



## GENDER AWARENESS IN ISLAMIC LEGAL EDUCATION

*Windy Triana & Milah Karmilah*

**Abstrak:** Penelitian ini membahas tentang integrasi isu gender ke dalam pendidikan hukum Islam di Indonesia dan Malaysia. Fokus penelitian ini adalah untuk melihat bagaimana isu gender diajarkan kepada mahasiswa hukum Islam dan bagaimana isu gender diintegrasikan ke dalam kurikulum untuk menanamkan kesadaran gender. Melalui penelitian empiris di Program Studi Hukum Keluarga, Fakultas Syariah dan Hukum, Universitas Islam Negeri Syarif Hidayatullah Jakarta dan Jabatan Syariah dan Undang-Undang, Akademi Pengajian Islam, Universiti Malaya, kajian ini menemukan bahwa upaya untuk memasukan isu gender dalam kurikulum pendidikan hukum Islam masih sangat terbatas dan belum cukup. Beberapa mata kuliah yang secara langsung membahas isu gender dan hak asasi manusia banyak yang hanya dijadikan mata kuliah pilihan. Namun, di UIN Jakarta baru-baru ini mata kuliah terkait gender menjadi mata kuliah wajib. Selanjutnya, integrasi pembahasan gender ke dalam mata kuliah umum tidaklah mudah. Tantangan paling besar yang dihadapi adalah norma, nilai, dan ideologi terdahulu yang dimiliki oleh dosen dan mahasiswa. Hal tersebut menjadikan pengenalan terhadap isu gender menantang pemikiran yang sudah mereka miliki. Data pada kajian ini berasal dari kurikulum, wawancara dengan tokoh-tokoh kunci pada dua fakultas dan Focus Group Discussion dengan mahasiswa dari dua institusi.

**Kata kunci:** gender; pendidikan hukum Islam; UIN Jakarta; Universiti Malaya

**Abstract:** This article aims at discussing the integration of gender issues in Islamic legal education in Indonesia and Malaysia. In particular, this is to see how gender issues are taught to Islamic law students and integrated into the curricula to instil gender awareness. Based on empirical inquiries in the Department of Family Law of Faculty of Sharia and Law of State Islamic University Syarif Hidayatullah Jakarta and Faculty of Sharia and Law of Academy of Islamic Studies, University of Malaya, this study finds that the attempts to include gender issues in the curricula have been still very limited and insufficient. Courses that directly discuss gender issues and human rights issues are treated merely as elective courses. Except in Jakarta UIN, currently, the specific course on gender becomes a compulsory course. Moreover, the integration of gender discussion into general courses is not easy. This depends on the willingness and awareness of the lecturers to include the discussion. The significant challenge in integrating gender issues in Islamic legal education is related to lecturers and students' previous norms, values, and ideology. Because of this, the introduction to gender discourse becomes mind-provoking. This study relies on data from the curricula, interviews with faculties' key figures, and Focus Group Discussion with students from both institutions.

**Keywords:** gender; Islamic legal education; UIN Jakarta; Universiti Malaya

## Introduction

Gender awareness becomes one of the important skills for legal professional considering that many legal cases involve gender issues, and gender bias is likely to occur in the legal practices (Watanabe, 2014). It is important to note that gender awareness is not a skill that can be obtained overnight. Similarly, depriving gender bias attitude cannot be done instantly. (Watanabe, 2014) This is because each person is influenced by their inherited values and ideologies. (Lumley, 2015) This is why several studies consider the need to include gender issues in education for the legal profession, both in legal education at law faculties and judicial training. (Basten, 2015; Catelani & Stradella, 2014; B. Dawson, Schultz, & Shaw, 2014; T. B. Dawson, 2014; "Gender issues in teaching methods," 1995; Lumley, 2015; Owor & Musoke, 2014; Schultz, 2014; Vujadinovic, 2015).

In courts, gender issues arise in cases related to family law, labour law, as well as criminal law (Vujadinovic, 2015). Judges, lawyers and prosecutors will have to deal with cases involving women. In many Muslim countries, Islamic courts mostly deal with family law. In those courts, among specific cases that need gender sensitivity include polygamy permits, divorce, post-divorce rights, post-divorce child maintenance, joint marital property and inheritance distribution. In resolving those cases, gender awareness is needed to avoid bias attitudes that may influence court decisions. Schultz argues that the stereotyping attitudes and life experience of judicial personnel may influence their decisions (Schultz, 2014).

In Indonesia and Malaysia, Islamic courts mostly deal with family law cases. Therefore, gender awareness becomes crucial among legal professional in Islamic courts. Despite the importance of gender awareness among judicial professional, introducing this idea may not be easy. Arskal Salim et al. conducted a study to review a gender sensitivity program for the Religious Court judges in Indonesia. In general, the program is quite succeeded in increasing the participants' gender awareness (Salim, Nurlaelawati, Natsir, & Sayuti, 2009). After the program, some of the judges have already considered gender issues in their legal decisions. Nevertheless, critics may come from other parties, including their colleagues, due to the unusual gender-sensitive consideration. (Salim et al., 2009) Moreover, some of the judges who

participated in the program tended to be cautious in receiving the idea of gender sensitivity. They might see it thought-provoking as some of the ideas challenge their previous paradigm. In this case, those judges, who were in doubt, questioned the relevance and the significance of the program (Salim et al., 2009).

Responding to the need for gender sensitivity among legal professionals, the integration of gender into legal and judicial education becomes one of the ways to systematically enhance gender awareness among legal professionals. This paper will focus on examining the curriculum of Islamic legal education to see how gender issues are taught and integrated into the educational process. This paper is based on the study in the Faculty of Sharia and Law of State Islamic University Jakarta, particularly the Department of Family Law, and *Jabatan Syariah dan Undang-Undang* of the University Malaya. Information is obtained through the study of the curriculum, interviews with several lecturers, and Focused Group Discussions with male and female students from both institutions.

### **Gender in Legal Education**

Historically, gender studies were initially discussed in social sciences, and later became the discussion in legal studies. In American and European universities gender studies considered to be one of the scientific disciplines in 1970s (Vujadinovic, 2015). The current development shows that gender becomes one of the crucial aspects to be taught and discussed in legal and judicial education. Based on their study in Uganda, Maureen Owor and Harriet D. Musoke argue that the lack of gender issues in the Diploma in Legal Practice Program has contributed to the gender discrimination in the legal practice (Owor & Musoke, 2014).

However, one of the problems in legal education is the absence of well-established gender integration in the educational process. Among studies identifying these issues are Dragica Vujadinovic in Serbia; and Catelani and Stradella in Italy (Catelani & Stradella, 2014; Vujadinovic, 2015). Both studies argue that there has not been adequate attention to gender issues in the practice of legal education in curricula, teaching activities, and courses (Catelani & Stradella, 2014; Vujadinovic, 2015). The skill of “thinking like a lawyer” only is not sufficient for legal

professionals to be able to play roles in creating justice (Dawson, 2014) Richard Posner insists that putting too much attention to practical legal skills and legal doctrines is dangerous. This makes judicial professionals have limited skills in recognizing social contexts, such as gender sensitivity while dealing with legal cases (Dawson, 2014). Responding to the gaps in legal education, the National Judicial Institution of Canada started to include social contexts in judicial training since 1996 (Dawson, 2014). This has been followed by other jurisdictions such as Japan, Australia, etc. (Lumley, 2015; Watanabe, 2014).

To show the importance of gender issues in legal education, Gisela Shaw and Ulrike Schultz bring together several authors to discuss the inclusion of gender in judicial education in countries such as Philippines, Japan, India, Germany, and Cambodia (Dawson et al., 2014). The insertion of gender discussion in judicial education can be the continuation of the process of instilling gender awareness in legal education at the university level; or filling the gaps left by the legal education. From the above studies, gender issues in Islamic legal education have not yet been discussed. The area of Islamic legal education is significant considering the existence of Islamic courts in many countries, and all of them deal with cases where gender sensitivity is needed.

### **Gender in Indonesian and Malaysian Law and Policies**

The Indonesian Constitution of 1945 Article 27 mentions that men and women have the same position before the law. Since 1984, Indonesia has ratified Convention on the Elimination for All Forms of Discrimination Against Women (CEDAW). Since 1978, Indonesia has had a special ministry for women empowerment. Initially, the ministry was named State Ministry for Women's Role (*Menteri Negara Peranan Wanita*). In 2001, the name was changed into the State Ministry of Women Empowerment (*Menteri Negara Pemberdayaan Perempuan*). Since 2011 until now, the ministry is called the Ministry of Female Empowerment and Child Protection (*Menteri Pemberdayaan Perempuan dan Perlindungan Anak*). This ministry plays a role in the formulation of state regulations related to women and children, including synchronising and coordinating the implementation of those regulations (<https://www.kemenpppa.go.id/>).

CEDAW has often considered as the international standards for women rights.(Vujadinovic, 2015) Many countries have already ratified this bill to ensure that women have the same rights as men. The most important implication of the ratification of CEDAW is that the countries should eliminate all kind of discrimination against women including in education. This means that countries need to revise curricula, textbooks, etc.(Vujadinovic, 2015) Some of the countries even need to reconsider their traditions and customs practices that disadvantage women (Owor & Musoke, 2014).

Following the ratification of CEDAW, the Indonesian authorities issue regulations and show its commitment to ensuring the fulfilment of women's rights. Law No. 39 of 1999 on Human Rights Chapter 9 regulates women rights, which include education, employment, public and domestic rights. In 2000, the Indonesian President issued Presidential Instruction No. 9 of 2000 considering Gender Mainstreaming in the National Development. This law, then, was followed by Law No. 13 of 2003. Article 5 of this law mentions that there should be no differentiation between men and women in employment. Both men and women have the same rights in any position.

Apart from those laws and regulations, the Indonesian authorities show their commitment by inserting gender mainstreaming in the Medium-Term National Development Plan 2010 – 2014. Currently, to protect women in their domestic roles, the Ministry of Female Empowerment and Children Protection and the Ministry of Religious Affairs signed a Memorandum of Understanding on Strengthening Families with Gender Equality. This program involves the Religious Affairs Office (*Kantor Urusan Agama*), a government unit that deals with Islamic matters such as marriage registrations, *waqf* for endowment, and other family-related matters.

In education, the Minister of the National Education issued Regulation No. 84 of 2008 on the Guidelines of the Gender Mainstreaming Implementation in Education. It is stated in Article 1 of this Regulation that every unit of education should plan, implement, monitor, and evaluate all educational policies and programs by considering gender integration in them. In the legal field, the Supreme Court issued Regulation No. 3 of 2017 considering the Guidelines on the Hearing Cases Involving Women.

Article 10 of this Regulation states that judges should consider the reinterpretation and deep investigation of the law on gender equality in their actions.

The commitment of the Indonesian authorities in protecting and fulfilling women's rights is also considered by higher education institutions. Indonesian campuses have centres for women studies. At UIN Syarif Hidayatullah Jakarta, the centre was called Centre for Women Studies (*Pusat Studi Wanita*). This name was changed into the Centre for Gender and Child Studies. Apart from conducting research, this centre is responsible for gender mainstreaming program at the University. One of the programs, for example, is gender-responsive planning and budgeting system, which was firstly introduced in 2015. With the establishment of this unit, the University has shown its commitment regarding gender equality in higher education. However, the question, then, is whether this commitment also exists in the faculty level?

In the Malaysian Constitution, women protection is in the Ninth Schedule of the Federal Constitution. Malaysia had also ratified CEDAW in 1995. In 1998, Malaysian authorities formulated the National Policy on Women. This policy aims at ensuring the equal sharing of resources, information and access to opportunities for men and women; and to integrate women into all sectors of national development. Following this policy, Malaysia had established the Ministry of Women, Family and Community Development in 2001. In the same year, Malaysia amended its Federal Constitution Article 8(2) which states clearly that there should be no discrimination based on gender. (*The Progress of Gender Mainstreaming in Malaysia and Problems to be Solved*, n.d.) To ensure the involvement of women in public sector, Malaysia has stipulated that "At Least 30% of Women in Decision-Making Position in Public Sector Policy" in 2004. (Syahirah SS, MS, & Hussein, 2016)

Recently, Malaysia has had a plan to draft Gender Equality bill. In 2017, the Ministry of Women, Family and Community Development held discussions with various agencies to the planning process. The agencies include internal departments of the Ministry, the Economic Planning Unit, Attorney-General's Chamber, and the Foreign Ministry and Non-Government Organizations. (Bernama, 2018) Among the

aims of the Bill is to increase women's participation in the leadership, equal employment opportunities, equal payment and elimination of stereotyping. ("Set timeline for Gender Equality Act," n.d.) In the drafting process, the government has been helped by the Women's Aid Organization and Joint Action Group (JAG) for Gender Equality. Up until 2019, the draft has not yet been enacted. ("Set timeline for Gender Equality Act," n.d.) In Islamic judiciary, Malaysia has just appointed its first female judge in 2016. This has been a progress for female representation in judiciary.

### **Islamic Legal Education in Indonesia and Malaysia**

Islamic legal education in Indonesia is offered by Islamic higher education institutions both in Indonesia and Malaysia. Particularly in Indonesia, it is offered by Sharia and Law faculties within these institutions include State Islamic University of *Universitas Islam Negeri* (UIN); State Institute of Islamic Studies or *Institut Agama Islam Negeri* (IAIN), and College for Islamic Studies or *Sekolah Tinggi Agama Islam* (STAI), state-based or private. Currently, there are 17 UIN and 34 IAIN all over Indonesia, which all of them operate Sharia and Law, faculties. State Islamic University Syarif Hidayatullah Jakarta is one of the prominent and leading Islamic universities in Indonesia. This institution is a role model for other Islamic higher education institutions in terms of institutional development.

At present, the Faculty of Sharia and Law of UIN Jakarta has six undergraduate departments such as Department of Family Law; Department of Legal Sciences; Department of State Administrative Law; Department of Sharia Economic Law; and Department Comparative Islamic Legal Thoughts. This paper focuses on the Department of Family Law. It is expected that the graduates of this Department will become Religious Court judges, lawyers, family law consultants, mediators, etc. With the new development of the Indonesian policy on the curriculum of higher education, Jakarta UIN has implemented the curriculum of KKNi (*Kerangka Kualifikasi Nasional Indonesia*) or National Qualification Framework. With this new curriculum system, it is expected that the Indonesian higher education institutions are able to produce graduates that are ready



to enter professional fields. The KKNI system was enacted in 2012 based on Presidential Regulation No. 8/2012 about Indonesian National Qualification Framework. As a consequence, the Faculty of Sharia and Law is expected to offer curricula that are able to uphold the mission of KKNI. In this case is the answer to the need of professional fields.

In Malaysia, Islamic legal education is offered by various universities, among them are the University of Malaya, International Islamic University Malaysia (IIUM) and Islamic Science University of Malaysia (USIM) (Ali et al., 2012: 115-131). This particular paper will only discuss Islamic legal education at the University of Malaya. In this University, Islamic legal education is offered by *Akademi Pengajian Islam* or Academy of Islamic Studies. One of the departments in this faculty is *Jabatan Syariah dan Undang-Undang* or Department of Sharia and Law. In this Department, the students study Islamic Law as well as Malaysian Law. The core courses of this department are Islamic property law, Administration of Islamic Law, Islamic judiciary and Islamic family law (<https://umcms.um.edu.my/sites/apium/bachelor-of-shariah-amp-law>). Among career opportunities mentioned are lawyers and sharia officers. It is also stated that the vision of the department is: *“To produce graduates in the discipline of Islamic law who are able to master sharia sciences from its resources and have professionalism in Islamic judiciary in Malaysia.”* ([Http://ebook.um.edu.my/API/ijazah%20dasar/#p=248](http://ebook.um.edu.my/API/ijazah%20dasar/#p=248), n.d.)

In terms of gender awareness, both universities have a unit that focuses on gender issues. In Jakarta UIN, the unit is called *Pusat Studi Gender dan Anak* or Centre for Gender and Children Studies. Meanwhile, the University of Malaya has *Unit Pengembangan dan Penelitian Gender* or Gender Research and Development Unit. As part of their gender awareness program, these two units conduct research related to gender issues. This shows that both institutions consider gender as an important issue. However, up until now, the attempts to ensure the existence of gender awareness in curricula and education process have not been touched.

## Gender in Islamic Legal Education Curricula in Indonesia and Malaysia

### *Gender in the Curricula of the Department of Family Law Jakarta UIN*

As it is discussed above that the Department of Family Law is the department that many of its subjects are closely related to gender issues. The following are subjects that require the discussion of gender-based on Academic Handbook of 2015-2016: (*Pedoman Akademik Program Strata I 2015/2016*, n.d.)

Tabel 1  
Subjects of Gender based on Academic Handbook

No	Course	Status	Credits
1	Islamic Jurisprudence on Inheritance I	Compulsory	2
2	Islamic Jurisprudence on Inheritance II	Compulsory	3
3	Islamic Jurisprudence on Marriage I	Compulsory	2
4	Islamic Jurisprudence on Marriage II	Compulsory	3
5	Comparative Islamic Legal Thoughts in Marriage	Compulsory	3
6	Family Law in the Islamic World	Compulsory	3
7	Practicum of Religious Affairs Office	Compulsory	2
8	Child Protection Law	Compulsory	2
9	Practicum of Family Law Mediation and Consultation	Compulsory	2
10	Family Law and Gender	Elective	2
11	Islamic Law and Human Rights	Elective	2

Those are among the courses that require the discussion of gender issues in its teaching and learning process. Most of the course are compulsory courses. Islamic inheritance may become the most challenging subject to include the discussion of gender equality. This is because the Islamic inheritance law is considered strict and based on

*qath'i* or definitive revelation. The most sensitive issue is regarding the division of inheritance for men in women, which 1:2. The share of two women is equal to one man. Some studies in the Indonesia context show that to be considered fair; some Indonesians use customary (*adat*) law so that women can obtain similar share as men (Harahap, 2018; Huda, 2008; Maryulaini, 2018; Nurmila, 2013).

In the course of Islamic Jurisprudence on Marriage, problems that often occur are about the relationship between a man and woman in marriage; the position of man as the head of the family and breadwinner; the division of roles in a family, polygamy, etc. In some cases, abuse against women often caused by the misunderstanding of Islamic teaching. One of the misunderstanding is often due to considering women as the subordinate of their husbands. Because of this, women become vulnerable to domestic violence.

Other courses are Practicum of Religious Affairs Office and Practicum of Family Law Mediation and Consultation. In Indonesia, Religious Affairs Office play roles in marriage registration for Muslims. Apart from that, this office also provides family counselling services. With regards to the Practicum of Family Law and Consultation, currently, the Indonesian judiciary encourages a non-litigation method to resolve marriage conflicts before going into a litigation one. In these two matters, certainly, gender sensitivity is needed (*Pedoman Akademik Program Strata I 2015/2016*, n.d.).

Those courses do not mention any term related to gender issues, gender sensitivity, or gender equity in their names as well as in the content of the syllabus. This means that these issues can be taught in an integrative manner. In this case, the integration of gender issues is only possible if the lecturers have the awareness to teach and discuss them in the class. Without their awareness, the discussion will be ignored and considered not important. A challenge faced by the Department is that not all lecturers have a positive attitude toward gender equity (Mesraini, 2019, 16 July). The differences in the lecturers' attitude are caused by a different understanding of Islamic teaching and social realities. This is similar to the finding of Arskal Salim et al. when reviewing the result of the implementation of Gender Sensitivity Program for the Religious Court Judges. As is discussed above, the challenge is that gender issues may be new for some of the participants. At the same time, they have

already believed in certain values and ideology that they have learnt for long time (Salim et al. 2009). Therefore, accepting new ideas may not be easy for them.

Two other courses are Child Protection Law; and Family Law and Gender. The table above shows that the course of Family Law and Gender is an elective course. This means that not all students are obliged to take the course. It depends on their interest. However, in 2017, the course has been changed into Women, and Children Protection Law and the course becomes a compulsory course. This means that the Faculty and Department see this course as an important course to be taught to the students. According to the Head of the Department of Family Law 2019 - 2023, the limited number of the course on gender is because of the limited credit to be taken by the students.

That course discusses possible problems faced by women and children in the context of family law and the role of law in protecting women and children. As is admitted by Rosdiana, the lecturer of this course, this one course only is not sufficient for the Department of Family Law students, because the credit allocation for this course is only two credits. This means that the students have only less than two hours each week to study this topic (Rosdiana, 2019, 19 July).

### **Gender in the Curricula of Department of Sharia and Law, University of Malaya**

Similar to the Department of Family Law of Jakarta UIN, gender discussions become important in the Department of Sharia and Law. This is because the mission of this Department is to fulfil the needs of professional in Islamic judiciary, modern Islamic law, and consultants in Islamic family and property matters. With the expected expertise for the graduates, gender knowledge and awareness become important to avoid bias.

Also, it is similar with the Department of Family Law of Jakarta UIN, and gender issues are taught in a course that directly mentions gender in its name, as well as in integrative manners in a various course containing gender issues. Those courses are:

Tabel 2  
Subject Gender in Departemen Family Law of Jakarta UIN

No	Course	Status	Credits
1	Islamic Law and Gender	Elective	3
2	Islamic Family Law ( <i>Undang-Undang Keluarga Islam</i> )	Compulsory	3
3	Inheritance Law ( <i>Undang-Undang Pusaka, Wasiat dan Hibah</i> )	Compulsory	3
4	Human Rights in Islam ( <i>Hak Asasi Manusia dalam Islam</i> )	Elective	3

The table shows that there is only one specific gender-related course. This course is an elective course. Again, it depends on the interest of the students, whether they are going to take it or not. The content of this course is similar to the one in the Faculty of Sharia and Law of Jakarta UIN. This course focuses on contemporary gender issues and how they are responded by Islamic law. Matters discussed in this course such as discrimination against women, the protection of women, etc. Another course is Human Rights in Islam. The discussion of human rights will also include the discussion of women's rights.

As for more general subjects, there are at least to subjects where gender issues may come up. These courses are the Islamic Family Law and Inheritance Law. As in Jakarta UIN, the possibility of the inclusion of gender discussion in both course will depend on the awareness of the lecturers to talk about it in the class. Again, awareness may be existed or not.

### Gender Discourse among Lecturers and Students

In general, lecturers and students from both institutions, who are the participants in this study, agree upon the importance of gender discussion in legal education. Among lecturers, gender issues become important as the discourse is developed along with contemporary development. The difference is in the students' understanding of gender in relation to Islamic law, which will be discussed further in this part.

In both institutions, men and women gain similar opportunities in decision making. Both men and women are able to be involved in every campus activity. For students, all can propose themselves to be the student president regardless of their gender. According to Mohd Zaidi bin Daud, the head of Department of Sharia and Law, this shows gender awareness among students (bin Daud, 2019, 13 April). In Jakarta UIN, the current president for the student association of the Department of Family Law is a female, and her deputy is a male. This is evidence that women in Islamic institutions have the same rights and opportunities as men. Students choose their leader based on individual qualities, not gender (Daud, 2019, 13 April). However, the remaining question is regarding their understanding of Islamic legal matters that they learn from their lecturers in the university.

The challenge for the Department is to change students' perspectives about certain issues in Islamic law, in which the students hold into their previous knowledge. Similarly, changing the perspective of the society about women's role is also challenging. This applies to both institutions in Indonesia and Malaysia.

At Jakarta UIN, student organizations in every department have Women Empowerment Division. This division organizes discussions and activities related to empower female students and to enhance gender awareness among students, males and females. Oceania Hasanah, the head of this division, mentioned that she initiates "gender talks" program. This program is not only for female students but also for male students. She believes that the program will be able to open students' perspectives about gender issues. Up until now, there still many students who cannot differentiate between gender and sex, Hasanah said. Moreover, there is a belief that discussions about gender are for women, not men (FGD, 2009, 22 May).

Among the students of UM who participated in FGD, for example, believe that gender equality is not something to be fought for because men and women have their own place and roles. As the Quran mentions *al nisa* (woman) and *al rijal* (man) in an equal manner. What makes them different is their submission to God. Even though they do not agree with the struggle for equality, they agree with the struggle for gender fairness. This means that equality is not the same as fairness.

So, what is important in legal education is the discussion about gender fairness (FGD, 2009, 9 April).

Further, some of those students believe that what is needed is not the reinterpretation of Islamic law, but how to have a deep understanding of the law. This deep understanding will enable them to inform the society about the law so that the people will understand the meaning of the law. To them, *fiqh* or Islamic jurisprudence is unquestionable, and it is the duty of Muslims to obey it. Even though the stipulation seems to be biased, it should be followed, and there will be something good despite the bias (FGD, 2009, 9 April). This is different from what is understood by participants from Jakarta UIN. In the FGD, they argued that *fiqh* is dynamic, and the interpretation of Islam law depends on time and space. As a consequence, the reconstruction of *fiqh* becomes feasible when it is needed to create fairness (FGD, 2009, 22 May).

## Discussion

The inclusion of gender awareness in legal education can be done in three ways: 1) the inclusion of gender issues in general course; 2) the inclusion of gender topics in courses on fundamental rights (such as human rights); and 3) specific gender and law courses. (Catelani & Stradella, 2014) The above explanation shows that all of the participants agree that it is crucial to include gender discussion in Islamic legal education. However, the degree of its inclusion and understanding of gender fairness vary.

In general, both institutions include gender discussion in the curriculum in a very limited degree. There is only one specific course related to gender and law in both institutions, and one course on human rights. In terms of number, the courses are not sufficient to ensure the enhancement of gender awareness among the students. Moreover, putting the course in the elective course shows a very limited commitment to spreading the idea of gender fairness and gender equality. In the case of the inclusion of gender issue in general courses, it is not clearly defined. It means that the consideration to include gender discussion in those courses depends on the lecturers' awareness. At the same time, there has not been a systematic approach to ensure that the lecturers consider gender sensitivity important.

This implies that gender issues in Islamic legal education have been under-represented.

The existing gender-related legal frameworks in Indonesia and Malaysia have not touched the education sector, particularly legal education. With the absence of state's intervention on the need for gender awareness in legal education, the inclusion of gender issue in the curricula becomes limited and uncertain. Vujadinovic and Dragica's argue that there is a necessity of state's legal, political and institutional mechanism to ensure the inclusion of gender issues in education (Vujadinovic, 2015). It is expected that those mechanisms can encourage higher education institutions to seriously consider the need to integrate gender issues in legal education.

Furthermore, the states' concern on gender issues, which is reflected in the national policies related to gender, seems to influence gender awareness among the people and educational organizers. The talk with the students from Jakarta UIN reveals that they seem to be familiar with the issue, even though some of them feel that their knowledge is very limited. Their view of Islamic law also tends to be progressive. This can be seen in their statement that *fiqh* is dynamic, which implies that the reinterpretation of Islamic law is something possible. This is different from the view of the students from the University of Malaya that believe in the rigidity of *fiqh*. This attitude can be related to the progress of gender-related legal framework in Malaysia that tend to be slowly developed.

Gender bias attitude of the lecturers and students is one of the most challenging issues because those attitudes result from their previous knowledge, cultural norms, interpretation of their belief and ideology. This applies to both institutions. The issue also commonly happens in law education in general, as gender understanding is part of cultural construction. (Lumley, 2015) This is also similar to what has been found by Salim et al. among Religious Court judges in Aceh, as is discussed earlier. (Salim et al., 2009) This may also be a common challenge in the area of Islamic legal and judicial education considering that most of the learners have already learnt Islamic law in their previous education, in *madrasa* (Islamic school) or *pesantren* (Indonesian type of Islamic boarding school). Similar to the case of Islamic judges, some of the lecturers in Sharia and Law faculties are



also *ulama* (religious scholars) who teach Islamic society teaching. (Salim et al., 2009) The idea of reinterpretation of Islamic law may be considered provoking their previous knowledge and paradigm. To address the challenge, it is worth to consider Salim's recommendation about the significant roles of the educators. The educators' expertise and knowledge will influence the success of inserting gender issues in the curriculum. Therefore, there is a need to carefully choose the educators so that the students put trusts and have a will to open their mind about the issue.

Apart from that, another strategy that can be used in the integration of gender issues is related to the teaching method. Islamic legal education tends to emphasize theories and traditions from the classical Islamic legal resources. The use of real contemporary legal cases will enable learners to see the realities, and the teachers can encourage them to think critically in response to those cases. Furthermore, case-based legal method is studying law is important to make students aware of law in application and to instil the idea of "thinking like lawyer". This means that students need to consider facts apart from theories and normative aspects of law (Hyland & Kilcommins, 2009).

In addition to that, the legal clinic for gender equality and anti-discrimination can also be considered. In the case of Indonesia, however, the implementation of legal clinic in Islamic legal education still needs to be further studied, because there has not been a clear concept of the implementation of clinical legal education in those institutions. In Jakarta UIN, the role of Legal Aid and Consultation Institutes has not yet been optimized by involving students in their activities.

## **Conclusion**

To sum up, the integration of gender issues in Islamic legal education has not been optimal in the Department of Family Law, State Islamic University Syarif Hidayatullah Jakarta; and Faculty of Sharia and Law of Academy of Islamic Studies, University of Malaya. The integration of gender discussion in the curricula can be done in three ways: 1) specific course on Islamic law and gender; 2) course in Islamic law and human rights, and 3) general courses that include

gender issues in them. However, courses that directly discuss gender issues and human rights issues are treated merely as elective courses. Except in Jakarta UIN, just currently, the specific course on gender becomes a compulsory course. Moreover, the integration of gender discussion into general courses is not easy. This depends on the willingness and awareness of the lecturers to include the discussion. The significant challenge in integrating gender issues in Islamic legal education is related to lecturers and students' previous norms, values, and ideology. Because of this, the introduction to gender discourse becomes mind-provoking. It is important to note that this study is still limited. There is a need for a more extensive and deep study on this issue, especially by looking into the content on each courses and investigating the teacher awareness to integrate gender issues in each course.

## References

- Ali, N. M., *The Shariah and Law Education in Malaysia in the Context of Legal Practice*, 2018.
- Basten, J. Judicial education on 'gender awareness' in Australia. *International Journal of the Legal Profession*, 22(2), 2015, 151–165.
- Bernamea. Putrajaya to draft bill on gender equality. Retrieved August 24, 2019, from Free Malaysia Today website: <https://www.freemalaysiatoday.com/category/nation/2018/04/03/putrajaya-to-draft-bill-on-gender-equality/>. 2018, April 3.
- Catelani, E., & Stradella, E. Equal opportunities and legal education: A mainstream perspective. *European Journal of Legal Studies*, 7, 2014, 180–213.
- Dawson, B., Schultz, U., & Shaw, G. (2014). Gender and judicial education. *International Journal of the Legal Profession*, 21(3), 2014, 255–257.
- Dawson, T. B. (2014). Judicial education on social context and gender in Canada: Principles, process and lessons learned. *International Journal of the Legal Profession*, 21(3), 259–280.
- Gender issues in teaching methods: Reflections on shifting the paradigm. -Paper presented to Feminist Legal Academics' Workshop, Canberra. *Legal Education Review*, (2), 129, 2009.
- Harahap, T. R. "Studi Komparatif Hukum Waris Adat Batak Mandailing Dengan Hukum Islam tentang Hak Kewarisan Anak Laki-Laki dan Perempuan". *Jurnal Fatwa Hukum*, 1(3), 2018.
- [Http://ebook.um.edu.my/API/ijazah%20dasar/#p=248](http://ebook.um.edu.my/API/ijazah%20dasar/#p=248). (n.d.).
- Huda, Y. "Islamic Law Versus Adat: Debate about Inheritance Law and the Rise of

- Capitalism in Minangkabau". *Studia Islamika*, 15(2), 2008.
- Hyland, A., & Kilcommins, S. "Signature pedagogies and legal education in universities: Epistemological and pedagogical concerns with Langdellian case method". *Teaching in Higher Education*, (1), 29, 2009.
- Lumley, K. "Without Fear or Favour, Affection or Ill Will: Addressing Gender Bias in NSW Judicial Education. *International Journal of the Legal Profession*, 22(2), 212–225, 2015.
- Maryulaini, A, "Pelaksanaan Hak Waris Adat Anak Perempuan pada Masyarakat Marga (Lama) Rambang Kapak Tengah Kota Prabumulih di Dalam Hukum Kewarisan Islam" . *Repertorium: Jurnal Ilmiah Hukum Kenotariatan*, 4(1), 2018.
- Nurmila, N, "The Indonesian Muslim feminist reinterpretation of inheritance". In J. Burhanudin & K. van Dijk (Series Ed.), *Contrasting Images and Interpretations. Islam in Indonesia*, 2013. (pp. 109–122). Retrieved from <http://www.jstor.org.ezp.lib.unimelb.edu.au/stable/j.ctt46mwqt.10>
- Owor, M., & Musoke, H. D. Neglect of gender questions at the vocational stage of judicial education in Uganda. *International Journal of the Legal Profession*, 21(3), 2014.
- Pedoman Akademik Program Strata I 2015/2016*. (n.d.). Universitas Islam Negeri Syarif Hidayatullah Jakarta.
- Salim, A., Nurlaelawati, E., Natsir, L. M., & Sayuti, W, *Demi Keadilan dan Kesetaraan, Dokumentasi Program Sensitivitas Jender Hakim Agama Indonesia di Indonesia*. Jakarta : Puskumham UIN Jakarta and The Asia Foundation, 2009.
- Schultz, U, "Raising gender awareness of judges – elements for judicial education in Germany". *International Journal of the Legal Profession*, 21(3), 345–355, 2014.
- Set timeline for Gender Equality Act: WAO. (n.d.). Retrieved August 24, 2019, from Wwww.thesundaily.my website: <https://www.thesundaily.my/archive/set-timeline-gender-equality-act-wao-GUARCH531497>
- Syahirah SS, S., MS, N., & Hussein, N. A Gender Quota Policy Implementation and Women Empowerment in the Malaysian Public Sector. *Australian Journal of Sustainable Business and Society*, vol. 2, No. 1, 2016, 2, 59–68.
- The Progress of Gender Mainstreaming in Malaysia and Problems to be Solved*. (n.d.). 3.
- Vujadinovic, D, Gender mainstreaming in law and legal education. *Anali Pravnog Fakulteta u Beogradu*, 63, 2015, 56–74.
- Watanabe, C. Japanese judicial education: Working toward gender equality in the judiciary. *International Journal of the Legal Profession*, 21(3), 2014, 307–318.
- Zin, N. M. The Training, Appointment, and Supervision of Islamic Judges in Malaysia. *Pacific Rim Law & Policy Journal*, 21(1), 2012, 115–131.

### ***Interview***

Interview with Mesraini, Head of Family Law Department, Faculty of Sharia and Law, State Islamic University Jakarta, 16 July 2019.

Interview with Rosdiana, 19 July 2019

Interview with Mohd Zaidi bin Daud, 13 April 2019

Interview with Zaidi Mohd Daud, 13 April 2019.

### ***Focus Group Discussion***

Focus Group Discussion with the students of Family Law Department, Faculty of Sharia and Law, State Islamic University Syarif Hidayatullah Jakarta, 22 May 2019.

Focus Group Discussion with the students of Faculty of Sharia and Law, Academy of Islamic Studies, University of Malaya 9 April 2019.

Focus Group Discussion with the students of Faculty of Sharia and Law, Academy of Islamic Studies, University of Malaya 9 April 2019.

Focus Group Discussion with the students of Family Law Department, Faculty of Sharia and Law, State Islamic University Syarif Hidayatullah Jakarta, 22 May 2019.

---

### **Windy Triana & Milah Karmilah**

Melbourne Law School, the University of Melbourne; Department of Family Law, Faculty of Sharia and Law, State Islamic University Syarif Hidayatullah Jakarta  
E-mail: winditriana@yahoo.com