

The Urgency of Integrating Femicide Norms to Achieve Gender Equality in the Sustainable Development Goals



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ABSTRACT: The Sustainable Development Goals (SDGs) prioritize the value of equality, including ensuring justice and gender equality, fulfilling women's rights, and ending violence against women. Many factors cause violence against women that occur today. One factor causing this is the inequality in relationships between genders, where women are in a subordinate position under men. If this problem is not addressed immediately, it will harm women, especially those in vulnerable conditions. The goal of gender equality in the SDGs is to ensure that women gain security and avoid violence. In its development, this gender inequality causes gender-based violence. This problem leads to femicides as the peak of gender-based violence. Femicide is a term for violence against women. There should be a specific norm or regulation on femicides because, in their implementation, acts that are classified as femicides have not been regulated juridically. The implication is that femicides will be the same as other general crimes. This will have consequences for the government's responsibility for femicide victims and the application of sanctions against femicide perpetrators. Therefore, to achieve true equality between women and men, consistent, solutive, and up-to-date efforts are needed to overcome these problems.

KEYWORDS: SDGs, femicide, violence, law.

A. INTRODUCTION

Improving or maintaining existing habits in society is commonly called cultural development. This proves the dynamic nature of culture and society from time to time which can be interpreted as a global influence.¹ Culture is very crucial because it has a great influence on people's lifestyles and thoughts. Since the beginning of human life, cultural development has been the starting point for identity development in the form of changes in human nature that are the basis for the community's development. The cognitive revolution is the beginning of human nature changes. The term "revolution" explains that these changes are drastic and change people's perspectives and cultures much faster than their biological changes.²

According to Auguste Comte, the development of the human mindset goes through three stages, namely theological, metaphysical, and positivist stages where the positivist period like social, political, and economic factors are the main variables creating social conditions such as gender roles, power structures, and conflicts between groups.³ This cultural development has created very complex values for humanity raising the challenge of implementing these values following the era. One of the products of cultural development is the patriarchy. Patriarchy is a system believing that there is dominance from men to women as a form of compensation for being subordinated due to social class, race, and other forms of inequality.⁴

In the past, there was a division of labor based on gender. Gerda Lerner supports this in *The Creation of Patriarchy* book (1986) that men controlled an absolute restriction of women's abilities and authority. This phenomenon became the initial milestone in the emergence of patriarchy and became very influential with the role of gender in social construction. The significant

¹ Ife, J, Tesoriero. F. *Community development: community-based alternatives in on age of globalization*. Australia. Pearson Education. 2001.

² Harari, Y. V. *Sapiens: a Brief History of Humankind*. New York. Harper. 2015.

³ Arifin, L. M. S. Filsafat Positivisme Auguste Comte Dan Relevansinya Dengan Ilmu-Ilmu Keislaman. *Interaktif: Jurnal Ilmu-Ilmu Sosial*, Volume 12 No. 2, p. 135.

⁴ Johnson, A. G. *The gender knot: Unraveling our patriarchal legacy*. Temple University Press. Philadelphia. 2005.

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difference in treatment between men and women has created inequality in various social aspects. One form of gender discrimination is the domestication of one gender, namely women. Women and men in Indonesia grow up with different roles based on the division of roles formed by this construction. Thus, it is appropriate that the Sustainable Development Goals (SDGs) place gender equality as a top priority. Gender equality (SDGs) is fundamental because this equality is not only about providing equal rights but also dismantling the social and cultural structures that discriminate against women. The SDGs seek to empower women by providing equal access to education, employment, and political participation. One of the key indicators in achieving gender equality is reducing gender-based violence, increasing women's involvement in the formal sector, and ensuring policies that support the balance of domestic roles between men and women.

Currently, the SDGs are a universally agreed agenda that is a continuation and development of the Millennium Development Goals (MDGs).⁵ Over the past fifteen years, the MDGs have made no significant progress in addressing gender inequality. This is the main reason that the SDGs focus on gender equality.⁶ In the SDGs goals related to gender equality, some targets must be achieved, one of which is to end and eliminate any forms of violence and discrimination against women both in private and public spaces.⁷ Although gender equality has become the main goal at the international level, in its implementation, Indonesia still has gender problems that need to be overcome, one of which is gender-based violence.

Gender-based violence includes various forms of physical violence, such as beatings, rape, trafficking of women and children, honor killings, and sexual violence. In addition, gender-based violence also includes more extreme actions, namely structural violence, cultural violence, and femicide.⁸ Violence against women is considered the same as gender-based violence when viewed from a feminist perspective.⁹ This problem is based on the fact that there is inequality in gender relations that places women as subordinate to men. The position is one of the causes of violence against women that has occurred so far.¹⁰ In its development, violence and discrimination against women, including girls, are called femicides.¹¹ Of course, violence is one of the real forms of violations of human rights (HAM) as well as crimes against human dignity. Violence is not justified in any form of it. Therefore, it can be concluded that gender dominance causes gender injustice and becomes one of the causes of violence, namely unfair treatment from those who have stronger control over those who have weaker control.¹² Gender injustice driven by the dominance of one gender, usually a man, has created a power imbalance that is at the root of various forms of violence, especially against women. Gender-based violence is often rooted in patriarchal views that place women in subordinate positions, both domestically and publicly. This is reflected in various forms of emotional, physical, psychological, and sexual violence experienced by women.

The results of statistical data from the National Commission on Violence Against Women (Komnas Perempuan) supported by the Directorate General of The Religious Court Body (BADILAG), have shown a very high number of violence against women. In the 2023 Year-End Notes (CATAHU), Komnas Perempuan noted a reduction in case reports from 339,782 to 289,111 in 2023. The decrease in cases from 3,442 to 3,303 cases at Komnas Perempuan showed that Komnas Perempuan received an average of 11 cases daily.¹³

With those data, it can be agreed that gender discrimination is a real and complex problem in our social environment. Gender discrimination must be resolved immediately because it has the potential to create a butterfly effect that will cause new problems for the country. Therefore, to achieve true equality between men and women, consistent, solutive, and up-to-date efforts are needed to overcome this problem. In this case, the presence of the law can be a strong foundation to support gender equality in Indonesia.

⁵Hadiz, L. DARI MDGs KE SDGs: Memetik Pelajaran dan Menyiapkan Langkah Konkret. Jakarta, Smeru Research Institute. 2017.

⁶Halizah, L. R., & Faralita, E. Budaya patriarki dan kesetaraan gender. Wasaka Hukum, Vol. 11 No. (1), 2023. p. 24.

⁷Nasional, K. P. P.. Bappenas. Ringkasan Metadata Indikator Tujuan Pembangunan Berkelanjutan (TPB). *Sustainable Development Goals (SDGS) Indonesia*. Jakarta. 2017.

⁸ Azizah, N., & Rahmawati, F. Kekerasan Berbasis Gender di Pakistan. *Prosiding UMY Grace*, Vol 1, No. 2.2020. p. 329

⁹ Harnoko, Bambang Rudi. Dibalik tindak kekerasan terhadap perempuan. MUWAZAH: Jurnal Kajian Gender, Volume 2, Number 1 2012, p. 181.

¹⁰ Ani Purwanti, Kekerasan Berbasis Gender. Yogyakarta, Bildung. 2020. p. 32.

¹¹ World Health Organization (2012).

¹² Gustin, W. I.. UPAYA ISTRI SEBAGAI KORBAN KEKERASAN DALAM MENYIKAPI KEKERASAN DALAM RUMAH TANGGA (KDRT) DI KABUPATEN MOJOKERTO. *Kajian Moral Dan Kewarganegaraan*, Volume 5, No. 03. 2017. p. 768

¹³ Komnas Perempuan, CATAHU TAHUN 2023, Momentum Perubahan: Peluang Penguatan Sistem Penyidikan di Tengah Peningkatan Kompleksitas Kekerasan terhadap Perempuan. <https://komnasperempuan.go.id/siaran-pers-detail/siaran-pers-komnas-perempuan-tentang-peluncuran-catatan-tahunan-kasus-kekerasan-terhadap-perempuan-tahun-2023#:~:text=CATAHU%202023%20mencatat%20jumlah%20kekerasan%20terhadap%20perempuan%20pada,Komnas%20Perempuan%20dapat%20dilihat%20dalam%20Lampiran%20Lembar%20Fakta%29>. Accessed on 7 Oktober 2024.

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To find and solve the law enforcement problem, an effort is needed to reconsider the relationship between law and society. This is based on the fact that the law functions for society and society needs the law to regulate their social life.¹⁴ Therefore, it can be seen that the need to carry out legal thinking returns to its basic philosophy, namely law for humans. In a country with cultural diversity like Indonesia, the need for laws to ensure the stability and security of its citizens is becoming increasingly crucial. As Prof. Satjipto Rahardjo said, the study of Indonesian law and society must be seen from a sociological and anthropological perspective to better understand different cultures and traditions.¹⁵ With this philosophy, humans are the determining factor and legal orientation. Therefore, the idea of Progressive Law initiated by Prof. Satjipto Rahardjo appeared where the law is in charge of serving humans, not the other way around. So, it can be said that law is an institution that cannot be separated from human needs.¹⁶ From this thought, we can all know that law in Indonesia must be studied by considering the unique social context in this country. Prof. Satjipto's statement is in line with the legal goals proclaimed by Gustav Radbruch, namely utility, certainty, and justice.¹⁷ This means that laws must continue to be formulated according to the needs of the community with the government as the regulator that functions as an instrument that accommodates the community's needs. Based on this explanation, it can be concluded that to overcome the irregularities that occur in society, it is necessary to establish a law as a social control in society. Thus, law as social control aims to achieve harmony between stability, and changes in society.¹⁸

B. DISCUSSION

The Republic of Indonesia is a country that grows and develops based on law (*rechtsstaat*). Based on this statement, every action taken by the state and its citizens must be based on positive law. This is very crucial for the sustainability of mankind because the law functions as a tool to regulate human behavior in achieving social welfare.¹⁹ The application of the concept of the state of law needs to consider the values that live and develop in society. This consideration will be a very fundamental aspect considering the existence of cultural relativism in each region. In line with this adjustment, Indonesia has Pancasila which is positioned as the source of national law and the nation's ideology.²⁰ Essentially, the application of Pancasila values in the concept of the state of law aims to fulfill the mandate contained in it. One of the values of Pancasila is to create social justice as enshrined in the fifth precept of Pancasila which reads "Social justice for all Indonesian people." The precept directly explains that the state aims to provide protection and guarantee of social justice for all Indonesian people. Starting from this, Pancasila which is abstract needs to be concretized into a regulation that has legal force, so that the values of Pancasila can be implemented in society. The values of Pancasila have been concretized through the 1945 Constitution of the Republic of Indonesia (Constitution of the Republic of Indonesia) as the country's constitution. One of the legalizations of the value of social justice is human rights explained in CHAPTER XA OF THE CONSTITUTION OF THE REPUBLIC OF INDONESIA. Article 28A states, "Every person has the right to live and to maintain their lives and livelihood." In more detail, Article 28G also mandates that:²¹

- (1) "Every person has the right to protection of self, family, honor, dignity, and their property, and has the right to security and protection from threats of fear to exercise or not to exercise his human rights".
- (2) "Every person has the right to be free from torture or inhumane and degrading treatment, and has the right to receive political asylum from another country".

Furthermore, Article 28I of the Constitution of the Republic of Indonesia also states that:²²

- (1) "Right to live, right to be free from torture, right of freedom of thought and conscience, right of religion, right to be free from slavery, right to be recognized as a person before the law, and right not to be prosecuted under a law with retrospective effect are all human rights that cannot be deprived under any circumstances".
- (2) "Every person has the right to be free from discriminative treatment based upon any grounds and has the right to protection from such discriminative treatment.

¹⁴ Orlando, G.. Hukum Sebagai Kontrol Sosial dan Social Engineering. *Tarbiyah Bil Qalam: Jurnal Pendidikan Agama Dan Sains*, Vol. 7 No. 1. 2023. P. 33.

¹⁵ Turiman, T. Memahami Hukum Progresif Prof Satjipto Rahardjo Dalam Paradigma "Thawaf". *jurnal Hukum Progresif*. 2010. p. 2

¹⁶ Bernard L.Tanya, et. al. Strategi Tertib Manusia Lintas Ruang dan Generasi. Yogyakarta, Genta Publishing, 2010, p.20

¹⁷ Dhikshita, I. B. G. A. Manifestasi Teori Tujuan Hukum Gustav Radbruch dan Mazhab Positivisme di Indonesia. <https://advokatkonstitusi.com>. 7 Oktober 2024.

¹⁸ Iriani, D. Hukum sebagai alat kontrol sosial dan sistem supremasi penegakan hukum. *Justicia Islamica*, Vol. 8 No. 1. 2011. p. 147.

¹⁹ Soedikno Mertokusumo, Mengenal Hukum. Yogyakarta, Atmajaya Publishing, 1999, p.65

²⁰ Siallagan, H. Penerapan prinsip negara hukum di Indonesia. *Sosiohumaniora*, Vol. 18 No. 2. 2016. 122-128. p. 135

²¹ See Article 28A of the 1945 Constitution of the Republic of Indonesia

²² See Article 28I of the 1945 Constitution of the Republic of Indonesia

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- (3) Cultural identities and rights of indigenous people are respected in accordance with the development of times/age and civilizations.
- (4) Protection, advancement, enforcement, and fulfillment of human rights are responsibilities of the state, especially the government.
- (5) For the purpose of enforcing and protecting human rights in accordance with the principle of a constitutional democratic state, the implementation of human rights is guaranteed, regulated, and set forth in legislation.

From these articles, it can be seen that in terms of *das sollen*, the state hopes to create protection and guarantee of rights regardless of gender to achieve gender equality.

In its development, the mandate of the Constitution of the Republic of Indonesia must be concretized again in the law. This is in line with the Stufenbau Theory initiated by Hans Kelsen. Stufenbau Theory can be interpreted as the explanation of the origin of law until the formation of positive legal norms. This theory argues that the existence of positive law must be arranged in a structured manner from general to specific rules. This process is called concretization.²³ In this case, the mandate in the Constitution of the Republic of Indonesia related to protection has been concretized through laws and regulations. The concrete form of this protection is a regulation in the form of the Criminal Code (KUHP). Unfortunately, the Criminal Code only regulates violence in general, namely in Article 291, Article 338, Article 339, Article 340, Article 351, Article 353, Article 354, and Article 355. Based on this fact, it can be seen that there has been no integration between the definition and criminal sanctions that apply in Indonesia in the national law. This problem results in many murder cases that should be classified as femicides instead of other general crimes. The fact that femicides are classified as a general crime is proven by the high gap between the number of murder cases against women and the national regulations governing femicides.²⁴ The Indonesian National Police recorded 1,491 murder cases in 2015, 1,292 cases in 2016, 1,1150 cases in 2017, 1,024 cases in 2018, and 964 cases in 2019. However, this data has not been grouped by motive or gender, so data on femicides in Indonesia cannot be properly identified.²⁵ In addition, femicides have not been recognized in social sciences that study crime and victims, or in the training of law enforcement officials to strengthen laws with a gender perspective. Therefore, femicides have not been legally recognized normatively by law enforcement officials, academics, and state institutions. Based on this problem, the state must immediately describe femicide as criminal which is a gender-based crime.

Sociologically, the number of femicide cases in Indonesia has increased significantly, quadrupling from 2017 to 2024. The most femicide perpetrators are husbands/ex-husbands or partners/ex-partners who commit femicides due to intimate factors. Motivation for murder due to hurt, revenge, jealousy, or internal conflict are the most common motives in women in the productive age range from 21 to 40 years. Data collected by Komnas Perempuan shows that the most frequent cases of femicides are found in Java and Sumatra. The number of cases of femicides on the islands has also led to many reports related to cases of femicides in the name of culture. Such cases are often difficult to be sanctioned because there is a justification from the environment for the femicides which is classified as a cultural sanction.²⁶

This problem is certainly very ironic considering that Indonesia is one of the countries that ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The Republic of Indonesia has ratified CEDAW through Law Number 7 of 1984 concerning the Ratification of the Convention on the Elimination of All Forms of Discrimination against Women. In CEDAW, it is very clear that Article 1 prohibits all forms of discrimination against women. Furthermore, CEDAW also defines femicides as murder based on female gender. The formulation of this covenant states that the state is obliged to implement a policy of eliminating discrimination against women, including violence against women. The obligation to provide this protection is absolute. Therefore, no reason can justify the act of femicide, including cultural, economic, or religious reasons. In addition, CEDAW also regulates access to justice. This is stated in General Recommendation Number 33 which states that the state is obliged to uphold justice even if the female victim dies. The enforcement can be in the form of a case investigation process, providing compensation to the family, the necessary recovery, and punishing the perpetrators. In addition, there is also a global commitment to overcome and eliminate femicides. This is proven by the Document on the Outcome of the Beijing+25 Regional Review Meeting

²³ FX. Adji Samekto, Menelusuri Akar Pemikiran Hans Kelsen Tentang *Stufenbeautheorie* Dalam Pendekatan Normatif Filosofis. *Jurnal Hukum Progresif*, Vol. 7 No.1. 2019. p. 14.

²⁴ Agsel, A.. PENGATURAN KEKERASAN BERBASIS GENDER SIBER (KBGS) DAN PERMASALAHAN PENEGAKAN HUKUMNYA DALAM SISTEM HUKUM DI INDONESIA (Studi Kasus Kekerasan Seksual Berbasis Gender Siber dalam Putusan Nomor: 785/Pid. Sus/2020/PN Tjk, dan Putusan Nomor: 471/Pid. Sus/2022/PN Tjk di Kota Bandar Lampung). Doctoral Dissertation of Doctor of the Faculty of Law of Universitas Lampung. p 21.

²⁵ Komnas Perempuan, op. cit. p. 2.

²⁶ Ibid. p. 20.

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held by the UN Economic Commission for Europe in October 2019. In its recommendations, the document expresses its support for the Femicide Watch initiative. This recommendation calls on all countries to establish a multidisciplinary national body such as the Femicide Watch to prevent femicides and gender-based murder, particularly against women.

The types and definitions of femicides, according to findings from Komnas Perempuan and the United Nations, are not optimally integrated because national and local laws themselves have not provided a legally normative definition of gender-based violence and murder based on gender just because they are women. Based on this situation, Indonesia as the state of law that also ratifies CEDAW needs to formulate new norms or regulations related to femicides. This aims to separate femicides from general criminal acts. This separation will have implications for the state's obligations and responsibilities towards femicide victims.

C. CONCLUSION

Gender discrimination in Indonesia arises due to a patriarchal culture that has grown for a long time. This culture results in differences in treatment between men and women, including security. Data has shown that there is wage inequality caused by gender differences. This must certainly be overcome immediately because it is discrimination which is contrary to Pancasila and the mandate of the Constitution of the Republic of Indonesia. In responding to this inequality, the government is trying its best to solve this problem. The government established binding regulations on human rights and protection and security in the hope of reducing the level of violence experienced by women. However, the regulations only regulate violence in general. The government needs to immediately formulate new norms or regulations that accommodate sanctions against femicide perpetrators and the protection that must be obtained by femicide victims. It is hoped that the government can quickly integrate femicide as a gender-based crime of murder in the criminal law and ratify the Sexual Violence Crime Bill as a means of eliminating sexual violence against women comprehensively to overcome this inequality to achieve the Sustainable Development Goals (SDGs).

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