

Women's Rights Protection in Cultural and Environmental Sector ¹

Mutiara Hikmah ²

The Indonesian society is a patriarchy society, where female's roles in society, national, and country life are not apparent because they have always been dominated by men. This is reflected in almost all laws products passed by the legislative committee. Furthermore, the summary of female rights protection in Human Rights Law that includes 7 life sectors³, does not regulate protection of female rights in culture and environment. This might be a threat to society life, especially to female in culture and environmental sector.

Keywords: women's rights, protection, cultural sector, environmental sector

I. Women Rights Protection

The Indonesian society is a patriarchy society, where female's roles in society, national, and country life are not apparent because they have always been dominated by men. This is reflected in almost all laws products passed by the legislative committee, which side with men existence. The existence has always put female in limited space in participating in nation

1. The word "female" used here by the writer is different from the term used in Law No 39 year 1999 regarding human rights, which is "women". In this matter, the writer is referring to companies and a few related institutions that use the term "women", such as: Ministry of Female Empowerment, National Female Commission, and the Movement of Female's Voice Empowerment

2. Senior Lecturer at the Faculty of Law, Universitas Indonesia.

3. Female Rights are arranged in part nine, verse 45 to verse 51. The seven sectors, that are set in the laws are::

1. Female Rights in Politics and Government
2. Female Rights in Citizenship
3. Female Rights in Education and Teaching
4. Female Rights in Labor
5. Female Rights in Health
6. Female Rights in Lawful Action
7. Female Rights in Marriage and Divorce

development. This matter is a fact that can no longer be denied. Patriarchy is a community structure where men hold all the power and female are not considered as equal, which are apparent in not only the government's policies but also in society's behaviors. For a concrete example; female workers are paid less than the men, this reflects how female are considered inferior to men⁴.

In daily life, the society not only differentiates men and female biologically but also based on their behaviors, occupations, attributes and characteristics, and also fashion taste, and many habits. This second gender differentiation is not based on biological but more on habits, custom or one society's culture. So, there's a gender differentiation and division based on biological and also based on culture, which in library term is called gender. The difference and division is clearly only based on nature, role, and character that's made by the society at some place and some time.

Because of that, gender is not a destiny, or God's stipulation⁵. Gender is very much connected with the belief of how male and female are expected to think and act according to their social and culture norms. Hence, the gender differentiation is determined by social rules and not by biological differences, which made it different from one nation to another and also in different time frames⁶. Gender discrimination is basically every differentiation, exclusion, or restriction or in the other way around, favoritism due to gender which results in refusal of acknowledgement, involvement, and infringement of human rights acknowledgment and equality between male and female, and also the basic rights in politic, economy, social and culture.

In everyday life, there are a few instances of gender discrimination, such as⁷:

1. Subordinations, a process that is connected with political matters, decision making process, and also power control. Although, currently males are outnumbered by far by women, women's positions in politics are determined and managed by males.

4 ³ Uswatun Hasanah and Mutiara Hikmah, "Female's Rights", Human Rights Training Modules for Human Rights Trainer (Jakarta: Ministry of Defense and Republic of Indonesia Human Rights, Directorate General Human Rights Protection, 2004) Page 2.

5 International Labour Organization, *What is Gender?*, (Jakarta : ILO, 1997), page. 23.

6 Ibid., page.24.

7 Ibid., page. 26.

2. Marginalization which happens a lot in culture, bureaucracy, in factories, even in development programs. For example, the difference in salary for males and women in factories with excuse that males are stronger than women
3. Stereotyping is a form of discrimination by giving "label" that discredits or gives negative impact to women.
4. Burden. In general, in households, women do almost 90% of the household chores. Moreover for those who have careers, other than work in the workplace, they still have to do house chores.
5. Violence. There are many forms of violence towards women. First is physical violence, such as rape, incest, beating, and torture, even cutting of female's genital, etc. Second is non-physical violence, such as sexual harassment, emotional attachment, etc.
6. Socialization of Gender Belief, that causes position and destiny isolation, and also female fate acceptance.

A population survey in 2005 shows that women are still very much discriminated in many aspects⁸. Many efforts are done to respect and protect women in fulfilling their rights as citizens. In 1999, Women rights are summarized in Law no 39 Year 1999 regarding Human Rights. Although way before then, the United Nations (since 1948, when Universal Human Rights Declaration was produced) has summarized Anti Discrimination⁹ to female¹⁰ movement. Other than United Nations' Universal Human Rights

⁸ Literate female population of 10 year of age and above in Indonesia is around 77.7 million people (or 49%) while male population is higher, or around 82.1 million people (or 51%). While illiterate female population of 10 year of age and above is around 8.6 million people (or 51%) and illiterate male population is around 4.3 million (or 33%). In health department, Indonesia Demography and Health Survey in 2002 – 2003 shows that Maternal Mortality Rate in 2003 is 307 for every 100,000 live delivery. This number is relatively high as compared to other ASEAN countries. In 2005 Human Development Based on Gender Publication (Cooperation of BPS and Department PP-RI) shows that female professional, technician, leadership, and management in Indonesia in 2005 is around 41.6% while male is around 58.4%. The wage ratio of female to male worker in Indonesia is 74.8%. This means female workers are still paid less than male. Source: "Women are Still Discriminated", Country Minister PP News July 9th 2008. Accessible in <http://me-negpp.go.id/>, accessed on July 18th 2010.

⁹ Discrimination against women means differentiation, waiver, or any prohibition, that is made based on sex that resulted in or having a purpose to reduce or getting rid of acknowledgement for female by ignoring their marital status based on equality of male and female, based on human rights and freedom in politics, economy, culture, civil, and others.

¹⁰ In article 2 of United Nations' Universal Declarations of Human Rights, it was mentioned that:

"Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction

Declaration and Human Rights Law, there are many national and international legal instruments that protect women, such as:

- a. The Amendments of 1945 Constitution
- b. Law No.1 Year 1974 regarding marriage
- c. Law No.7 Year 1984 regarding Rectification Convention of Abolition of Discriminations against Female.
- d. Law No. 39 Year 1999 regarding Human Rights.
- e. Law No. 31 Year 2002 regarding Political Parties
- f. Law No. 13 Year 2003 regarding Labor
- g. Law No. 23 Year 2004 regarding Abolition of Domestic Abuse
- h. Law No. 12 Year 2006 regarding Republic of Indonesia citizenship
- i. Law No. 10 Year 2008 regarding Public Election.
- j. Law No. 36 year 2009 regarding Health
- k. Viena Declaration (1986)
- l. International Convention regarding Abolition of All Kinds of Discrimination Against Women (1979)
- m. Declaration of Abolition of Violence Against Women (1994)
- n. International Covenant regarding Political and Civil Rights
- o. International Covenant regarding Female Political Rights
- p. International Covenant regarding Economic, Social, and Cultural Rights
- q. Beijing Declaration (1995)
- r. Convention regarding Married Female Citizenship
- s. Convention regarding Married Female
- t. Convention Against Discrimination in Education
- u. International Convention regarding Labor Union.

Unfortunately, the summary of female rights protection in Human Rights Law that includes 7 life sectors¹¹, does not regulate protection of

shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty”

11 Female Rights are arranged in part nine, verse 45 to verse 51. The seven sectors, that are set in the laws are::

8. Female Rights in Politics and Government
9. Female Rights in Citizenship
10. Female Rights in Education and Teaching
11. Female Rights in Labor

female rights in culture and environment. While actually in those 2 sectors, female rights are still not protected and very much ignored. In the last two decades, general effort in increasing women' quality of life in many sectors has been getting positive results, but condition and situation of women in strategic sectors, such as education, health, economy, politic, culture, and environment that support female empowerment is still worrying and needs to be enhanced.

The development that has been constructed since independence by the government only focuses on economy, industry, and physical developments only, which in the implementation process often ignores culture, custom, and environmental norms. This impact has been a threat to society life, especially to female in culture and environmental.

I. Preservation of Culture in Indonesia

Indonesia is a country with the highest plurality in the world with area covering around 7.5 million km squared. It consisted of around 17,000 big and small islands and with population of 218 million people¹²; consisted of 540 ethnicities and traditions or cultures, languages, arts, and beliefs¹³.

The diversity of cultures in Indonesia is a priceless treasure that has been passed down for generations. However, in certain societies, there are a lot of cultural norms and traditions still ignoring female rights protection. Often times, women become the victims from such culture preservation. One of the examples can be seen in Female population of Papua society¹⁴. The Papua society has diverse culture characteristics but until now, there are so many isolated areas that haven't been developed. The distance from

12. Female Rights in Health

13. Female Rights in Lawful Action

14. Female Rights in Marriage and Divorce

12 Based on 2005 population data from Central Statistic Department. It can be accessed in <http://www.bps.go.id>.

13 Rahayu, "A few things about beliefs in God Almighty", a paper addressed in Seminar about Society Rights regarding Cultural Rights in Marriage Registry, conducted as a cooperation between FHUI and GTZ-GGPAS at Depok, May 30th 2007, page 1.

14 Writer's source is from an audio visual reported by Gadis Arivia, a female journalist reporter in province of Papua. The culture in Papua ignores protection against women rights universally, for example: men can have up to ten wives, and the wives can be exchanged with pigs, the culture of cutting of a finger off a female when grieving, no access to cultural meetings for women, only in the kitchen to prepare the food, no protection against HIV for women and babies because their partners have free unprotected sex.

the centre of information causes the culture to evolve very slowly and this supports the cultural practice and norms that limit female freedom especially their rights. Hence, Papua women become the victims of their culture.

Another picture can be seen in "Siri" marriage¹⁵ that is widely practiced in many societies in Indonesia. One of the examples is in Jenepoto, South Sulawesi with the term "elope". In general, women in Jenepoto are tied up by concepts and values fixed by the society that they have to be submissive to and abide in cultural values. Cultural values concept put women in that area to be subordinates and also limit their moving space.

They have to abide in cultural rules to increase their family values in the society. A family with a case of "elope" has to choose one of the cultural punishments, whether to "abandon" the family member or to accept her back by paying a fine¹⁶.

Legally, the marriage is harmful to the wife and children. To the wife, it is hard to get the right to their asset and property if the husband doesn't give it to her. Also, if the husband dies, it will hard for her to ask for her right to inheritance. For the child, it will be hard to get a birth certificate because the parents do not have a marriage certificate.

Another example can be seen in a culture with patrilineal kinship, that is heredity based on fathers, where male's position is more dominant than that of female's in many aspects of life, such as inheritance¹⁷. A male has the ultimate right in such inheritance system. As an example; Batak culture where they prioritize male children as main heirs. The order of priority in inheritance in Batak culture is¹⁸:

1. Biological son
2. A straight line descendant of a biological son if the son has deceased
3. Brothers and their straight line descendants
4. Relatives from grandfather and their straight line descendants.
5. Etc, looking from how close the family relationship.

¹⁵ Siri marriage is a marriage conducted religiously without registering it to The Marriage Registry. It can also be called "under hand" marriage. Look: Eko Bambang Subiantoro "Female and Marriage: A Self Existence Bet" In female journal No.22/2002, page 7-18.

¹⁶ Agusni Karma, Female dilemma as a symbol of Siri in Makasar Tribe: A case study of Elope in Jenepoto, South Sulawesi. (Jakarta: UI, 2006), page 158.

¹⁷ Hilman Adikusuma, Cultural Inheritance Law (Bandung: PT.Citra Aditya Bakti, 1990), page. 23.

¹⁸ Republic of Indonesia Supreme Court, Cultural Law Research Regarding Inheritance Cultural Law in Medan High Court., (Jakarta: Republic of Indonesia Supreme Court, 1979), page. 3.

The few examples above are just a glimpse of a picture that shows that in cultural sector, there is still no protection for women's rights. This matter can also be seen in preservation of environment.

II. Preservation of Environment

In preservation of environment, women's existence can't be ignored. The role and potential of female can be cultivated, assisted in the process, and developed to be a productive force in managing and processing the natural sources. This is to increase the family and society welfare and their participation in environmental preservation.

Improvement of women's roles in national development, in reality, is an effort to increase women's status, role, ability, independence, and mental and spiritual endurance as an inseparable part of an effort to increase human resources and natural resources management¹⁹.

According to the Minister of Female Empowerment, the low female quality is caused by the limited female participation, opportunity, access, and control to participate in national development, whether as a change agent or just as a user. Another factor is the climate or cultural environment that is not conducive to female development and development approach that has not paid attention to gender equality and justice²⁰.

Development as a planned changing activity has an objective to change into positive behavior and development target that is expected and designed to benefit many people and society as a whole. But in the implementation, the alignments and empowerment to women's roles in continuous development has not involved a significant progress for women.

The damage in the environment is caused by lack of respect to women. Since the colonial era, male power in life is still very much dominant and hard to criticize. Rationality and biological factor tend to be overrated as a dominant role. Rationality invents its own law and results in the invention of technology that controls nature. In this way, through science, male thinking forces its desire upon nature²¹.

¹⁹ The matter is addressed by The minister of female empowerment in the seminar "Women's roles in managing natural resources" in Menado, May 22nd 2005. It can be accessed in Country Ministry news PP "Improvement of Women's Roles in Natural Resources" @ <http://www.menegpp.go.id/>. Accessed on July 18th, 2010.

²⁰ Ibid.

²¹ Lutfi Pratomo, "The Importance of Women's Roles in Saving the Environment", February 8th, 2008. Can be accessed at <http://beritahabitat.net/>. Accessed on July 18th,

Female group is one of the 13 main groups in continuous development, especially in managing natural resources. In developing countries like Indonesia, women are often times victims of significant natural resources damage, which unconsciously creates discrimination against female.

An example is in Indonesia. Due to Dutch colonialism, lands that were supposed to belong to a community or society ("ulayat" land), after left by the Dutch, are now owned by the government. As a result, the local community lost their rights to their lands. Until now, the lands are controlled by the "ruler". This condition has a good impact directly or indirectly to the female population in those areas. A few examples are:²²

1. Mungo Society Case (Kec. Lubak area, Kabupaten 50 Koto, West Sumatra province)²³
2. (2) Bulukumba Case²⁴
3. (3) Meratus Case
 - a. "Tukar Guling" Meratus Protected Forest²⁵
 - b. Gold Mine Exploration²⁶
 - c. Construction of Pulp and Paper²⁷.

To save female from natural resources damage, Minister of Female Empowerment has arranged strategic plan for ministry of female empowerment year 2005-2010. In the plan, there are 9 main environmental and culture objectives that become priorities in female empowerment development program, they are:

1. Identification of issues regarding the impact of environmental damage towards female.

2010.

22 Lies Sugondo, "Customary Law in National Legal Framework", paper presented in Advanced Training regarding Society Rights for Human Rights Teaching Staff in Indonesia, held by PUSHAM UII in cooperation with Norwegian Centre for Human Rights, Oslo University, Yogyakarta, August 21-24th 2007, Page 8.

23 This case caused horizontal conflict. Until now, the dispute over the lands have not been settled. However, the legal matter has been settled by district court.

24 The case happened between PT. PP Losum and "Kajang" community.

The entrance of PT. PP Losum to Kajang land has disturbed the peace in that community. The farmers and community were forced to change from land owners to farm worker in their own lands.

25 Based on regulation No. 9 Year 2000 dated December 21st 2000 regarding South Kalimantan RTRWP set as production forest with 66,000 ha, owned by PT. Kodeco Timber (57,000 ha) and PT. Inhutani II (9,000 ha) located in around Sampanahan river area with status as protected forest (46,000 ha) as Limited Production Forest.

26 Gold exploration was done by PT. Placer Dome Inc. in protected forest. This matter was protested by so many parties because it was against Law No. 41 Chapter 9 Year 1999 regarding forestry, which prohibits mining in protected forest.

27 The plan on building pulp and paper factory was also protested by the society because they were afraid it was going to ruin the forest and protected forest.

2. Identification of chapters in the environmental law that are gender bias
3. Compiled revision suggestions of the environmental law that are still gender bias.
4. Establishment and Implementation of the strategy to increase the role of female in the management and utilization of the environment.
5. Increase the understanding of gender issues in the Marriage Law.
6. Established the strategy to utilize cultural values and local wisdom in order to support female empowerment.
7. Community agencies playing a role in the female empowerment in social culture sector.
8. Socialization of gender equality and fairness concept.
9. Increased understanding of religion values in the order and social culture values.

When learning about the nine main priority objectives above, it can be said that the Government's attention and concern towards female that are related to environment conservation is really great. That is something that we should appreciate and be proud of.

Aside from that, integrated programs conducted by the Government since 1979-1980 regarding Family Welfare Development (PKK) also supports Governments policy till now in the area of demography and environment. The implementation of the Program was geared towards increasing Female Role in the Welfare Development in general and Youth Development specifically, which covers formal and non-formal education.

The Minister of Female Empowerment is proud of the line of PKK team drivers, especially in the rural level, because the PKK team driver determines the success of several rural development programs that deals with female during this time. This cannot be separated from the role of PKK working groups in areas that have conducted and developed 10 main PKK programs²⁸. In this case, she conveyed a few notes to all PKK officials and

²⁸ In Internal Affairs Minister instruction No. 10 Year 1980 regarding Family Welfare Development (PKK), it was decided 10 family life's sectors that are known as 10 main PKK programs, which are:

1. Comprehension and Practice of Pancasila
2. Mutual Cooperation
3. Clothing
4. Food
5. Housing and Maintainance
6. Education and Creativity

all related institutions in the nation, especially those who are related to improvement of family welfare, through improvement of women' quality of life and child protection²⁹:

1. The success of improvement in women' quality of life in education, health, economy, and female political participation are all related and influential to each other. The success is determined by social, culture, and environmental conditions.
2. The improvement in women' quality of life will affect the success of improvement of child protection, especially those which are related to mothers' attention in children's growth, creation of children friendly environment, women and children trafficking, etc.
3. Improved women' quality of life will push and speed up the creation of prosperous and happy small families.
4. The effort to improve women' quality of life and child protection is an integrated and coordinated multi sectors program done by the government and society.
5. Family holds a very strategic position to be intervened in order to achieve success in improving women' quality of life.
6. PKK movement has a significant potential, especially in the roots demanded to actively participate in moving the society, especially the women and also to help facilitate and expand the program.
7. The activities to be adjusted according to the needs and problems faced by the program in each area.

From the seven notes given above, it can be summarized that improvement in women' quality of life can be achieved by involving all society components from the lowest to the ministers. and very much depended on society's role for the success.

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7. Health
 8. Expanding Cooperative Life
 9. Preservation of Nature
 10. Healthy Plan

See: Nani Soewondo: *Indonesian Women Status in Law and Society*, 4th edition (Jakarta: Ghalia Indonesia, 1984), page 291

²⁹ "Women are still Discriminated", loc cit.

III. Summary and Constructive Suggestions

Based on the elaboration and illustrations above, a few matters that can be summarized are:

First, women's rights are human rights, basic rights that have to be guaranteed by the government. In culture, there is no protection of Indonesian women's rights yet. For certain societies, preservation of culture is actually harmful to women's fate, like in Papua, South Sulawesi, and in Batak culture.

Second, in environmental sector, it's still a fact that women are discriminated in all matters. This can be seen in a population survey result in 2005. The damage in environment lately was caused by lack of respect to women.

Third, the objective of female empowerment development is to improve the status, position, and women's condition in order to achieve the same progress as males and also to develop healthy, intelligent, cheerful, religious Indonesian children that are physically and mentally protected.

A few constructive suggestions that can be given in this essay are:

First, there's a need to improve women's quality of life in education, health, economy, and also to create a conducive culture and environmental condition.

Second, it needs a deepening and assessment of cultural values preservation in Indonesian society, so it will be able to give appreciation and protection to women's rights as well as in environmental sector.

Third, the strategic plane made by Minister of Female Empowerment in 2005 – 2010 needs to be supported by all layers of society to improve women's roles empowerment.

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