

Keadilan Gender dalam Legislasi: Pelaksanaan dan Tantangan-tantangannya

(Gender Justice in Legislation: Its Implementation and Challenges)



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The Progress: The Constitution



The Prohibition of Discrimination

Article 28B

(2) Every child shall have the right to live, to grow and to develop, and shall have the right to protection from violence and discrimination

The Progress: the Law No. 39/1999 on Human Rights



- **Article 38**

(3) Everyone, both men and women, who works has the right to equal pay for equal work, and the right to equal work conditions.

(4) Everyone, both men and women, who works has the right to fair and adequate remuneration, ensuring for himself and his family an existence worthy of human dignity

- **Article 41**

(2) The disabled, elderly, pregnant women and children have a right to special facilities and treatment

The Progress: the Law No. 39/1999 on Human Rights, Section Nine

Women's Rights

- **Article 45**
Under this Act, women's rights are human rights.
- **Article 46**
The general election system, political party system, system of electing members of people's representative organizations, and the system of appointing executives, judges and civil servants must ensure that women are adequately represented.
- **Article 47**
The nationality of a woman married to a foreign citizen shall not automatically change to that of her husband; rather, she has the right to maintain, change, or re-gain her nationality.
- **Article 48**
Women and men have equal rights to adequate access to and conditions of schooling and education.
- **Article 49**
 - (1) Women have the right to select, be selected and appointed to an adequate job, position or a profession, in line with prevailing law.
 - (2) Women have the right to special protection in the undertaking of work or a profession that could put her safety and/or her reproductive health.
 - (3) The special rights to which women are entitled arising from their reproductive function are guaranteed and protected by law.
- **Article 50**
Women of full age and/or who are married have the authority to take both criminal and civil legal action as individuals, unless determined otherwise under religious law.
- **Article 51**
 - (1) During marriage, a wife and husband have equal rights and responsibilities with regard to all aspects of marriage, contact with their children, and rights to joint control of assets.
 - (2) Following dissolution of marriage, a wife and her former husband have equal rights and responsibilities with regard to all matters concerning their children, taking into account the best interests of the child.
 - (3) Following dissolution of marriage, a wife and her former husband have equal rights with regard to all matters concerning joint assets while not undermining children's rights, in accordance with prevailing law.

The Progress: Indonesian Law



- The adoption of Law No. 2 of 2011 on Political Parties providing for quotas for women in political party structures at national and regional levels and Law No. 8 of 2012 on General Elections providing for a 30 percent quota for women candidates on political parties' electoral lists for the general elections of regional legislative bodies
- The Law No. 23 of 2004 on Elimination of Violence in Household
- The Law No. 21/2007, on the eradication of the crime of trafficking in persons, and of the National Plan of Action for the
- OTHERS?

The Progress: Ratification on International Instrument (related to gender justice)



- The Covenant on Civil and Political Rights , in 2005
- The Covenant on Economic, Social and Cultural Rights, in 2005
- The CEDAW, in 1984
- The Convention on the Rights of Persons with Disabilities, in 2011;
- The Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, in 2012;
- The United Nations Convention against transnational organized crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, in 2009; and
- The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime.

Challenges



- there is no clear definition of discrimination based on article 1 of the Convention (CEDAW) in the Constitution or in other legislation

Article 1 CEDAW

For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field

Discriminatory Laws; The Influence of Fundamentalist Religious Groups

- **LOCAL REGULATIONS:** Many regions have increasingly implemented laws and policies that severely discriminate against women:
“discriminatory by-laws, including those in the province of Aceh, which restrict women’s rights in the conduct of their daily life, including social and public life; impose dress code; restrict freedom of movement and severely penalize alleged immoral relationships”
- influence of fundamentalist religious groups advocating restrictive interpretations of sharia law, (*has resulted in discrimination against women*)?



● **THANK YOU**