus J Stam (eds), *Power/Gender: Social Relations in Theory and Practice* (Sage Publications, 1994) 108; Rika Saraswati, 'Public and Private Dichotomy in the Legal System', [5] Jean Lipman-Blumen, 'The Existential Bases of Power Relationships: The Gender Role Case' in H. Lorraine Radtke and Henderikus J Stam (eds), *Power/Gender: Social Relations in Theory and Practice* (Sage Publications, 1994) 108; Rika Saraswati, 'Public and Private Dichotomy in the Legal System', [6] Lefebvre, *Production of Space* (Donald Nicholson Smith trans Blackwell, 1991). [7] Doreen Massey, 'Spaces of Politics' in Doreen Massey, John Allen and Philip Sarre (eds), *Human Geography Today* (Polity Press, 1999) 279; Rika Saraswati, 'Public and Private Dichotomy in the Legal System', above n 1, 91. [8] Suzanne Salzinger et al, 'An Ecological Framework for Understanding Risk for Exposure to Community Violence and the Effect of Exposure on Children and Adolescents' (2002) *Journal of Aggression and Violent Behavior* 423, 426-33; Adeel Khan and Rafat Hussain, 'Violence against Women in Pakistan: Perceptions and Experiences of Domestic Violence' (2008) *Asian Studies Review* 239, 240; Rika Saraswati, 'Public and Private Dichotomy in the Legal System', [9] Doreen Massey, above n.2. [10] *Ibid.* [11] Rika Saraswati, 'Justice and the Identities of Women: The Case of Indonesian Women Victims of Domestic Violence Who Have Access to Family Court' (2013) *Forum on Public Policy: A Journal of the Oxford Round Table* 1, 15-9. ('Justice and the Identities of Women'). [12] Rachael Field, 'Using the Feminist Critique of Mediation to Explore



"The Good, The Bad and The Ugly" Implications for Women of the Introduction of Mandatory Family Dispute Resolution in Australia'. (2006) 20(5) Australian Journal of Family Law 45, 45-78.. [13] Doreen Massey, above n 2. [14] Michel Foucault, *Discipline and Punish: The Birth of the Prison* (Alan Sheridan trans, Penguin, 1980) [trans of: *Surveiller et punir* (first published, Gallimard, 1975)] (*Discipline and Punish*) [15] Foucault, 'Questions on Geography', above n 11. [16] Interview with MI, a housewife and volunteer at a women's crisis centre (Semarang, Indonesia, 27 December 2011). [17] *Ibid.* [18] BP4 has a duty to reconcile couples. In BP4 hearings, board members talk to couples about their marital problems, give advice and bring pressure to bear on them to try again. [19] See Article 153 of the Compilation of Islamic Law; see also Article 8 the Implementing Regulation No.10 of 1981. [20] The most commonly stated conditions in the taklik talak include: desertion for six months or more; failure to provide obligatory support for three months; physical abuse; and neglect of the wife for six months. See Amiur Nuruddin and Azhari Akmal Tarigan, *Hukum Perdata Islam di Indonesia: Studi Kritis Perkembangan Hukum Islam dari Fiqih, UU 1/1974 sampai KHI* [Islamic Civil Law: Critical Study on Development of Islamic Law From Fiqh, The Marriage Act 1/1974 to the Compilation of Islamic Law] (Kencana, 2004). Re polygamous marriage and divorce, see Khoiruddin Nasution, 'Polygamy in Indonesian Family Law' (2008) 1692 *Shariah Journal* 207, 208. [21] Donna Coker, 'Crime Control and Feminist Law Reform in Domestic Violence Law: A Critical Review' (2001) 4(2) *Buffalo Criminal Law Review* 801, 802. [22] Interview with MI, a housewife and volunteer at a women's crisis



centre (Semarang, Indonesia, 27 December 2011). [23] Ibid. [24] Although a marriage law was promulgated in 1974 and followed by an implementing regulation (PP 9/1975), the government nevertheless compiled additional laws to regulate marriage and divorce of civil servants. This need was justified by the special status of civil servants and their obligation to serve as models for the rest of society. PP 10/1983 made up for the weakness of UU 1/1974, especially by requiring a husband to obtain permission from their superiors before taking a second wife or divorcing. PP 10/1983 applies to civil servants and high officials of all state ministries, banks, companies, village heads, and other village administrators, and it covers marriage, divorce, polygamy and concubinage. To obtain a divorce a civil servant must have the permission of his or her superiors. Valid reasons for divorce are similar to those in UU 1/1974. If divorce is initiated by a civil servant husband, his wife automatically receives a third of his salary, while another third goes to the children. If there are no offspring, the ex-wife receives one-half of the salary. If divorce is filed by the wife, she is entitled to nothing, unless the cause of divorce is polygamous marriage, in which case the rules apply as if he initiated the divorce. Alimony (spousal maintenance) can be collected directly from the office and not necessarily from the ex-husband. When divorced wife remarries she is no longer entitled to alimony. [25] It takes time between three months to six months to get a response. For higher echelons which require ministerial approval, it may take even longer. See Julia I Suryakusuma, 'The State and Sexuality in New Order Indonesia' in Laurie J Sears (ed), *Fantasizing the Feminine in Indonesia* (Duke University Press, 1996) ch 3,



92. [26] Ibid. [27] Ibid.



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