

# Appropriate Policy on Prostitution in Indonesia: A Strategy to Minimize Social Impacts in Society

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## Abstract

This paper presents some arguments and remarks on normative perspectives of female prostitution in Indonesia and suggestions for policy on it. Considering that prostitution is a multidimensional phenomenon, the authors sets two research questions: what are the alternative policies on prostitution and what are their strengths and weaknesses? And what should be the appropriate policy on prostitution in Indonesia? The research questions are answered through describing and assessing two major policies on prostitution in the Netherlands and Egypt. The paper is concluded with suggestions to formulate a policy is compatible with the aspiration of all stakeholders.

**Keywords:** policy, prostitution, localization, Indonesia

## 1. Introduction

### 1.1 Statement of the Research Problem

Generally, views on prostitution problems in Indonesia are divided into three following interest groups. First are those who want prostitution to disappear from the Indonesian society. Second are those wanting sex industry to be regulated and reformed effectively. Two strands of the problem derive from these two different views, from respectively the "moralist group" and "pragmatist group". There is a third group that ask for a clear and consistent attitude from government towards the existence of prostitution (Hull et al., 1977).

The views of the two first groups showed by Hull et al. (1997) are essentially similar to the two first views stated by Tmong (1986). She shows three opposing views as follows: the moral view, the institutional view, and the women's social condition view.

The moral view maintains that prostitution is undesirable and must be eradicated by severe punishment. The institutional view argues that the phenomenon is as old as human "civilization" itself. In the past, it had only been possible for the state to introduce some mechanisms of control (while collecting taxes) in order to safeguard public health and to limit the incidence of excessive exploitation (forced prostitution and slave labour).

The third view challenges these two views and maintains that prostitution reflects the prevailing double standard and the unequal relationship between men and women. The institution of prostitution has the fundamental purpose of maintaining male supremacy. Thus, prostitution as a social phenomenon will survive as long as the social structures surrounding it prevail. Neither sanctions nor moral condemnation will change this situation. In the mean time, the legal status of prostitutes and the social stigmatisation they must endure isolate them from the rest of humankind and expose them to various forms of exploitation by pimps, the police and sometimes clients (p. 2).

The Indonesian government has no a clear attitude or commitment toward the phenomenon. This is mirrored in the absence of the national law or policy towards the existence of prostitution. As Jones et al. say (as cited in Lim, 1998):

Since prohibition of the direct commercial sale of sexual services does not exist in national law, regulation of the sex sector tends to be based on provincial or subdistrict government regulations as well as the actions and pressures of various social groups in support of or in opposition to the sector.

The local government regulations vary from region to region (p. 59).

To develop decentralization or district autonomy, it is important to let different localities decide differently. However, a sameness of attitude among local governments and departments toward prostitution phenomenon is also important in order that they act in a corridor of value-relevance. The commitment is as follows: prostitutes and their clients are human while prostitution is a human problem in Indonesia. Any action to resolve the problem must be within the frame of humanity. This issue leads us to seek an adequate national policy in dealing with the problem. Paying close attention to this issue will help the government to anticipate secondary problems that arise in both local and national levels.

The absence of such policy would raise some difficulties as follows: first is difficulty to determine a minimal standard whether the policies undertaken by local governments show success or failure. Second are, at local levels, the ambivalent attitudes of the governmental apparatus and police against prostitution. Meanwhile, there is tacit recognition of the commercial sex sector, as demonstrated by collection of various taxes and fees (Hull et al., 1997). This condition has confused the status of prostitutes and prostitution in Indonesia. Last but not least, at national level, conflicts between the departments, the Department of Health and the Department of Social Affairs serving the existence of prostitution for its interest of each, the Department of Manpower not recognizing prostitution as profession, and the Department of Women's Affairs promoting marital fidelity and opposing prostitution (Hull et al., 1997), have raised a difficulty to form consolidation amongst them.

The Indonesian government's stance in facing prostitution is different with the colonial government, but both

have ignored the empowerment of prostitutes. The control of the colonial government on prostitution is more based on moral reasons in terms of colonial interests while the control of the Indonesian government on prostitution is more based on health reasons and insistence of society backed by "moralist groups" (Hull et al., 1997). One policy made by the government is the localized prostitution complexes well known as "lokalisasi". "Lokalisasi" are "prostitution complexes that are managed on the basis of regulations issued by local governments" (Hull et al., 1997, p. 118). Such prostitution complexes are legalized and approved by the government. There are three indications to recognize whether a prostitution complex is legal or not. First, the existence of the complex is supported by regulation issued by local governments. Second, prostitutes existing in the complex acquire rehabilitation and resocialization programmes. Third, the Municipal Social Welfare Office controls prostitutes existing in the complex. Otherwise, prostitution complexes that rise without agreement from local governments are illegal. Such prostitution complexes have no relation to rehabilitation programmes undertaken by the government.

So, prostitution continues in the system, and generates "legal income" for local governments and illegal income for the police, as well as satisfying clients and providing the prostitutes with income; but the prostitutes have the chance to prepare for an alternative life, and the profession remains not officially endorsed. This is a compromise aimed to satisfy some groups. The government has claimed that many prostitutes leave the complexes and also return to "normal life" every year after being rehabilitated in the complexes (Hull et al., 1997). However, Murray (1991) states that this is not valid because prostitutes who leave localized prostitution complexes will re-enter or move to another complex in the same city or other ones. According to the statistics data, the number of registered prostitutes in Indonesia increases year by year. It was 71.000 excluding unregistered free-lance sex workers and other workers who disguisedly offered sex services for their customers (Hull et al., 1997).

Given the complexity of the prostitution phenomenon and the increasing number of female prostitutes, there is a pressing need to delineate the policy issues and to discuss them with relevance to society in Indonesia.

#### *a. Formulation of the Research Problem*

In an attempt to fulfil this need, we must be aware that prostitution is a multidimensional phenomenon. research seeks to cover some questions as follows: 1) what are alternative policies on prostitution and what are their strengths and weaknesses? 2) what is an appropriate policy on prostitution in Indonesia?

#### *b. Research Method*

*Scope of the research.* This research highlights the current situation of prostitution in Indonesia, particularly Jakarta. This is based on reasons that the city is a metropolitan area, the largest in the country; many prostitutes exist there in both a legal complex (KramatTunggak) and illegal ones (Cilincing, Angke, Kalijodo, Jalan Gajahmada, etc.); the majority of the inhabitants are practicing Moslems, the majority religion in Indonesia. The current situation differs from what we discuss later under the weight of the rational policy issues. The two questions of this research are answered through clarifying the scenarios of two major policies concerning prostitution in other countries and assessing them. The two countries are the Netherlands and Egypt. The Netherlands is chosen based on reasons as follows. First, the Dutch government policy on prostitution is pragmatic. This can refer to the reality in this country described by prostitutes that "Here one gives one's life" (Casas, Cordero, & Foderingham, 1989). Here, prostitution is a condoned and legal profession. Second, although the Netherlands and Indonesia have different cultural backgrounds, they have had experience living together very long in the past. Third, the possible comparison done here is about the scenarios.

Egypt is chosen based on reasons as follows. First, Egyptian government policy on prostitution is confessional. This can refer to the reality in this country that Islam is the state religion (Badran, 1995). Here, prostitution is condemned, and then those who are known with credible evidence (by four adult eyewitnesses) to commit adultery in any form will be punished. Second, although Egypt and Indonesia have different cultural backgrounds, the majority of the population of both are Sunni Moslems (Baer, 1964). Third, the possible comparison done here is about the scenarios. There are some relevant policies to deal with prostitution as a multidimensional phenomenon. One important action to fulfil this need is policy related to social dimensions of prostitution. Government can take the three following actions with diverse aims. First is rehabilitation for those who are already in the sector or are victim of trafficking or commercial sexual exploitation. Second is prevention for those who are in danger of being drawn into the sector. Third is development for improving access of women to education, training skills and alternative employment opportunity (Lim, 1998). Although prevention is the key to lessen number of women who fall into the sector, the current situation of large number of women who are already in the sector demands actions to address their needs, and cannot wait for social and economic change.

*Data sources of the research.* This research is a literature study using secondary data. I collected the needed data from literature, document, statistics, journal, magazine, and mass media.

## **2. Analytical Framework**

### *2.1 The Appropriateness of Policy on Prostitution*

We treat the rationality of policy on prostitution as a three-fold concept: the wellbeing, the stakeholders, and the social entitlement. The three are a well-reasoned basis for an appropriate policy on prostitution. But the

appropriateness of policy on prostitution will be relative from country to country, and perhaps from region to region in one country like Indonesia. The view developed here is about:

believing all human beings to be fundamentally equal in worth. It also holds that human beings have common resources and common problems wherever they live, and that their special dilemmas can best be seen as growing out of special circumstances, rather than out of a nature or identity that is altogether unlike that of other humans (Nussbaum, 1999, p. 7).

By mentioning the Nussbaum's notion, this is not to say that historical, social, political, natural circumstances must be ignored. But it is to say that there may be a good deal of overlap of problems within those lives, and also a good deal of commonness about what people must have if they are to be capable of living well. The problems people face wherever they live is scarce resources, competition for resources, and the limitation of life. Any good solution to the problems of prostitution must be responsive to the concrete circumstances for which it is designed. The four circumstances are as follows: historical, social, economical and political circumstances.

The historical background of prostitution is necessary to know to prevent us from taking action frontally or spontaneously against the existence of prostitution. A prostitution policy designed without taking into consideration its historical factors will be ineffective, because they ignore how the phenomenon factually takes place. This is an unhistorical policy.

To know the social background of prostitution is also useful to understand how social components shape the availability of prostitution. As Lim (1998) says, prostitution has social components relating to unequal relation between men and women. In Indonesia, this concern must refer to the "cultural hegemony" of men over women. Prostitution has relation to the culture and subjugation of women. Prostitution policy designed while ignoring this factor will be trapped into a network that strengthens the nature of subjugation. Many policies on prostitution are constructed based on a view that prostitution constitutes a women problem rather than a men problem. So, the policy focuses merely on prostitutes, or supply sides, while role of the clients, or demand sides, is completely ignored. This is a gender-biased policy.

Prostitution has economic components relating to economic progress, modernization, and a growing sense of materialism. In the Indonesia context, this issue must be directed to the general development strategies of the government that have impacts on both the demand for and supply of prostitutes. It is also relevant to see the expansion of education achieved by the government, and the achievement of the government in reducing the proportion of the population living in poverty.

Prostitution becomes generally an object for attention of some different interest groups. In Indonesia, they are "moralist group", "pragmatist group", and third group that ask for a clear attitude from the government toward the existence of prostitution. In the third group might be included the prostitutes themselves who during of the New Order Regime were never involved in policy formulation to determine their future. If the Indonesian government would like to formulate an appropriate policy on prostitution so the involvement of all interest groups deserve attention to achieve a satisfying compromise among them. The political circumstance also needs to be considered together with the economical circumstance to understand the exploitative nature of prostitution and its effects on women.

Therefore, while paying attention to the four circumstances, the appropriateness of policy on prostitution can be specified and valued through four levels as Fischer suggests. His model illustrates the scope for ordering and systematizing normative policy argument. Level 1 is the technical verification of programme objectives, level 2 is situational validation of policy goals, level 3 is vindication of political choice, and level 4 is choice of social order (as cited in Gasper, 1993). I will successively discuss the four levels of valuation.

*The technical verification of programme objectives.* The four following questions need to be tackled in verifying programme objectives. Firstly, are the programme objectives logically derived from the relevant policy goals? Secondly, does the programme empirically fulfil its stated objectives? Thirdly, does the empirical analysis uncover secondary effects that offset the programme objectives? And fourthly, does the programme fulfil the objectives more efficiently than alternative means available?

Taking into account the relevance of the programme objectives with the policy goal, a satisficing means to control prostitutes is government intervention in terms of localization of prostitutes. Intervention can be understood as an effort to change social system or create a need to be changed. Since a system or all parts of a system, for instance prostitutes and prostitution system, sometimes cannot be aware of having a problem and resolve a problem itself, intervention from outside the system is needed.

The content of the rehabilitation programme may include the following aspects: psychological and spiritual, physical, sociocultural, economic, and political. Psychological and spiritual aspects are concerned with value formation, dynamics of human behaviour, and effects of consumerism. Physical aspects consist of efforts to increase their knowledge about the body, sexuality, occupational health hazards, nutritional needs, and core energetic. Socio-cultural aspects are concerned with education to enlarge prostitutes' knowledge linked to the family, community, culture and roots of female subjugation. Economic aspects are skills training in accordance with job market demands, financial management, and entrepreneurship. This effort is done in order to provide

prostitutes with opportunities for alternative forms of employment, both in the formal and informal sectors. Political aspects comprise legal and human rights of women, knowledge of national reality. This is to raise awareness from prostitutes about the exploitative nature of the sex industry and its effects on women.

Relevant proxy indicators for whether the programme fulfils empirically its stated objectives are as follows. First are the attitudes of the government running the programme. Second is the level of the government's understanding of the prostitution, which is linked to the historical, social, economical and political circumstances. Third is the government's knowledge of appropriate approaches to dealing with women in prostitution. Fourth is the government's sensitivity to prostitutes' needs as human.

Secondary effects that offset the programme objectives must be anticipated in order that the programme can fulfil the stated objectives. A life style of promiscuous intercourse, instant money and consumerism can be internalised by those who derive directly profit from prostitution particularly the prostitutes. Such contagious effects can disturb that of efforts fulfilling the stated objectives. Therefore, monitoring and evaluation must be planned in management cycle.

Efficient means in fulfilling the objectives deserve attention from policy-makers. We need to consider that a participative way will be more efficient to achieve the maximum output of the programme than the non-participative one. The participative way could create a sense of belonging from the involved stakeholders.

*The situational validation of policy goals.* The three following things must be concerned in validating policy goals. First are the relevance of policy goals with established norms and goal system, and the justification of goals in relation to causal conditions and laws. The key goal of localization of prostitutes is empowerment of prostitutes. Batliwala says, "The process of gaining control over—over the self, over the ideology and over the resources which determine power—may be termed as empowerment" (as cited in Sen, Germain, & Chen, 1994). The self can consist of the body, health, intelligence, self - esteem, etc. The resources can consist of human, intellectual, financial resources, etc. The ideology may consist of beliefs, attitudes, self-determination, etc. The two relevant goals of the empowerment of prostitutes are to challenge forms of subjugation over prostitutes and to reform institutions that have supported inequality. Since prostitution is a human problem, the empowerment of prostitutes (women) is not to be understood as disempowerment of clients (men) or others individually and organizationally. Second are any circumstances in the situation that require that an exception be made to the policy goal. As long as the government cannot resolve yet the social, economic and political circumstances, so a challenge to protect the existence of prostitutes as the weak and relevant others is inevitable. The view developed here is that their vulnerability from violence, exploitation and loss of employment must be considered seriously. Third is the placement of decision-maker's value system on one of the conflicting criteria. The increase of prostitutes' role to determine their life must be placed on precedence. The view defended here is that the government has to promote the existence of prostitutes as agent to enhance self-determination in order to decrease then- vulnerability from exploitative nature of prostitution. The need is to change the government's goal determination model from top-down model to bottom-up model. If the government can activate the role of prostitutes to resolve their problem, it means that the government gives the prostitutes responsibility to determine their future. This condition will possibly lead the prostitutes to move out of prostitution. Indeed, the adequate precondition will be more useful or reliable if the government and society alike can support it with favourable social, economic and political circumstances.

*The vindication of political choice.* We need to pay attention to the three following things in maintaining policy choice. First is comparison of goal system's consequences with accepted social ideals in the situation. This issue requires us to find compatibility of the system consequence by referring to causal conditions and laws. Policy choice for the prostitution phenomenon must refer to a condition where a large number of women are already in the sex sector. They demand actions to address their needs, maybe included their families' needs, and cannot wait for economic and social change. Besides that, there is no law to prohibit the sale of sexual services in Indonesia. The Indonesian Criminal Code (as cited in Soerodibroto, 1991) just prohibits pimps and facilitators who derive profit from prostitution of women (Articles 296 and 506). A logical consequence of this situation is the need to regulate the existence of prostitutes to embody and promote wellbeing of prostitutes and well-being of relevant others. The view defended here is that prostitution will remain a dilemma for policy-makers as long as the discourse is hanged on outdated enforcement terminologies and practices as stigmatisation, segregation, and criminalization while ignoring the need for protection and rights of prostitutes as human.

Second is clarification of the equity of the choice by referring to normative logic and accepted social order. The acceptance of this policy choice is clearly an even-handed treatment because of the three following reasons. Firstly, the prostitutes have right to work and live in human dignity and needs, especially basic human needs, while the government cannot directly or indirectly provide it yet. Secondly, the Indonesian Constitution (as cited in Soedarjanto, 1996), Article 27, even encourages implicitly such choice. Thirdly, as we will look at later, the accepted social order also endorses this choice.

Third is an equitable conflict resolution amongst competed ideologies. Once we choose the policy, it does not mean that the ideological conflict has gone. The society, particularly moralist groups and pragmatist groups,

remains in latent conflict pertaining the existence of prostitution because legalizing the prostitution does not change the perception of prostitution as an indecent work. Concentrating on the well-being of prostitutes and relevant others through prostitution could raise multi-perception between the government and the prostitutes on one side with society, particularly the religious communities, on the other side. So the rational reasons in choosing the policy must be overlapped with its limiting reasons as supported by accepted social order: the policy of embodying well-being of prostitutes and relevant others but controlling their existence is not a timeless political choice and doesn't mean recognizing it as a decent profession. Pushing away the corrupt, particularly by preventing it from occurring, is prioritised, being put first, to realize one's interests or one's goods.

*The choice of social order.* The fundamental need that must be fulfilled here is how to maintain the society remains coherently committed to the policy choice. This issue requires the availability of an adequate social order as ground for the political choice. The comparison amongst available social orders deserves attention from policy-makers. The views on prostitution in Indonesia can be divided into the three groups as follows: moralist group, pragmatist group, and third group that ask for a clear attitude from government towards the existence of prostitution.<sup>1</sup> Essentially, the view of first group can be traced to the idea of morality, especially religious morality, while the view of second group can be traced to the idea of secularism. The view of third group is seemingly looking for "ideal choice". The government together with relevant stakeholders must form creatively an ideal of good life, as shared by religions in Islam. It may be useful to refer to Hallencreutz and Westerlund's notion when they classify countries on the ground of religion role in formulating its policies, if, indeed, we assume that religion can still penetrate social change within current society life. So a country like the Netherlands can be called at a "secular country", a country like Egypt can be called as a "confessional country", and then Indonesia can be called as a "generally religious country" (1996).

Discussing social order in the Indonesia context lead us to reveal Pancasila as the Indonesian way of life. It means that Pancasila must be interpreted adequately in today's Indonesian life, particularly in relation to a prostitution phenomenon in the historical, social, economic and political contexts.

The problem is how to compose concretely: how to wove from the basic idea in terms of balance between human rights and obligations to applicable social order in relation to prostitution problems in Indonesia. I hold that the human rights and obligations exist in human need, life and work, not in human myth, death and faith an sich. This view is compatible with the Article 27 of Indonesian Constitution (as cited in Soedarjanto, 1996), which values employment for all citizens and encourages the government to create decent job opportunity or adequate work environment for all citizens; for then the government's obligation must come first before its right.

The problem rises when the government cannot do the task while prostitution exists with its complexity. To resolve this problem, legislatures or policy-makers must be aware that the spirit of the four other principles in the Pancasila is the first one, namely: Belief in the one and only God. This principle reaffirms the Indonesian's belief that God does exist. It also implies that the Indonesian people believe in life after death. It emphasizes that the pursuit of sacred values will lead the people to a better life in the hereafter. It is clear that the pursuit of sacred values constitutes private space than public space. It is not to say that the government has no authority to interfere or must ignore completely the private space. It is to say that individuals must have the pursuit of sacred values if they exist under the supportive public space. This condition will be problematic for Islamic community having strong rejection to prenatal and extramarital sex union in all forms including prostitution. To tackle this problem, the government or policy-makers must be aware that we live in one country and one future: Indonesia. It means that society, particularly Islamic community, must be directed to a condition of philanthropy-centeredness. This condition leads us to a societal life that is cohesive while focusing on a submission to God. As Nurcholis Madjid says in Commentary Newsletter, "This submission to God is found at the heart of all religions. The universalism of Islam comes into being whenever there is this submission to God per se" (2000). This means that Islam is not just the ritual but also the spiritual dimension, tasawwuf, which is so important in Islam.

The basic idea must be developed that people's life particularly prostitutes' life must come first before their death, and then people's worth especially prostitutes' worth must be justified by work rather than by faith an sich. Faith will be useful if it is embodied in work. As long as the government and society cannot yet create better job opportunities than prostitution or provide social security, so a social order lies on our capacity as human to tolerate the existence of others. We must never forget that human being has no right to give the right path for others.

### **3. The Alternative Policies on Prostitution**

#### *3.1. The Dutch Government's Policy on Prostitution*

*Some comparisons between The Netherlands and Indonesia.* Before comparing the two, let us to state that the picture of the Dutch government policy is based on Sterk-Elifson and Campbell's writing (1993) and Between

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<sup>1</sup> According to Hull et al.'s observation, the third group is composed of various groups with different interests. There is no clear information about the difference. It is clear, however, that the third group is incompatible with the first two. They may be *academicians, feminists, NGO's, Press, etc.* See Hull et al., especially on page 113-114. This study can be understood as an attempt to redefine their views by tempering together with the two.

the Lines reports (1998), except if I mention specifically.

The legal and social policy trends of Dutch government on prostitution showed that the government endeavoured balancing the power of national structures vis-a-vis local ones, thus allowing local structures a considerable degree of autonomy in the design and implementation of policies. This process of decentralization at the national level can create centralization of the local state structures thus limiting the operational power of groups and organizations working independently of these structures.

The ongoing development of Dutch society, particularly religious organizations and feminist movements, influenced the government's perspective about prostitutes' needs and demanded that the Dutch government be sensitive to prostitutes' rights as citizen. The Netherlands' policy is more flexible than in Indonesia, where prostitutes' rights as citizen tend to be ignored. The Indonesian Criminal Code (as cited in Soerodibroto, 1991), particularly Articles 296, 297, 506 of the Code, has never been amended since its first composing. This seems linked with a majority of Indonesian politicians who consider the subject taboo and avoid public discussion (Hull et al., 1997). Although the absence of public debate could be right because it would disturb national stability (Hull et al., 1997) or our career politicians would not risk unpopularity (Scambler, 2001), such choice might be paid with the ongoing exploitation of prostitutes by their boss including the government and the hidden clients.

The Netherlands' policy approach on prostitution really has been dragged from the angle of the maintenance of a public order (the before-1988 policy) to the angle of the well-being of prostitutes (the after-1988 policy). Status of prostitution has been a legal profession together with an empowerment of their organizations and an acceptance of their existence as members of Holland's Service Sector Union in 1990. This concern was more concrete after the change of the law happened in the end of 1996 through the license system. On the contrary, Indonesian government policy only has walked from the side of the maintenance of a public order to the side of the obligation of prostitutes to leave their profession. The key approach of the government policy is only either isolating or closing. The existing policy more mirrors the interest of the Indonesian government and pressure groups within society than an articulation of interest of all groups within society. Policy-makers never hear aspiration of the prostitutes. Therefore, the future of the prostitutes' life in Indonesia remains highly speculative. So, the potential role for rational policy should not be underestimated.

In the Dutch scenario, pimps play a less important role than in Indonesia where prostitution is not recognized as legal profession. Although the Article 250 of the Dutch Criminal Code (as cited in Sterk- Elifson & Campbell, 1993), in which pimping and facilitating prostitutes were considered illegal, was abolished in 1988, organizations of prostitutes, such as De Rode Draad (The Red Thread) formed in 1984 and De Roze Draad (The Pink Thread) formed in 1985, had existed to organize themselves in order to have a voice in all public debates.

Besides that, the Mr. A. de Graaf Stichting deals with prostitution at a national level and advises policy-makers although it does not represent a prostitutes' organization. It also provides information on state and local policies on prostitution. The foundation has supported various research projects on prostitution. The organization continues to provide significant philanthropic support for work on prostitution in the Netherlands.

The Articles 296 and 506 of the Indonesian Criminal Code (as cited in Soerodibroto, 1991) seem to have a similar basic idea with the former Article 250 of the Dutch Criminal Code (as cited in Sterk- Elifson & Campbell, 1993), to forbid the existence of pimping and facilitating prostitutes. The problem in Indonesia is that the local governments, for instance Jakarta, are not consistent in regulation, being both regulators and managers of the system.<sup>1</sup> This inconsistency happens in both political choice and goal orientation levels. The former inconsistency can be understood when local governments choose policy to localize the prostitutes. It means that the government fails to implement the Articles 296 and 506 of the Code. Instead, the government becomes an institution of pimp services, and then it is not surprising given the fact that the government has no power to curb the continued growth of the sex activities except the localisation of prostitution arranged by the Social Department.

The latter inconsistency can be seen from the two following realities. First, men who have authority, including some government officials and some security guards, in sex industry often get gifts in the form of sex services (Belinda, 1993). This means that the goal of the localization as a place to rehabilitate prostitutes conceals hypocrisy. The other element of hypocrisy in the system is "many of the areas set aside for the localization of prostitution are justified on the grounds that they are being set up for the 'rehabilitation' of prostitutes, but strong incentive exists for the continued growth of the activity" (Hull et al., 1997, p. 38). Second, efforts to change the sex industry tend to focus on the existence of prostitutes in terms of the public order than the other relevant factors. Otherwise, the existence of pimps, protectors and married-men clients alike that takes profit from commercial sex services tends to be ignored.

*The strengths and weaknesses of the Netherlands system.* There are some strengths of the Dutch government policy on prostitution. Firstly, the policy is rational in terms of its underlying values. The government pays

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<sup>1</sup> According to the Decree of the Governor of Jakarta Number Ca.7/1/32/71, the local government is a regulator that facilitates a resocialization and rehabilitation programme for prostitutes and pimps. See Sedyaningsih-Mamahit's book entitled *Perempuan- Perempuan Kramat Tunggal*, 1999, p. 33. However, the government derives tacitly profits from the localized prostitution complex.

close attention to the wellbeing of prostitutes and puts it as a prior goal of the policy. The policy is based on objective values rather than subjective ones. The government doesn't treat prostitution as a crime when it is done with the consent of the prostitutes. If a woman (or man) regards prostitution as a best option to earn a living, she (he) has the same rights as any other worker. Prostitution is not seen as a problem, unless this is happening forcedly or violating public order.

Secondly, the Dutch government policy is responsive to circumstances that exist within society. The policy is flexible in terms of time and place. The policy is not reluctant to change. The policy experienced continuous changes from the end of the 19th century until 1988. The government has also taken a decentralization approach towards a policy on prostitution by letting local authorities create their own local option regulations linked to the welfare of the prostitutes, particularly on the after-1988 policy, without isolating them from society at large. It, however, must be within the boundaries of the national laws. The national Dutch law refers to prostitution-related activities such as pimping or soliciting. The government recognized non-coercive pimping as legal profession in 1996 by the license system.

Thirdly, although the regulations and the social acceptance of prostitution vary from region to region, this doesn't raise confusion within society particularly the prostitutes. This condition leads certainly society to accept or reject the prostitution in their area. Complaints from residents might appear about the deterioration of the neighbourhood and the devaluation of their property. But these complaints don't raise anarchy within society because their protests lead to what Sterk-Elifson and Campbell call as a police raids game; if the political pressure becomes too strong, the police tries to move the women into another neighbourhood or politicians will require that the prostitution zone be moved (1993).

Fourthly, policy is also accommodative both at national and local levels. The government respects the involvement of all relevant interest groups linked to prostitution problems in the policy formulation process. At national level, the involvement of various non-governmental organizations, such as Church organization, academic's organization, feminist's organization, and especially prostitute's organization in public discussion about the national situation is a good form. The acceptance of prostitutes as members of Holland's Service Sector Union is a respected status for them and a typical Dutch government policy. At local levels, the three-party discussion about the local situation in most mid-size and large cities is a good mechanism in dealing with a specific prostitution phenomenon. The need for a decentralized policy on prostitution is realistic; they differ between cities like Amsterdam, Rotterdam and a small rural town like Deventer.

Some weaknesses in the Dutch government policy are as follows. Firstly, although prostitution has been defined as legal profession by the government, it has never been totally accepted by many Dutch people. This condition produces the ambivalent Dutch responses. Prostitutes in general are seemingly stigmatised. Prostitutes are considered to be of low status and are seen as disrespectful of Dutch norms and values. The negative attitude of many towards prostitution can be felt from the expression of a Dutch citizen from Utrecht interviewed by Sterk-Elifson and Campbell (1993) as follows:

I don't think highly of "hoeren" (hookers), but you would be a fool to state this in public. If you would dare to, you are seen as conservative and not hip. I know many people who think like me, but who will not express their real thoughts. As a liberal, you can't even tell jokes about these "meiden" (girls) (p. 192).

Such acceptance of prostitution might be linked to the religious dialogue in the Netherlands. As Shetter notes, "Today the ongoing debate is seldom purely theological any more, but political dialogue, carried on with the same passion, more often than not carries a religious stone" (1987, p. 167). Secondly, because today's Dutch government policy more emphasizes the well-being of the prostitutes so it tends to ignore norms and values of many people, which consider prostitution as a disrespected profession. The recognition of prostitution as a legal profession has raised tacitly negative attitudes from many Dutch people, particularly orthodox religious communities, towards prostitutes and prostitution alike. Moreover, some in the Dutch women's organization considers that prostitutes undermine the women's movement, and then prostitutes are responsible for part of the exploitation of women; the prostitution threatens women's liberation. In the long run, this condition, this latent conflict, will possibly become counterattack for today's government policy.

### 3.2. The Egyptian Government's Policy on Prostitution

*Some comparisons between Egypt and Indonesia.* The picture of the Egyptian government policy is based on Badran's writing (1995), except when I mention other references specifically. Looking at the legal policy trends on prostitution in Egypt, it is clear that its ideas derive from Egypt's Constitution. The Constitution states that Islam is the official religion. It means that tolerating prostitution violates Islam (Badran, 1995). As mentioned in the Holy Qur-an, Surat Bani Israa-il Article 32, "Nor come nigh to adultery: for it is an indecent (deed) and an evil way" (as cited in The Presidency of Islamic Researches [TPIR], 1989, p. 785). According to Surat An-Nur Article 2 in the Holy Book:

The woman and the man guilty of fornication, flog each of them with a hundred stripes: let not compassion move you in their case, in a matter prescribed by Allah, if ye believe in Allah and the Last

Day: and let a party of the believers witness their punishment (*p. 1002*).<sup>1</sup>

Moral is basic idea of Islamic law in viewing prostitution. So, all sexual relation outside of a legal marriage, *muhshan* and *ghairu-muhshan*, including prostitution is regarded as immoral, and then immoral behaviours are condemned because it constitutes sinning. Therefore, it is normal, although not always rational, if the Egyptian government abolishes formally prostitution on behalf of the religious moral concern. Referring to the legal policy trends on prostitution in Indonesia, it seems will be similar to the legal policy path taken place in Egypt. Indeed, some prostitution in today's Indonesia is still legal.

Egyptian feminist movement and religious establishment, especially Islamic organization, have strong influence upon the government in formulating policy on prostitution, although the latter group does not put the prostitution issue politically. This situation demands the government to accommodate their aspiration and apply it in a legal policy. The religious leaders in Egypt are very respected and feared by the government. There is reciprocal support between the feminist movement and the religious establishment on the avowed ideal of abolitionist: when religious leaders have a respected position or charisma over the government, the feminist movement in turn has to seek support from the religious establishment for their campaign. In Indonesia, Islamic religious leaders also have a respected position within society particularly from their communities, but less have reciprocal support with the feminist coalition on the basic idea of prostitution. The former more views prostitution on the ground of moral perspective, while the latter more focus on the women right for then- job. Because of the difference of political distance amongst them to the government, we can suppose what will be happened in formulating a policy on prostitution: religious bias. Therefore, every closing of prostitution complexes in Indonesia, Kramat Tunggak for instance, always link to insistence of the religious communities.<sup>2</sup>

The Egyptian government's policy approach really has been changed from the condoning approach in the pre-1949 period, in which the government safeguards relatively the existence of prostitutes, to the condemning approach in the post-1949 period, in which the government more protects what it perceives as the society's interest than prostitutes' one. This political choice seems adopt the feminist demands that the independent Egyptian state has to respect and safeguard the well-being of all citizens in term of calling prostitution an indignity to all women. This political choice will be appropriate if the government also can provide better job opportunities than prostitution or social security system for all citizens. If the government cannot provide one of the two criteria, prostitution remains an exciting job opportunity for some Egyptian women. Therefore, it is not surprising that prostitution still continues underground in Egypt while the government pretends it does not know it.

*The strengths and weaknesses of the system.* There are two strengths of the Egyptian government policy on prostitution. Firstly, the Egyptian government policy is relatively responsive to the situation within society. The policy is flexible in terms of time. The Egyptian government policy is not reluctant to change. In this way, the considers both feminist and national, who are very popular in the time, don't experience frustration, so that they don't do bmtal actions. Regardless of the grade, change or ability to change is essence of policy.

Secondly, the Egyptian government policy gives a sense of certainty in terms of place for prostitutes and society. There is no place again for prostitutes to operate their profession attractively. They remain operate commercial sex services underground. Egyptian society including the government also understands how to face this situation. In today's Egyptian lives, such "life drama" is seemingly functional. There is no complaints from the residents of neighbourhoods about the following issues openly: women walking around approaching everyone, cars cruising through their neighbourhood, drivers blowing horns at every female pedestrian, and the litter of used condoms and tissues.

Some weaknesses of the Egyptian government policy are as follows. Firstly, the policy is under rational in relation to its underlying values. The government pays attention to the well-being of society, excluding the well-being of prostitutes, and put it as a prior goal of the policy in the time. The problem is that the government cannot provide yet better job opportunity than prostitution or social security system for all citizens, even until now. The result, prostitution remains continue underground although this may be compensated with the government's attitude that pretends it doesn't know the reality.

Secondly, the policy is also under-rational in relation to the involvement of stakeholders. The government less involves all relevant interest groups with the problem, especially the prostitutes in formulating the policy. The prostitutes have no place to put their interest for their future. Although they may operate their profession underground but they have no rights for adequate working conditions, safety and medical care. The exploitative nature of sex industry and its effects on women are out of control from the government. What the government

<sup>1</sup> According to the Qur'an, "Zina includes sexual intercourse between a man and a woman not married to each other. It therefore applies both to adultery ... and to fornication, which, in its strict signification, implies that both parties unmarried". This issue leads to Rasyid's notes that zina can be divided into two kinds: *muhshan* (zina by married persons) and *ghairu- muhshan* (zina by unmarried persons). According to the Sunnah of the Prophet Muhammad, the punishment of *muhshan* is stoning to death. See H. Sulaiman Rasyid's book entitled *Al-Fiqhul Islamy*, 1976, pp. 412-413.

<sup>2</sup> Other examples were Silir Prostitution Complex in Solo, Sanggrahan Prostitution Complex in Yogyakarta, Kaliputih Prostitution Complex in Jember, while Dolly prostitution Complex in Surabaya has been planning for closing, etc. See *Kompas*, August 28th, 1998, p. 1; *Bulletin Semai-02*, 1999, p.25; *Surabaya Post*, June 1st, 1998, p.1.



have failed to perceive is that a measurement of successful government is the well-being of all citizens including the prostitutes.

Thirdly, the post-1949 policy will be heavily criticised from society, particularly Egyptian feminists and religious establishment, if the government cannot provide yet better job opportunity than prostitution or social security system in the future. What had happened in the end of the nineteenth can be repeated again. With the huge population growth, the expansion of capitalism and the country's incorporation into the European-dominated world market system will produce new poor women whose desperation makes many vulnerable to prostitution (Badran, 1995). Along with European technocrats, advisers and merchants, the modernization will bring an increasing number of prostitutes including foreign prostitutes who have difficulties to adapt with local patterns. Such situation is very possible to invite a reaction of the Egyptian crusaders.

Fourthly, the government has no concern about the spread of venereal diseases and the danger of HIV/AIDS resulting from the prostitution that continues tacitly (El-Zanaty et al., 1996).

#### **4. The Appropriate Policy on Prostitution in Indonesia**

I want to show how an appropriate policy on prostitution must be reconstructed in the Indonesia context. We take into account this issue because where we stand depends on where we sit. We have treated the rationality of policy on prostitution as a three-fold concept. The rationality includes in particular the well-being of prostitutes, the involvement of stakeholders, and the social entitlement.

We believe that all human beings are fundamentally equal in worth. A good solution of the prostitution problem must be responsive to the historical, social, economic and political circumstances, for which an appropriate policy on prostitution is designed.

There is a need that the arguments of the appropriate policy on prostitution in Indonesia must flow into the four following levels: programme objectives, policy goals, political choices, and social order alternatives. Therefore, we will successively discuss the circumstances and the rationality of policy on prostitution.

##### *4.1 The Circumstances of Policy on Prostitution*

The existence of prostitution within the Indonesian society might be as old as Indonesian civilization. It means that prostitution in Indonesia is not a sporadic problem; it is rather as an institutionalized problem. The history of prostitution in Indonesia was started from the Javanese Kingdom period; the major characteristic is the commoditization of women. It then continued to the Dutch and Japanese colonial period, with the major characteristic commercialisation of sex including some sex slavery in the latter. The commercial sex services also continued in the Old Order Regime, and the New Order Regime. It then exists in today's reform era. This circumstance must inspire policy-makers with awareness that prostitution problem cannot be tackled frontally or spontaneously.

The Indonesian society structure is paternalistic. This term is often attached to social relationships in which the dominant partner adopts an attitude and set of practices that suggest provident fostering care for his or her subordinates. Because the social system in Indonesia is based on the authority of male heads of household, the "cultural hegemony" of men over women within wider social structure is inevitable. The appearance of prostitution in Indonesia could not be separated from both unequal social relations and unequal economical relations between men and women. The unequal social relations between men and women could refer to the cultural hegemony of men over women within Indonesian society, particularly within Javanese society where women were to be treated as "thing" and symbol of power of men (husband). This circumstance accepts culturally polygamy practices within society. Because not all religions that exist in Indonesia could accept the polygamy practices, moreover the 1971 Indonesian Marriage Code (as cited in Abdurrahman, 1986) prohibits the polygamy practices particularly for public servants, so prostitution might appear as a safety valve for maintaining the harmony of some families and the respect of some good women. The unequal economical relations could refer to that of cultural factors driving women to domestic professions. This circumstance was based on a perception that assumes women as "tiang wingking" (literally, back people). The results, cooking, sewing, hairdressing, etc. were stamped as women's profession. Unfortunately, women also face an unequal wage structure under the men's cultural hegemony. Even now, women remain face the unequal wage structure.

In economical circumstance, prostitution has economic components relating to economic progress, modernization and a growing sense of materialism. The general development strategies of the Indonesian government have directly or indirectly influenced prostitution through their impacts on both the demand for and supply of provided prostitutes. These effects have operated through the impacts of economic development on levels of purchasing power, inequality of income distribution, job opportunity and the motivation and opportunities for migration. The expansion of education, which has been one of the great achievements of the Indonesian government particularly in the New Order Regime over the past twenty years, could be expected to lead to a decrease in prostitution, but only if it is matched by appropriate job opportunities for the educated especially for the educated women. The literacy rate of the urban population increased to 92.8% in 1993 from 84.9% in 1980, the literacy rate of rural population increased to 82.05% in 1993 from 67.9% in 1980, and the national literacy rate increased to 85.72% in 1993 from 71.8% in 1980 (Soedarjanto, 1996). In 1995, 7% of the

Kramat Tunggak's prostitutes had no education, 79% of them graduated primary school, 9% of them graduated secondary school, and 5% of them graduated tertiary school (Sedyaningsih- Mamahit, 1999).

Another significant achievement of the Indonesian government has been the reduction of the proportion of the population living in poverty. Indonesia entered the decade of the 1970 with 70 million people or 60% of the population living in absolute poverty. By 1993, this had been reduced to about 26 million poor people or 14% of the population (Hull et al., 1997).

Twenty sixth million poor people, however, are still enough to supply vast number of prostitutes, if poverty is the major cause of prostitution. Most of the Kramat Tunggak's prostitutes derive from rural areas and peasant families. This feature reveals the facts of a decline of job opportunities in agriculture in rural areas. This can be understood as an expression of poverty of their original area.

In political circumstance, we must be aware that prostitution in Indonesia becomes generally an object for attention of the three different interest groups: "moralist group", "pragmatist group" and third group that ask for clear attitude from government toward the existence of prostitution. The moralist group can consist of religious establishments and customary organizations. The pragmatist group can consist of prostitutes, pimps, police, administrators, etc. Then, the third group can consist of academicians, feminist movements, concerned NGOs.

This issue must lead policy-makers to understand what we discuss in previous chapters. At local levels, Jakarta for instance, there are ambivalent attitudes and actions of the governmental apparatus and police against the prostitutes and the client, and the localized prostitution complexes. There is an inconsistent role of the government: as regulator and as manager. Sedyaningsih-Mamahit even states that there is indication of the exploitative nature of Kramat Tunggak's brothels in relation to the management characteristics used by the pimps (1999). Under the New Order Regime, the prostitutes and the clients were never involved in policy formulation to determine their future. At national level, there is different perception among the departments in relation to the presence of the complexes.

#### *4.2 The Rationality of Policy on Prostitution in Indonesia*

I wish to explain how rationality must become the foundation for an appropriate policy on prostitution in Indonesia. It also holds that human beings have rational capacities and rational problems, including the problem of prostitution. A problem faced by human beings is generally discrepancy between their expectation and reality. This is a fact. Because a fact is generally resulting from other fact, so the existence can be understandable.

In relation to the prostitution phenomenon, let me say that the problem must be seen as a manageable social historical phenomenon, not a myth. The assumption defended here is that prostitution is not a predisposition of prostitutes as long as those circumstances persist. Therefore, the goal of the localization policy on prostitution is not to marginalize or segregate certain sectors of the population for life but rather give prostitutes the opportunity to incorporate into every day life under equal conditions. This issue deserves attention from policy-makers because given the fact that the existing isolated rehabilitation of the prostitutes in Indonesia more raises problems than solutions. We wish successively to explain this issue moving through the technical verification of programme objectives, the situational validation policy goals, the vindication of political choice, and the choice of social order.

*The technical verification of programme objectives.* The satisficing method to rehabilitate the prostitutes is government intervention in terms of localization of prostitutes. Because the programme objectives must be relevant to the policy goals, so the programme objectives must be concerned with conscientization including community links. The programme content may include psychological and spiritual, physical, sociocultural, economic, and political aspects.

Psychological and spiritual aspects are concerned with value formation, dynamics of human behaviour, and effects of consumerism. Many women in the Kramat Tunggak experience psychological problems, such as value conflict, confusion of life values, and sinned feeling, that can lead them to being schizophrenic. The government is not concerned with all these risks (Sedyaningsih-Mamahit, 1999). Since prostitution is clearly considered as an indecent and stigmatised profession in Indonesia, I assume that these problems are higher amongst them than others who work in a decent profession. According to her observation in 1995, 15% of the prostitutes stated that they enjoy their profession; 9% of them stated that they don't enjoy their profession; the majority of them (76%) stated sometimes happy and sometimes not happy with their work depending on the situation (1999). The latter feature can be understood that although prostitution can offer a relatively good living to unskilled and poorly educated or uneducated women who represent the bulk of commercial sex workers, but the profession is stigmatised or segregated by the majority of Indonesian people.

Physical aspects consist of efforts to increase their knowledge about the body, sexuality, occupational health hazards, nutritional needs, and core energetic. Historically, many of the legal initiative to control prostitution were based on concern over the spread of venereal disease in all the forms. In relation to the response to the growing threat of HIV/AIDS, the government develops some elements of a strategy to conduct surveillance, provides clinical management of detected cases and prevents transmission. Publicity and community involvement in the HIV/AIDS campaign has so far been limited. These initiatives must be maintained, whether

provided by local health officers or private physicians, by increasing the quality of services. The question is for whom the programme is provided. According to Hull et al. (1997), these efforts clearly represent attempts to win back business rather than serious change in behaviour related to the risk of HIV infection. Sedyaningsih-Mamahit (1999) claims that preventive measures conducted by the Social Office at Kramat Tunggak are not to fulfil the prostitutes' interest but to fulfil their clients. In relation to the psychological and spiritual programmes, what the government (particularly the programme officers) has failed to perceive is that the prostitutes will return into their family and society. It means that they will become less worth if they are infected with venereal disease particularly HIV virus and go back into society. This condition must lead policy-makers to review the existing programme in order to be more relevant to the policy goals.

Socio-cultural aspects are concerned with education to enlarge their knowledge linked to the family, community, culture and roots of female subjugation. Community resources, either those of governmental or non-governmental organization including civic or religious groups, are utilized in rehabilitating the prostitutes and those who is in related occupation. Today's used prostitute-based approach must be changed to community-based ones. Education programme that doesn't involve community resources raises unanticipated effects, such as difficulty to integrate them into society, so the prostitution complex becomes stepping-stone to professional prostitution, and to horizontal or vertical mobility of prostitutes amongst the prostitution complexes (Sedyaningsih-Mamahit, 1999).

Economic aspects are skills training in accordance with job market demands, financial management and entrepreneurship. This effort is to provide them with opportunities for alternative forms of employment, both in the formal and informal sectors. Skills training given at Kramat Tunggak, cooking, sewing, hairdressing and handicraft, are home-based works. This kind of programme is strongly influenced by gender bias in which women are never seen far from home-based works (Sedyaningsih-Mamahit, 1999). Such skills training can't be expected to help them leaving commercial sex sector and entering decent forms of employment in the economic circumstance that is not changed yet. These weaknesses deserve attention from policymakers to compose an economic programme that is more relevant to the policy goals. In this regards, Budhisantoso says that the government should not only give the prostitutes skill of cooking or sewing, but also skill of organization, knowledge of cooperation, etc. Besides that, the government should give appropriately the prostitutes financial aids or provide alternative employment ("Kramat Tunggak, Berhenti di Tengah Jalan", 1999).

Political aspects comprise legal and human rights of women, knowledge of national reality. This is to raise awareness from the prostitutes about the exploitative nature of the sex industry and its effects on women. In today's rehabilitation policy, the government ignores this objective. The management characteristics used by pimps in brothels at Kramat Tunggak, the involvement of local government in managing the complex, the reluctance of Indonesian politician bringing up prostitution issue to public discourse don't empower the prostitutes to play a meaningful and productive role in building a better society.

By rejecting the outdated enforcement terminologies and practices, the legalized prostitution complexes need not to be closed as long as the government cannot yet resolve the problem resources, particularly the economic circumstance. As Indonesian Women's Coalition for Justice and Democracy says, eliminating commercial sex practices through closing prostitution complexes and raiding the prostitutes constitutes an irrational action. Such effort would be in vain as long as the problem roots of prostitution aren't solved (2000). Koentjoro (2000), based on his observation to the closure of a prostitution complex in Yogyakarta in 1980, even stated surely that the problem would be broader when the prostitution complex was closed. Closing the complex created new problems as follows: economic activities surrounding the complex, for instance peddlers, street traders, stalls, and taxi drivers, would be limp. Even this could create new unemployment. The prostitutes would spread in public places for soliciting clients in which the danger of their activities was out of control. The problem was never finished and the effort didn't resolve the prostitution problem. This case was similar to what happened in Jakarta after the Governor of Jakarta closed Kramat Tunggak in 1999 ("Hari ini, Kramat Tunggak Ditutup", 1999).

Besides that, a legalized prostitution complex needs not to be segregated from society at large. Such effort faces two irrational situations at once. Firstly, the segregation of a prostitution complex from society at large is an inefficient action in terms of high cost because the government will face a similar problem again. The meaning is that government effort to segregate or isolate the prostitution complex will be in vain because given the fact that places where the prostitution complex exists are always followed by the growth of inhabitants around the area, and then the prostitution complex becomes close to the society at large. It will be useful and wise if the government use the finance available for funding the programme objectives rather than the re-segregation of the complex. Secondly, the segregation of a prostitution complex from society at large creates directly social distance between the prostitutes and the society. In turn, the government will face difficulties to reintegrate the prostitutes into the society at large in the future.

Contagious effects, particularly the nature of instant money of prostitution, could be a source of temptation for the government. This secondary effect can disturb that of efforts fulfilling the stated objectives. In Indonesia, the

legalization of prostitution complexes and the involvement of local governments in managing the prostitution had raised problem rather than solution. The worse condition is sometimes that of pulling the government to make it illegal ones. What government has failed to perceive is that the government itself has digressed from Articles 296 and 506 of the Indonesian Criminal Code (as cited in Soerodibroto, 1991). Jakarta for instance, the local government becomes institution of pimp services instead. The government also fails to bridle primarily number of prostitutes and a variety of prostitution forms flourishing in areas outside the Kramat Tunggak. This problem links with inconsistent role of the government as regulator, not as manager. The solution is the government must go back to the original role - as regulator only.

Such programmes will be efficient if the planning is concerned with rights of relevant stakeholders and directed by the stakeholders, particularly the involvement of prostitutes. This is an urgent need because during the New Older Regime the government never heard aspiration of the prostitutes.

*The situational validation of policy goals.* The policy goals suggested here is to develop capacities of prostitutes in order to play a meaningful and productive role in building a better society. The key goal ought to be the empowerment of prostitutes. There is a need to help the prostitutes in order to help release themselves from the trapping circumstances. Efforts of the government to rehabilitate the prostitutes in terms of returning the prostitutes to their families or society must be accompanied with the empowerment of the prostitutes. Otherwise, the existence of ex-prostitutes is vulnerable to become "sickly prostitutes". Empowering the prostitutes means the government gives the prostitutes an adequate precondition to help themselves going back to their families or society or moving to other professions. This means that the government doesn't tackle the prostitution problem frontally or spontaneously; the government can construct new socio-cultural atmosphere instead of "cultural hegemony" of men over women; the government can create economic system providing purchasing power, equality of income distribution, better job opportunity, etc; the government can develop conducive political system for justice, participation of all citizens. Indeed, this task must be worked together with society.

It is important to take into account these issues, particularly the economic circumstance, because majority of the Kramat Tunggak women (63%) enter into prostitution on the ground of economic conditions such as having been left by then- husband, have to support their younger sisters or brothers or their children; 24% of them recognize that they enter into prostitution because suffered from their boy friends or husband; 13% of them are "willing prostitutes" who enter into prostitution because of following their friends or viewing it as a profession (Sedyaningsih-Mamahit, 1999). According to Nitimihardjo (1994), women who engage in prostitution are forced by circumstances such as a failed marriage or love affair, a lack of alternative opportunities and ultimately a desperate need to earn income to support themselves, then- families and their children. Besides the causal condition, the Indonesian Criminal Code (as cited in Soerodibroto, 1991)also supports the empowerment of prostitutes. This signal can be seen from Articles 296 and 506 of the criminal laws that condemn explicitly facilitators and pimps.

The acceptance of the policy goals is rational as the task of government to protect prostitutes as the weak and relevant others. The prostitutes have needs both for them-selves and their families. If the government and society respect them as human, it is also to hold that in unfavourable circumstances, especially economic circumstance, the government and society remain oblige to protect their safety from violation, exploitation, and unemployment even if they engage in prostitution. Moreover, the government or society cannot provide their needs, at least basic human needs such as eating, clothing, and housing, both directly (good social security) and indirectly (better job opportunities than prostitution).

The other solution to resolve the involvement of the local government in managing the prostitution complex is that of redesigning the organization structure of the prostitution complex by letting the prostitutes to organize themselves, like the license system in the Netherlands. This issue deserves attention from policy-makers based on the two following reasons. Firstly, the system of present localisation is not conducive for empowering the prostitutes. The Sedyaningsih-Mamahit's observation in Kramat Tunggak in 1995 was instructive in pointing out the handicap of the brothels, which let pimps as manager without agreement or contract with prostitutes before. She claims that many pimps don't care about rehabilitation and resocialisation as the main goals of the official complex (1999). Secondly, the prohibition of legal prostitution more strengthens the exploitative nature of prostitution in illegal prostitution complexes, the Kalijodo prostitution in Jakarta for instance. This will create patron-client relationship between prostitutes and pimp(s). In this condition, a prostitute will be a client while a pimp will be a patron, backed up tacitly by local authority.

*The vindication of political choice.* The acceptance of well-being of prostitutes and relevant others is a logical consequence of the causal conditions of the prostitution problem and the Indonesian Criminal Code. The causal conditions are that some women have to survive by engaging in the sex sector. The number of registered prostitutes in Indonesia was 71.000 excluding free- sex workers and other workers who dis- guisedly offered sex services for their clients. According to the 1993 Census Kramat Tunggak, the number of prostitutes in the complex was 1.977 (Sedyaningsih-Mamahit, 1999), and then it would be 2000 prostitutes when the complex was closed in 1999 by the Governor of Jakarta. There is a pressing need to assure the well being of the prostitutes and

the relevant others. Indeed, this choice is not opposed with the Indonesian Criminal Code (as cited in Soerodibroto, 1991), particularly the Articles 296 and 506 of the Code.

All citizens, including the women, are entitled to live and work in a decent profession in a normal condition. The government and society are responsible or obligated to create the condition in order that the women don't engage in a commercial sex sector especially prostitution. It is also to hold that in the unfavourable economic circumstance the government and society remain obligated to protect their rights to survive even if they engage in prostitution. So, it is rational if the government must regulate their existence to guarantee the rights of the prostitutes and the relevant others relatively. This choice mirrors an equitable sense for all parties because the prostitutes can live and work in their profession while the government can endeavour together with society to provide better job opportunities than prostitution or good social security system. The Article 27 in the Constitution of 1945 encourages implicitly this political choice by pressing lives and works as a right for all citizens. The problem will differ if the Indonesian government can provide either better job opportunities than prostitution or good social security for all citizens. In case of the government can do it, the Egyptian government's policy choice may be rational to be adopted and modified in Indonesia. The problem is the choice of the well-being of prostitutes and the relevant others by legalizing prostitution could raise different perception between the government and the prostitutes with society, particularly the religious communities. The government may have perception that the effort is to assure the well-being of the prostitutes and the relevant others, and to protect society at large from contagious effects of the commercial sex services. The prostitutes, including some women, may have impression that the way is recognition for the profession, while the religious communities may suppose it as acceptance of the sinning practice. Other parties may be having different perception about that. The need is participatory planning to meet a satisfying way in maintaining the well-being of the prostitutes and the relevant others. Each party must like to built bridge of understanding, not erect wall of misunderstanding, by expressing the rational preference. Anyway, it is very relevant to take into consideration that doing thing to prevent worse conditions come first before doing thing to create ideal condition.

*The choice of social order.* Talking social ideals in Indonesia leads us to discuss alternative social orders. It means that legislature, government together with legislative assembly, must initiate to collect aspirations of stakeholders pertaining the prostitution problem. I maintain that wellbeing of prostitutes and relevant others is a rational political choice for an appropriate policy on prostitution because social welfare is a reflection of human dignity. The choice is supported by the policy goals that press it empowerment of the prostitutes, while the key goal is supported by state intervention. In this way, attempts to control their activities, to promote their empowerment, and to embody their well-being are reasonable. However, it must be kept in mind that in Indonesia context social welfare must respect human rights and obligations in accordance with Pancasila. The fundamental need developed here is to create balance between individual needs and societal needs, human rights and human obligations, and work and faith.

Pancasila provides this basic idea. The problem is how to concretise the basic idea as a reasonable social order in relation to prostitution problem in Indonesia. To do this, legislatures or policy-makers must be aware that the spirit of the four other principles in the Pancasila is the first one, namely: Belief in the one and only God. This principle of Pancasila reaffirms the Indonesian's belief that God does exist. It also implies that the Indonesian people believe in life after death. It emphasizes that the pursuit of sacred values will lead the people to a better life in the hereafter. In relation to the prostitution problem in Indonesia, it is relevant to refer to religious communities exist in Indonesia because their role has become both inseparable and important part of national development. In today's Indonesian life, there are legally five religions living hand-on-hand peacefully, namely: Islam, Protestantism, Catholicism, Hinduism, and Buddhism.

What it is important to deserve attention here is that the majority of Indonesian are practicing Moslems. According to the 1990 population census, the population of Indonesia was comprised of 87.21% Moslems, 6.13% Protestants, 3.58% Catholics, 1.83%Hinduists, 1.03% Buddhists, and 0.31% other believers (Soedarjanto, 1996). Some Moslems, particularly in the perceptual beliefs, seem have strongest attitudes of refusing the existence of the prostitution in Indonesia. It can be understood because Islamic law (syari'ah) distinctly condemns sexual relations outside of a marital union (in Arabian, zina) in the all forms. The Islamic law emphasizes to pass philosophical judgments on attractive premarital and extramarital sexual behaviour included prostitution. The resolution for the phenomenon in the social context specifically in Indonesia deserves seriously attention from policy-makers. Due to the structure of Indonesian society, including prostitution, has become more complex, with respecting to the syari'ah pertaining the attractive premarital and extramarital sexual behaviour, it is the time, the challenge, for the legislature to re-actualise the Islamic law values and pour it out in amending the Indonesian Criminal Code especially the Articles 269 and 506 (as cited in Soerodibroto, 1991). It is possible because re-actualising the Islamic law pertaining the zina including prostitution does not mean changing or disregarding the idea of the law.

The view defended here to develop the above-mentioned fundamental needs is that prostitutes' life should come first before their death, and then prostitutes' worth should be justified by work than by merely faith. By

concerning the historical, social, economic and political circumstances, particularly economic circumstance, the results of amendment of Indonesian Criminal Code, anyway, will be rational if the concerns are really localising the prostitutes to endorse their social welfare and to prevent broader social problem happens, not to exploit the prostitutes for the wealth of others: facilitators, gatekeepers, rent-seekers, etc. Then, this view is more rational than closing prostitution complexes to maintain merely the faith and pretending never knows that broader social problems exist. The basic assumption maintained here is that a measure of the ideal of good life is the capacity of tolerance for each person in Indonesian society.

## 5. Conclusion

As concluding notes, I wish to sum-up some main arguments and remarks of the previous chapters on normative perspective as suggestions for policy-makers to formulate an appropriate policy on prostitution in Indonesia.

The Dutch government's policy on prostitution, with some strength such as flexibility, responsiveness, and comprehensiveness, is in part an alternative policy for Indonesia. Then, the basic idea based on the well-being of the prostitutes, the judgement that this sector cannot be eliminated and cannot easily be made much worse constitutes a model from that of a rational policy on prostitution. However, the opportunity for Dutch prostitutes to continue their profession, as long as being in the license system, is a challenge for the government in the future, which is rather impossible to be applied in Indonesia having Pancasila, while the Egyptian government's policy on prostitution has a moral strength for maintaining cohesion of the Egyptian people who are Sunni Moslems. However, the government moves quickly to provide good social security for all Egypt citizens, so this model would be ineffective in its implication. This is also in part an alternative policy for Indonesia in which the majority of the population are also Sunni Moslems. However, the government moves quickly to provide good social security for all Egypt citizens, so this model would be ineffective in its implication. This is also in part an alternative policy for Indonesia in which the majority of the population are also Sunni Moslems. However, in the situation where the Indonesian government cannot provide yet better job opportunity than prostitution or good social security, such choice will be in vain. A combination and modification of the two will be an appropriate policy on prostitution in Indonesia.

In the Indonesia context, the policy on prostitution must be built on the view that all human beings are fundamentally equal in worth but the solutions are properly varied from region to region and possibly group to group. Therefore, any good solution to the problem of prostitution must be responsive to the concrete circumstances for which it is designed. There are four circumstances that deserve attention: historical, social, economic and political circumstances. In this sense, the policy building must be constructed on the basis of rationality. The rationality covers in particular the wellbeing of the prostitutes and the relevant others, the involvement of the relevant stakeholders, and the social entitlement in spans of time and place. This is a challenge for Indonesian government or policy-makers that tend to view the prostitution problem from merely moral aspects so that the policy formulation more emphasizes the public order than the well-being of the prostitutes and the relevant others. A humanity approach based on an idea of balance between public order and prostitutes' wellbeing can supply a good basis for thinking about the problem, helping us to formulate an appropriate policy on prostitution as constitutional guarantee to which the government and society must deal with the human problem in accordance with Pancasila.

The policy should pass by the four levels of examination: the technical verification of programme objective, the situational validation of policy goals, the vindication of political choice, and the choice of social order. The technical verification of programme objectives must be put on the government intervention with the some following programmes: psychological and mental, physical, economical and political services. The situational validation of policy goals must be directed to the empowerment of prostitutes in order to help release themselves from the trapping conditions. To do so, the government should like seriously to concern with human values by letting the prostitutes to organize them selves and releasing the government to become an institution of pimp services. The vindication of political choice more emphasises the development of the well-being of prostitutes and the relevant others as long as Indonesian government can't yet create better job opportunities than prostitution or good social security for all citizens. It must be kept in mind that doing thing to prevent a worse condition must come first before doing thing to create an ideal condition. Finally, the choice of social order must be directed to efforts to cohere all stakeholders in accordance with Pancasila. This social ideal may lead the government to amend the Indonesian Criminal Code in order to be more compatible with the aspiration of all stakeholders, particularly the Islamic community, in building the ideal of good life under the weight of the capacity of tolerance.

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