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The Inconsistencies in Efforts to Realize Gender Equality Towards the Roles of Husband and Wife to Fulfill Economic Needs in Relation to Positive Law in Indonesia

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Abstract: Gender equality is one of the human rights issues that until now still cannot be realized properly, including in marriage. Gender injustice in marriage scope arises due to the existence of differences in roles, rights, and obligations between husband and wife. These differences have a significant impact on the role and freedom of wives in the public sector, particularly in their efforts to fulfill the economic needs of their families. Gender injustice still occurs because there are inconsistencies in efforts to realize gender equality. Therefore, it became the author's concern because it hinders the realization of gender equality. This research used the method of normative juridical research by presenting supporting data in the form of interviews with several wives who have dual roles as housewives and breadwinners in the industrial located in Solokan Jeruk, Bandung Regency and shoe craft centers located in Cibaduyut, Bandung City. The results show that there are inconsistencies in efforts to realize gender equality in the scope of marriage related to fulfilling family economic needs, that is, inconsistencies in efforts to realize gender equality in marriage law in Indonesia, between marriage law and other positive laws, and positive laws and implementation in real life.

Keyword: Family Needs, Gender Equality, Manpower, Marriage, MSMEs.

INTRODUCTION

The 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the “1945 Constitution”) in Article 1 paragraph (3) declares that “The State of Indonesia shall be a state based on the rule of law” (Aprita & Hasyim, 2020). The state of law has several elements, including the guarantee of human rights. In essence,, human rights guarantee the life and dignity of a person, both women and men, therefore human rights are related to the concept of gender (Krisnalita, 2018).

Fakih Mansour defines gender as a socially and culturally constructed trait that is attributed to men and women (Fakih, 1996). Gender is not just a biological difference between men and women (Judiasih, 2021). The existence of gender differences creates gender roles which

usually trigger the emergence of gender injustice and discrimination. In many cases, the victims of gender injustice are women. For instance, the women frequently lack of significant roles and functions in life, including in the scope of marriage, which is very vulnerable to gender injustice (Syuhudi, 2022).

The differences in gender roles between husbands and wives that are constructed by society also impact on wives' freedom in the public sector, including in the economic field. To this extent, society believes that a wife is a domestic worker, which publicly interpreted that the wife is not free to use her rights to work and earn income because she has been restricted by gender and discrimination in economic activities.

In fact, almost all women worldwide have contributed to family income through a variety forms of work, whether in the formal or informal sectors. Men and women should be treated fairly and equally (as known as gender equality) without any gender-based discrimination. Nowadays, gender equality is urgent. Many people have acknowledged the significance of gender equality, as it not only affects women, but also disadvantages other parties and the future of the whole world.

Realizing gender equality is a complex task with various influencing factors. The Indonesian government has been making efforts to achieve gender equality and protect human rights, especially in terms of fulfilling the economic needs of families within the scope of marriage. However, such things are felt to be inconsistent, so it becomes one of the factors that hinder the realization of gender equality. In response, the government seeks to eliminate gender injustice in the scope of marriage through positive law by enacting marriage law in Indonesia. Nevertheless, certain articles within these laws do not fully embody the spirit of gender equality, particularly in regard to the rights, obligations, and roles of husbands and wives.

The rights, obligations, and roles of husbands and wives in marriage are regulated in Law Number 16 of 2019 on Amendments to Law Number 1 of 1974 on Marriage (hereinafter referred to as the "Marriage Law"), specifically in Article 31 paragraph (3) and Article 34 paragraphs (1) and (2) of the Marriage Law. In addition, since the majority of Indonesian citizens are Moslem, Presidential Instruction Number 1 of 1991 on the Compilation of Islamic Law/ Kompilasi Hukum Islam (hereinafter referred to as "CIL") also applies to Moslem couples. The CIL also regulated the roles and duties of husband and wife, precisely in Article 79 paragraph (1), Article 80 paragraphs (2) and (4), and Article 83 paragraph (2), but it is feared that the provisions in those Article 31 paragraph (3) and Article 34 paragraphs (1) and (2) of the Marriage Law, as well as Article 79 paragraph (1), Article 80 paragraphs (2) and (4), and Article 83 paragraph (2) of the CIL, will hinder the realization of gender equality in marriage because they are gender biased and discriminative. These articles are incongruous with the purpose of the marriage law and the principle of equality between husband and wife, as set forth in Article 31 paragraph (1) of the Marriage Law and Article 79 paragraph (2) of the CIL.

Articles that are gender biased and discriminative do not only affect the domestic sphere but also affect the public sector, especially the economy. The existence of restrictions on a wife's freedom in the public sphere has resulted in her inability to freely exercise her economic rights, despite her involvement in the public sphere being driven by one goal, supporting the fulfillment of the family's economic needs.

Economic activities are the daily activities carried out by humans to fulfill their needs. In an attempt to maintain the survival of family members, the economic function becomes the primary function within the family unit (Redo, 2022). The fulfillment of the economic needs of the family is important for the survival and welfare of each family member that the wife considers herself to be engaged in work. The wife's decision to work results in a fusion and even a shift between the rights, obligations, and roles between husband and wife in marriage.

Economic activities is vast and divided into several fields of work, including Manpower and Micro, Small, and Medium Enterprises (hereinafter referred to as "MSMEs"), which absorb quite a lot of female labor. Concurrently, a considerable number of wives are gainfully employed in both the formal and informal sectors. In the formal sector, they are engaged in various types of labor in companies, institutions, and factories. In the informal sector, they have established their own businesses, either as owners or as actors in MSMEs. The government has enacted several laws and policies concerning protecting human rights and promoting gender equality to support the involvement of wives in the economic sector. However, a key challenge lies in the discrepancy between what has been regulated in positive law and the actual practice. Unfortunately, the implementation of positive laws and government policies in protecting women's economic rights and gender equality is far from perfect. Discrimination among gender equality still exist nowadays and has become one of the most important issues within Indonesia legal framework. Gender injustice in the economic sector is also a consequence of the separation of rights, obligations, and roles of wives, as set out in the Marriage Law and CIL. This research will discuss the author's concern regarding the discrepancy or inconsistency in realizing gender equality, especially in the scope of marriage between husband and wife related to the fulfillment of family economic needs both in terms of regulations which here are positive laws in Indonesia and in terms of implementation or practice in the real world. The authors selected the Solokan Jeruk area in Bandung Regency as the research location due to its status as an industrial zone with a significant female labor force, including wives as factory workers. The Cibaduyut area in Bandung City was chosen as the second location due to its reputation as the largest and oldest producer of local shoe centers in Bandung City so many local residents work as MSMEs shoe actors, including housewives.

METHOD

This research employs a normative juridical approach to examine legislation as positive law in Indonesia regarding the role of husbands and wives in fulfilling the economy based on the protection of human rights and gender equality. The research specification utilizes a descriptive analysis method with a literature research stage comprising primary, secondary, and tertiary legal materials and field research. The data collection techniques used are literature study and field study with qualitative analysis methods.

RESULTS AND DISCUSSION

The Regulation Of Gender Equality As A Human Right Toward The Role Of Husband And Wife In Indonesian Marriage Law

Gender equality is an equal condition for men and women to obtain opportunities and rights as human beings. Gender equality has been long recognized as a human right and a main goal of development (Judiasih, 2022). Gender equality is closely related to women's roles in both the domestic and public spheres. In the domestic sphere, women are responsible for maintaining the family, including childcare and a range of domestic tasks. In the public sphere, women are involved in generating income to fulfill the family's economic needs (Prami & Widiastuti, 2023). Therefore, the Indonesian government, through the enactment of positive legislation, endeavors to advance gender equality and protect the human rights.

Article 28B paragraph (1) of the 1945 Constitution states that "Every person has the right to form a family and continue offspring through legal marriage". It is the nature that between two human beings, a woman and a man, there is a feeling of mutual consent so that both agree to enter into a marriage and build a family. As one of the relationships of interaction between individuals in society in a country, marriage must be given strict regulation by the state through applicable positive law (Judiasih, 2022).

In Indonesia, marriage is regulated under the Marriage Law. Article 1 of the Marriage Law defines “Marriage is a relationship of body and soul between a man and a woman as husband and wife with the purpose of establishing a happy and lasting family (household) founded on belief in God Almighty”. Marriage Law establish a new status, both man and woman, in which as the husband and the wives. From this point onwards, both the husband and wife also obtain certain rights and obligations in marriage (Zahry, 1978).

Since their new establishment of status, such principles among the marriage are needed. The Marriage Law regulates several principles of marriage that have been adjusted to the development and demands of the times, such as efforts to realize gender equality in marriage. This principle is then embodied in Article 31 paragraph (1) of the Marriage Law “The rights and responsibilities of the wife are equivalent to the rights and responsibilities of the husband in the life of the household and in the social intercourse in society.”

Prior to the enactment of the Marriage Law, the regulation of marriage law in Indonesia was dispersed across a multitude of various legal regulations or legal systems. Among these was the Islamic Marriage Law, which was regulated in the CIL. The CIL also recognizes the principle of equality between husband and wife, namely the principle of partnership between husband and wife as set out in Article 79 paragraph (2) of the CIL.

The existence of Article 31 paragraph (1) of the Marriage Law and Article 79 paragraph (2) of the CIL proves that the formation of positive law in Indonesia has sought to realize gender equality in marriage. The concept of rights and position between husband and wife in marriage has also integrated the values of gender equality and protected the human rights of both husband and wife, but this is contradicted by other articles that are considered as discriminatory and gender biased, which is a threat and obstacle to the realization of gender equality in marriage. Gender bias is a tendency or prejudice against a particular gender that results in gender injustice (Juliana, Sendratari, & Maryati, 2019). The comparison between articles that are discriminative and gender biased with articles that accommodate gender and human rights values is also still unequal, such as articles that regulate the obligations and roles of husband and wife in marriage (Fuad, 2015). These articles are essential because they are directly and closely related to the wife's involvement in fulfilling the family's economic needs, the wife's opportunities and space in the public sphere, and the wife's right to exercise her economic rights as a human and woman.

The obligations of husband and wife are regulated in Article 34 paragraphs (1) and (2) of the Marriage Law which states that "The husband shall have the responsibility of protecting his wife and provide her with all the necessities of life in & household in accordance with his capabilities" and "The wife shall have the responsibility of taking care of the household to the best of her ability" . The Marriage Law has also determined the roles of husband and wife in marriage, specifically in Article 31 paragraph (3) of the Marriage Law which states that "The husband is the head of the family and the wife is the mother of the household".

The two articles are controversial due to their non-alignment with Article 31 paragraph (1) of the Marriage Law and the principles of marriage. The existence of Article 31 paragraph (3) and Article 34 paragraphs (1) and (2) made marriage law inconsistent in realizing human rights and gender equality. Conversely, these provisions reflect gender injustice in marriage. The Marriage Law places significant limitations on the role of women as wives in marriage (R. F. Putra, Indarti, & Sulistyawan, 2021). Therefore, with these two paragraphs in the Marriage Law, there is a dichotomy of sexual work between men and women in the household. Women only work in the kitchen, and the kitchen is the female gender (Syamsudin, 2019).

Inconsistencies in efforts to realize gender equality in marriage are also found in the substance of CIL. Article 79 paragraph (1) of the CIL states “The husband is the head of the family and the wife is the housewife.” Article 80 paragraphs (2) and (4) also regulates the husband’s obligation, “The husband is obliged to protect his wife and provide her with all the necessities

of married life following his ability” and “The husband must provide bread, kiswah, and housing for the wife, household expenses, treatment cost, medical expenses for wife and children, and education expenses for the child.” Additionally, the wife’s obligation is regulated in Article 83 paragraph (2) CIL “The wife shall properly organize and manage the daily needs of the household.” The articles as mentioned earlier serve to demonstrate that the principles of marriage, one of which is the equal position between husband and wife, are not upheld (Lubis, 2015). Thus, CIL are perceived as inconsistent in achieving gender equality in marriage, as they perpetuate the notion that wives are solely concerned with the domestic sphere.

Islam strongly upholds the equality between husband and wife in marriage, but because there is the concept of Nusyuz in Islamic Marriage Law, imposes certain restrictions for the wife in the public sphere. These restrictions aim to ensure that wives fulfill their obligations to be devoted to their husbands and to manage the domestic sphere. Nusyuz can be defined as a violation or denial of a wife's obligation to carry out her duties. In other words, it is the wife's disobedience to her husband (Hasballah, 2022). If the wife is nusyuz, then the husband's obligation to her is nullified. Nusyuz can be avoided by the wife if her husband allows and provides opportunities for her to engage in activities outside the domestic sphere, as well as his support, including joint efforts to care for the household. This allows for a beneficial relationship between husband and wife without either party neglecting their obligations. In CIL, nusyuz serves as a cautionary signal for wives to refrain from neglecting their responsibilities, even when they have other activities such as work. Even so, if the provisions are applied strictly and rigidly, it is very conservative and causes opportunities for gender issues between husband and wife in marriage.

The inconsistencies in Indonesian marriage law impede the realization of gender equality. These inconsistencies perpetuate patriarchal culture and society's view of wives as domestic creatures. This view restricts wife’s opportunities in the public sphere to fulfill family needs, even though women in the family currently play a role as breadwinners.

Instead of achieving gender equality, the Marriage Act and the CIL open up more opportunities for human rights violations and gender injustice both within marriage and in the public sphere. Gender injustice is a social process in which people under the same circumstances are treated differently and disadvantaged because of their gender (Kent, 2007). The following are forms of gender injustice that are caused by the rigidification of the rights, obligations, and roles of the husband and the wife in marriage:

1. Marginalization

The role of women in the family is not that of the primary breadwinner. Consequently, women who are employed are frequently undervalued, subjected to discriminatory practices, and denied their fundamental rights as workers. These include the right to receive a fair wage, to be eligible for a spouse's or child support, and other benefits.

2. Subordination

The segregated roles of husband and wife in marriage reinforce the subordination of women. As a result, women within the family are frequently undervalued, as evidenced by the tendency for their contributions to be overlooked in the process of communication and negotiation, women's decisions are not considered important.

3. Stereotype

Negative perceptions of women often occur in the family sphere as a result of restrictions on women's roles in marriage who are only obliged to take care of the household. These roles are often confined to the domain of domestic responsibilities, which can lead to a narrowing of expectations and a reinforcement of traditional gender norms. Negative stigmas in the family include difficulties in finding a partner for girls who have attended university and have a successful career, the perception that wives who work late nights are abandoning their

husbands and children, and the view that wives with higher wages are attempting to exert control over the household.

4. Violence

The disparate roles of husband and wife in marriage lead to domestic violence. One of the factors contributing to the occurrence of domestic violence is the condition of women who are economically powerless. In the majority of cases, the wife is the victim of domestic violence, as her situation and position are highly dependent on her husband as the head of the family. This is particularly true for wives who do not work and rely on their husbands for economic support. This dependency can lead to a husband becoming arbitrary and prone to committing domestic violence.

5. Double burden

Women frequently endure injustices in the form of burdens, particularly within the context of domestic life. When wives are permitted to work, their husbands does not contribute in domestic tasks, citing that is not their duty. Despite their dual roles as both earners and housewives, wives continue to shoulder most of domestic responsibilities.

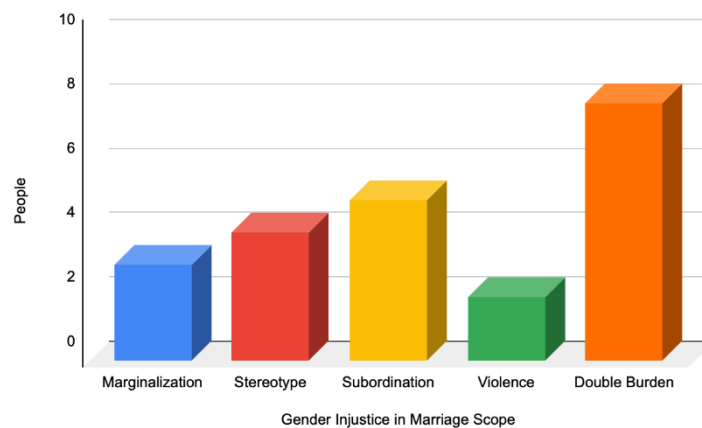


Figure 1. Gender Injustice in Marriage Scope

According to the data from the above interviews conducted in the Solokan Jeruk area, Bandung Regency and Cibaduyut, Bandung City, the primary form of gender injustice experienced by working wives is the double burden. This is because although the husbands permit their wives to work, they understand that managing the household is not their obligation. It was revealed due to the fact that some of the respondents' husbands are also unemployed or otherwise unable to work, which should give them time to ease their wives' duties to share the burden of domestic responsibilities. Subsequently, subordination represents a significant form of gender injustice experienced by a considerable number of wives. This is followed by stereotyping, marginalization or economic impoverishment, and lastly violence.

Gender injustice, which is indirectly the cause and effect of the rigidity and restrictions in the Marriage Law and CIL, is accepted by the community and becomes a common thing has resulted in the normalization of gender injustice, so that in the end gender injustice is widespread and has an impact on the position of women in the public sphere, especially in the economic field. Marginalization, subordination, stereotyping, violence, and double burden then lead to discrimination and prevent women from obtaining their human rights, especially their economic rights.

The economic rights of women have been guaranteed in a number of international and national legal instruments. Article 23 paragraphs (1) and (2) of the Universal Declaration of Human Rights (hereinafter "UDHR") states that "Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against

unemployment” and “Everyone, without any discrimination, has the right to equal pay for equal work”.

Then Article 11 of Law Number 7 of 1984 on the Ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (hereinafter referred to as "CEDAW") instructs to eliminate discrimination against women in the field of employment. Furthermore, the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognizes and protects the right to work, including the right of everyone to the opportunity to earn a living through work which he or she freely chooses or accepts (United Nation Human Rights, 1976).

The constitution also ensures the economic rights of every Indonesian citizen, both men and women. Article 27 paragraph (2) of the 1945 Constitution states that “Every citizen shall have the right to work and to earn a humane livelihood” and Article 28D paragraph (2) of the 1945 Constitution states that “ Every person shall have the right to work and to receive fair and proper remuneration and treatment in employment”.

Law Number 30 of 1999 on Human Rights (hereinafter referred to as the "Human Rights Law") also protects economic rights as basic human rights, precisely in Article 38 of the Human Rights Law that regulates economic rights which include the right to decent work, the right to choose work, and the right to wages.

Government Policy in Supporting the Role of Wives as Family Economic Fulfillment in Relation to Law Number 20 of 2008 on Micro, Small and Medium Enterprises and Law Number 13 of 2003 on Manpower

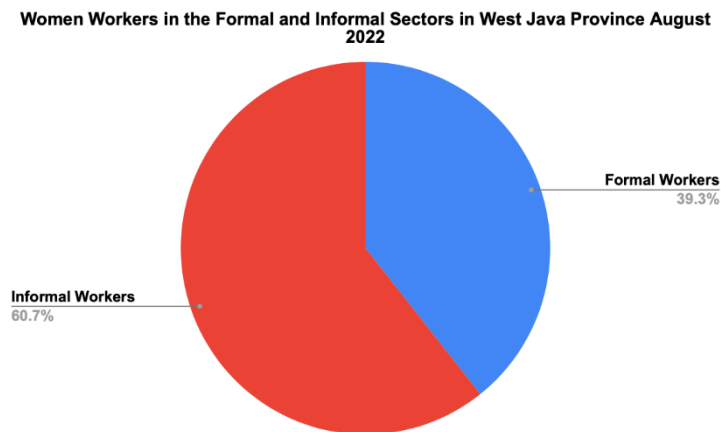
Family economics is an effort to provide for the needs of each family member through the activities undertaken by family members, with the primary responsibility falling upon the husband and wife in their roles as spouses and parents. Needs are defined as the goods or services that are required by humans in order to support all activities in their daily lives (Yuliawati & Pratomo, 2019). It is of great consequence to fulfill family economic needs, as they have a profound impact on the survival of each family member. The category of family economic needs encompasses a range of essentials, including food, clothing, shelter, education, and health.

For a family that has a sufficient economy, it will be very easy to fulfill the needs of life both physically, mentally and materially, but it is very different for a family experiencing a low economy, in which they need more effort to help them to survive. This can lead to difficulties in achieving welfare and cause family issues (Sari & Anwar, 2020).

Nowadays, many families cannot afford to provide for their economic needs if they rely solely on their husbands' income. This has led to a notable shift in the role of women who only have a role as a housewife (Zayyadi, 2012). Certain conditions make women as wives have to work to help their husbands fulfill the family's economic needs or even take over the husband's role as breadwinner. The phenomenon of a shift, fusion, or even a switch in roles between husbands and wives has now become quite common. The shift and fusion of roles between husbands and wives in fulfilling this economic function is typically precipitated by the death of the husband, the husband's illness that renders him unable to work, the husband's retirement and pension benefits that fail to cover the family's needs, the husband's layoff resulting in a lack of income, or the husband's salary that is less than that of the wife, thereby making her the breadwinner of the family. These conditions are not ideal in a marriage, yet they are necessary in order to provide the economic needs of the family unit.

Wives who have a role in earning a living to accommodate the family's economic needs are found in diverse fields of work, either as formal or informal workers. Formal workers include the status of business with the help of permanent labor and laborers/employees/staff, whereas informal workers, including solo business, business with the help of non-permanent basis,

family members, or those engaged in unpaid work both in agriculture and non-agriculture sectors.



Source : The Central Bureau of Statistics of West Java

Figure 2. Women Workers in the Formal and Informal Sectors in West Java Province August

Based on the data above, 60.7 percent of informal workers in West Java were female (Badan Pusat Statistik Provinsi Jawa Barat, 2023). This number shows that women are more likely to be involved in self-employment or to work in the informal sector as unpaid family workers.

The elevated female participation rate in the informal sector can be attributed to the necessity of enabling women to balance their professional responsibilities with their domestic duties as housewives (Wandaweka & Purwanti, 2021). As a wife, they find jobs that offer them the time flexibility to manage their obligations, which explains why MSMEs are a preferred option for many wives. Besides generating income to fulfill their needs, the capital and operational costs required for MSMEs are relatively small, as they can utilize existing resources and facilities at home. In light of the participation and potential of women as MSMEs actors, the government enacted Law Number 20 of 2008 on Micro, Small and Medium Enterprises (hereinafter referred to as the “MSMEs Law”) as an endeavor to realize gender equality in MSME activities. One principle in the MSMEs Law is efficiency with justice which aims to create a fair, conducive, and competitive business environment. Article 8 point c of the MSMEs Law instructs that funding for MSMEs must not be discriminatory.

There are also other laws and regulation that encourage MSMEs activities, such as Law Number 10 of 1998 on Amendments to Law Number 7 of 1992 on Banking, as it pertains to the distribution of funds for MSMEs as mandated in Article 12 “To support the implementation of a program for improving the living standards of the common people through development of cooperatives, small and medium scale of entrepreneurs, the Government and Bank Indonesia may conduct cooperation with Commercial Banks”. Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation also introduces new provisions regarding MSMEs. These include the establishment of MSMEs, business licenses, permits, registration, capitalization, guidance for MSMEs, etc.

Alongside MSMEs, another profession that many wives choose to fulfill their family's needs is to become formal workers as factory laborers. Indeed, on average, women who work in the formal sector earn higher wages than informal workers. Furthermore, they receive a stable income on a monthly basis and the possibility to get promoted at work. Women workers in the formal sector also show a significant number and are increasing annually. Law Number 13 of 2003 on Manpower (hereinafter referred to as the “Manpower Law”) protects the rights of women workers and to create a work environment that is free from discriminatory practices. Article 5 of the Manpower Law states that “Any manpower shall have the same opportunity to

get a job without discrimination” and Article 6 of the Manpower Law states that “Every worker/labourer has the right to receive equal treatment without discrimination from their employer.” The Manpower Law also regulates the rights of women workers, including menstrual leave, maternity leave, etc. The government has also recently enacted Law Number 4 of 2024 on Maternal and Child Welfare During the First Thousand Days of Life which strengthens and improves provisions on maternity leave, job protection for employees, allowances for women workers during maternity leave, additional employer obligations, etc.

It is unfortunate that despite the considerable involvement of women in the economic sector, both formal (labor) and informal (MSMEs), and despite the existence of several positive laws created to support gender equality and protect the rights of women in the workplace, working wives remain vulnerable to forms of gender-based injustice and discrimination. Positive law is only “a regulation” that is not interpreted and implemented properly. In the context of gender equality, there are differences between positive law and the reality of women's participation in economic activities. This difference is influenced by the actions of employers and socio-cultural conditions (Prami & Widiastuti, 2023).

Gender equality in the economy can be measured by four key indicators: Access, Participation, Control, and Benefits. When all four indicators are effectively addressed, it can be concluded that gender equality in the economy has been achieved. However, in practice, these four indicators have not been fully experienced by wives as the primary source of income for their families. This is proven by the results of research conducted by the authors with wives who work both in the formal sector as laborers and informally as MSMEs actors. The initial survey was conducted in Cibaduyut, Bandung City, involving wives who own MSMEs in the fields of shoe crafts, leather crafts, and culinary products from Bandung. The majority of them are informal workers due to the fact that they have established their own businesses and do not employ permanent staff.

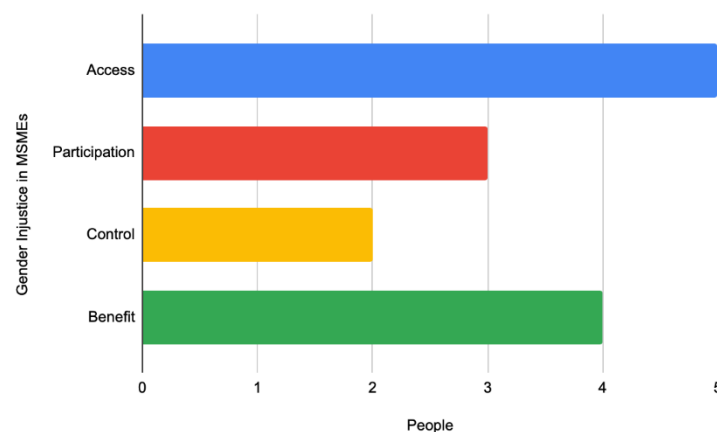


Figure 3. Gender Injustice in MSMEs

According to the research results, the main problem faced by women in MSMEs is limited access to business capital. Most women entrepreneurs in MSMEs encounter difficulties in securing credit for their businesses from financial institutions. This is attributed to the fact that banks tend to trust in male applicants for credit more than female. Although formally there is no discrimination against women's access to credit (T. R. Putra, Haryani, & Ansorayah, 2023). Furthermore, wives identified discrimination and injustice in access to product marketing, resources (such as technology, equipment, and raw materials needed for production), and marketing locations. Additionally, a significant number of wives reported gender injustice in the benefits indicator, such as did not receive benefits from government policies or programs,

lacked trust from banks in applying for credit, and did not have access to the same quality of resources and exposure as male MSMEs actors.

In the participation indicator, wives as MSMEs actors also felt that there is a difference between men and women. They are seldom engaged in socialization and training on specific types of businesses that are predominantly managed by men, and they rarely participate in groups of MSMEs actors. Last in control indicator, indicates that some wives who establish or run businesses with their husbands usually possess less control or authority than their husbands in managing their businesses.

The authors also did research on wives employed in the formal sector, specifically as a labor in textile factories located in the Solokan Jeruk area of Bandung Regency. Most of the laborers in the textile factory are residents who live near the factory.

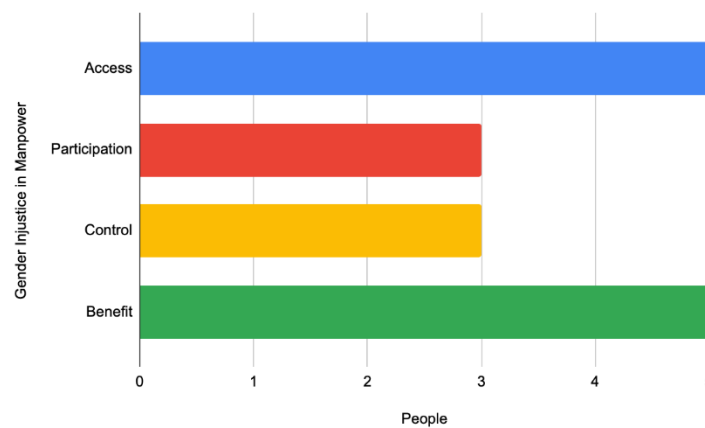


Figure 4. Gender Injustice in Manpower

Based on the research results above demonstrate that gender inequality persists in the formal sector of the Indonesian economy. Just like the MSMEs sector, the primary issue in the labor sector is also identified in the access indicator. Women who work as laborers and have children perceive a significant limitation in their ability to access job vacancies. Many employers are reluctant to hire married women, and the opportunities for promotion or transfer to other divisions are constrained by the gender-based categorization of work. The participation of female workers in the workplace is also far below that of male workers. Women are rarely involved in meetings or decision-making processes. Their authority or control over the company where they work is also not comparable to men. They are only included in issues perceived as being of a "female" nature, and their suggestions in decision-making processes are rarely considered. Lastly, the benefits indicator reveals a significant gender injustice, particularly about the enjoyment of rights as women workers, access to workplace facilities, and the amount of salary. Many women workers who are pregnant did not get maternity leave and in instances where they attempt to take such leave, the factory often terminates their contract or lays them off. The employer also did not provide adequate nursing room for breastfeeding. It is even worse because women workers are not compensated equally to male workers.

Socio-cultural factors also exert an influence on gender inequality, most notably the patriarchy. The weak enforcement of legislation against discriminatory practices towards women in employment is also a factor in the perpetuation of gender injustice. Weak law enforcement allows the violation of women rights without strict punishment. This undermines the effectiveness of gender equality norms in practice.

The Government also has other strategies in realizing gender equality and protecting human rights in economic activities by issuing gender-responsive policies. In practice, government

policies are manifested in various forms or types such as decisions, instructions, circular letters, programs, announcements, and others. Even government policy may assume in the form of regulations. Substantively, the diverse forms of policy regulations may contain guidelines, instructions, or other general provisions.

One of the government policies that support gender equality is Presidential Instruction Number 9 of 2000 on Implementing Gender Mainstreaming in National Development. Gender mainstreaming in national development is a strategy that is carried out rationally and systematically to achieve gender equality and justice in various aspects of human life. Gender mainstreaming in the economic sector aims for women and men to obtain equal rights, access, benefits and participation in the development process.

Similar policy related to gender equality is the global commitment of the Sustainable Development Goals (SDGS). The fifth goal of the Sustainable Development Goals (SDGS) program is to achieve gender equality and empower all women and girls. Indonesia is committed to Sustainable Development Goals (SDGS) through the enactment of Presidential Regulation Number 59 of 2017 on the Implementation of the Sustainable Development Goals as a guideline for achieving sustainable development goals.

The two aforementioned policies have sought to advance gender equality in national development in general. In particular, there are still many policies issued in an effort to realize gender equality, especially in supporting wives as family breadwinners. In the domain of manpower, there are series of policies aimed at supporting gender equality and eliminating injustices. One notable example is the following :

1. Minister of Manpower and Transmigration Decree Number KEP. 224/MEN/2003 concerning the Obligations of Entrepreneur Employing Female Employees Between 23.00 Up To 07.00 which obliges employer to provide nutritious food and beverages, maintain decency and safety during in the workplace, and provide shuttle transportation for female workers who leave and return to work between 23.00 to 07.00.
2. Minister of Manpower Decree Number 88 of 2023 concerning the Guidelines for Prevention and Handling of Sexual Violence in the Workplace which require companies to establish a Taskforce which will be handling the prevention of sexual violence in the workplace.

Government policies also implemented to support women or wives specifically as a MSMEs actors and realize gender equality in MSMEs activities, for example as issued by the Ministry of Finance, namely the Decree of the Minister of Finance Number 396 / KMK.01 / 2022 concerning the Synergy Program for Empowering Micro, Small and Medium Enterprises of the Ministry of Finance. This policy serves as a guideline for the Work Unit at the Ministry of Finance, providing guidance to MSMEs, including women MSMEs actors, through the Collaboration Program which includes (Soheh, 2023):

1. Financing for MSMEs
2. Fiscal Facilities for MSMEs
3. Marketing Strategies for MSMEs
4. Training and Mentoring for MSMEs
5. Increased Cooperation and Collaboration

The aforementioned programs are addressed to all MSMEs actors in Indonesia irrespective of gender. Consequently, this policy is perceived as a means of supporting wives engaged in MSMEs activities, particularly home industries, in their pursuit of running businesses and earning income to fulfill familial economic needs.

CONCLUSION

Gender equality in marriage has a huge impact that extends beyond the domestic sphere. In particular, it affects not only the wife's role as a housewife but also the wife's role in the public

sphere as a breadwinner to fulfill the family's economic needs. In reality, gender equality is still very complicated to realize. One of the key obstacles is the inconsistency in efforts to realize gender equality, both in terms of regulations which here are positive laws in Indonesia, and in terms of implementation or practice in the real world.

Based on the research results that have been discussed previously, the authors conclude that there are 3 (three) inconsistencies in the efforts to realize gender equality in the scope of marriage related to fulfilling family economic needs. These inconsistencies are outlined as follows:

1. Inconsistencies in marriage law

Marriage law is considered inconsistent in pursuing the realization of gender equality because there are gender-biased and discriminative articles, thus opening up a high chance of gender injustice. In other words, the gender-biased articles are not in harmony with the principles of marriage, which have already incorporated the values of gender equality.

2. Inconsistencies between marriage law and other positive laws

The marriage law that restricts the role of wives in the public sphere is not aligned with other positive laws that are consistent in realizing gender equality and protecting women's economic rights as human rights and supporting the participation of wives in the public sphere. In general, gender equality and the economic rights of women are enshrined in the UDHR, CEDAW, and Human Rights Law. Specifically the participation of wives in the economic fields, as a laborer is protected by the Manpower Law, and as a MSMEs actor is protected by the MSMEs Law.

3. Inconsistency between positive law and the implementation

The implementation of positive law as a tool to realize gender equality and eliminate discrimination has not been executed optimally. The findings of the research conducted on working wives in the Solokan Jeruk area, Bandung Regency and Cibaduyut, Bandung City show that wives continue to experience gender-based injustices in various forms, including marginalization, subordination, stereotypes, violence, and a double burden within the scope of family and marriage. In the public sphere, wives as laborers or MSMEs actors also suffer discrimination due to disparities in access, participation, control, and benefits between women and men in economic activities.

This research suggests the necessity of evaluation and legal reform of marriage law in Indonesia, given the advancements in human rights and gender equality. The Marriage Law and CIL are no longer relevant and effective since there are many shifts, fusions, and even switches of rights, obligations, and roles between husbands and wives to fulfill the economic needs of the family. The evaluation and reform of marriage law must be retrieved neutral, free from any form of discrimination or gender bias in accordance with the principle of equality in law and government, as set forth in Article 6 paragraph (1) of Law Number 13 of 2022 on Second Amendment to Law Number 12 of 2011 on the Formation of Law and Regulations. This matter surely must be followed by encompassing socialization, stringent sanctions, and good law enforcement. This will ensure the realization of gender equality in the scope of marriage and public realm, including economic activities in both formal and informal sectors.

REFERENCE

- Aprita, S., & Hasyim, Y. (2020). *Hukum Dan Hak Asasi Manusia*. Bogor: Mitra Wacana Media.
- Badan Pusat Statistik Provinsi Jawa Barat. (2023). *Pekerja Formal dan Informal Provinsi Jawa Barat 2022*.
- Fakih, M. (1996). *Analisis Gender dan Transformasi Sosial* (1st ed.). Yogyakarta: Pustaka Pelajar.

- Fuad, M. B. (2015). Reformulasi norma hak dan kewajiban suami istri dalam hukum keluarga di Indonesia: Sebuah upaya pengarusutamaan gender dalam pembaharuan Undang-Undang nomor 1 Tahun 1974 tentang perkawinan. Universitas Islam Negeri Maulana Malik Ibrahim. Retrieved from <http://etheses.uin-malang.ac.id/2560/>
- Hasballah, K. (2022). Konsep Nusyuz Menurut Al-Qur'an dan Hadis: Kajian Hak dan Kewajiban Suami-Istri dalam Rumah Tangga. *El-Usrah: Jurnal Hukum Keluarga*, 4(1), 179–182. Retrieved from <https://repository.ar-raniry.ac.id/id/eprint/20951/>
- Judiasih, S. D. (2021). Kedudukan Perempuan dan Kesetaraan Gender dalam Rangka Pencegahan Perkawinan Bawah Umur di Indonesia. Bandung: Unpad Press.
- Judiasih, S. D. (2022). Implementasi Kesetaraan Gender Dalam Beberapa Aspek Kehidupan Bermasyarakat Di Indonesia. *ACTA DIURNAL Jurnal Ilmu Hukum Kenotariatan*, 5(2), 284–302. <https://doi.org/10.23920/acta.v5i2.904>
- Juliana, G., Sendratari, L. P., & Maryati, T. (2019). Bias gender dalam pendidikan (Studi kasus pembelajaran Sosiologi kelas XI dan potensinya sebagai sumber belajar Sosiologi di MAN 1 Buleleng). *Jurnal Pendidikan Sosiologi Undiksha*, 1(1), 23–32.
- Kent, M. (2007). *The Oxford Dictionary of Sports Science & Medicine*. The Oxford Dictionary of Sports Science & Medicine.
- Krisnalita, L. Y. (2018). Perempuan, ham dan permasalahannya di Indonesia. *Binamulia Hukum*, 7(1), 71–81. <https://doi.org/10.37893/jbh.v7i1.315>
- Lubis, Z. (2015). Analisa terhadap Istilah Kepala Keluarga dan Ibu Rumah Tangga di dalam UUP dan KHI. Retrieved June 1, 2024, from Direktorat Jenderal Badan Peradilan Agama Mahkamah Agung website: <https://badilag.mahkamahagung.go.id/artikel/publikasi/artikel/analisa-terhadap-istilah-kepala-keluarga-dan-ibu-rumah-tangga-di-dalam-uup-dan-khi-oleh-drs-zulkarnain-lubis-mh-8-9>
- Prami, A. A. I. N. D., & Widiastuti, N. P. (2023). Peran Perempuan dan Kesetaraan Gender pada Sektor Ekonomi Kreatif di Desa Paksewali. *Jurnal Ilmu Sosial Dan Humaniora*, 12(1), 140–148.
- Putra, R. F., Indarti, E., & Sulistyawan, A. Y. (2021). Hak Dan Kewajiban Istri Dalam Rumah Tangga: Suatu Telaah Paradigmatik Terhadap Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan. *Diponegoro Law Journal*, 10(2), 446–463. <https://doi.org/10.14710/dlj.2021.30248>
- Putra, T. R., Haryani, T. N., & Ansorihyah, F. (2023). Analisis Kebutuhan Gender Perempuan dalam Layanan Usaha Terpadu Usaha Mikro Kecil Dan Menengah di Pusat Layanan Usaha Terpadu Koperasi Usaha Mikro Kecil dan Menengah Kota Surakarta. *Jurnal Mahasiswa Wacana Publik*, 3(2), 387–396. <https://doi.org/10.20961/wp.v3i2.79860>
- Redo, F. (2022). Pemenuhan Eekonomi Keluarga pada Masa Pandemi Covid 19 Perspektif Hukum Islam (Studi Istri Pencari Nafkah Di Kecamatan Talo Kecil Kabupaten Seluma). UIN Fatmawati Sukarno Bengkulu. Retrieved from <http://repository.iainbengkulu.ac.id/id/eprint/9517%0Ahttp://repository.iainbengkulu.ac.id/9517/1/043>. REDO TESIS.pdf
- Sari, F. F., & Anwar, M. K. (2020). Peran Istri dalam Membantu Perekonomian Keluarga Ditinjau dari Ekonomi Islam (Studi Pasar Tradisional Kedurus-Karang Pilang Surabaya). *Jurnal Ekonomika Dan Bisnis Islam*, 3(1), 157–166. Retrieved from <https://journal.unesa.ac.id/index.php/jei/article/view/26519>
- Soheh, A. (2023). 5 Program Kementerian Keuangan dalam Mendukung Peningkatan Bisnis UMKM. Retrieved May 28, 2024, from Rakyat Merdeka website: https://rm.id/baca-berita/ekonomi-bisnis/162290/5-program-kementerian-keuangan-dalam-mendukung-peningkatan-bisnis-umkm#google_vignette

- Syamsudin, M. (2019). Stereotip Gender dalam Undang-Undang dan Hukum di Indonesia. Retrieved May 23, 2024, from NU Online website: <https://www.nu.or.id/opini/stereotip-gender-dalam-undang-undang-dan-hukum-di-indonesia-rqdas>
- Syuhudi, M. I. (2022). Berbagi Kuasa: Kesetaraan Peran Suami Istri dalam Rumah Tangga. *Mimikri: Jurnal Agama Dan Kebudayaan*, 8(01), 207–229.
- United Nation Human Rights. (1976). International Covenant on Economic, Social and Cultural Rights. Retrieved from United Nation Human Rights website: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>
- Wandaweka, A. T., & Purwanti, D. (2021). Determinan partisipasi kerja perempuan dalam sektor informal di Indonesia tahun 2019. *Seminar Nasional Official Statistics*, 2021(1), 652–661. <https://doi.org/10.34123/semnasoffstat.v2021i1.994>
- Yuliawati, N., & Pratomo, G. (2019). Analisis pengaruh kebutuhan ekonomi keluarga terhadap pendapatan tenaga kerja wanita (studi kasus di industri kulit Kota Surabaya). *Economie: Jurnal Ilmu Ekonomi*, 1(2), 74–91. <https://doi.org/10.30742/economie.v1i1.823>
- Zahry, H. (1978). *Pokok-Pokok Hukum Perkawinan Islam dan UU Perkawinan di Indonesia*. Yogyakarta: Bina Cipta.
- Zayyadi, A. (2012). Perempuan bekerja (tinjauan gender equality dalam peran keluarga). *Yinyang: Jurnal Studi Islam Gender Dan Anak*, 7(2), 40–54. Retrieved from <https://ejournal.uinsaizu.ac.id/index.php/yinyang/article/view/1167>