

# Gender and Women's Citizens Rights

1<sup>st</sup> N Nurjanah

*STKIP Pangeran Dharma Kusuma  
Segeran Juntinyuat Indramayu  
Indonesia  
nunungnurjanah22@gmail.com*

2<sup>nd</sup> A Fauzan

*STKIP Pangeran Dharma Kusuma  
Segeran Juntinyuat Indramayu  
Indonesia*

3<sup>rd</sup> R Dewi Lestiyorini

*STKIP Pangeran Dharma Kusuma  
Segeran Juntinyuat Indramayu  
Indonesia*

4<sup>th</sup> I Ammanaturrahmah

*STKIP Pangeran Dharma Kusuma  
Segeran Juntinyuat Indramayu  
Indonesia*

5<sup>th</sup> Rogibah

*STKIP Pangeran Dharma Kusuma  
Segeran Juntinyuat Indramayu  
Indonesia*

6<sup>th</sup> T Noviyanto

*STKIP Pangeran Dharma Kusuma  
Segeran Juntinyuat Indramayu  
Indonesia*

7<sup>th</sup> Farihiyah

*STKIP Pangeran Dharma Kusuma  
Segeran Juntinyuat Indramayu  
Indonesia*

**Abstract**—Gender as a social construction that distinguishes functions, roles and responsibilities differently in men and women, when juxtaposed with women's citizenship rights as one of the subjects in the context of state life, will face a contradiction because gender roles limit and position men and women are unequal. Fulfillment of women's citizenship rights will bring about justice and gender equality. The condition is strived to be realized through various legislation instruments that provide protection and equal rights between men and women both at international and national levels. However, gender roles that position women unequally with men are both challenges and obstacles in the implementation of women's citizenship rights. In this article, the author analyzes gender in concepts and practices as well as its relation to the fulfillment of women's citizenship rights. How is gender related to women's citizenship rights? Do women's citizenship rights guarantee gender equality? How is about women's citizenship rights from a juridical perspective in the Indonesian context?

**Keywords**—gender, equality, rights, citizenship, women

## I. INTRODUCTION

Men and women are fellow human beings with the same dignity, status and grade, only distinguished on the basis of biological differences inherent in themselves. Women have a natural disposition that is pregnant, giving birth, and breastfeeding, while men do not have such roles. Beyond these differences, men and women alike have the same opportunities and opportunities to maximize their potential as human beings and as citizens. However, in state and community relations, biological roles and gender roles overlap, so gender roles that are cultural formations are often seen as a natural condition inherent in men and women that must be accepted and

cannot be changed. From a historical perspective, men and women have unequal roles, functions, tasks, responsibilities and positions. Cornwall & Maria Rivas stated that the concept of gender underwent several stages of development, in the second wave feminist views that gender is related to the beliefs, practices and behaviors that should be practiced by the times of men and women differently based on the gender roles attached to each other. Besides, gender refers to unequal power relations between men and women because men have a public role while women have a role only limited to the domestic sphere [1]. Gender roles that differentiate men and women in life create inequality and discrimination which are mostly experienced by women. Men have the opportunity to participate in the public sphere because they are believed to have the characteristics needed to lead, and to engage in various public activities such as being logical, not emotional, or decisive in making decisions; whereas women with biological functions attached to them automatically have a caring role and other domestic affairs, and are deemed not to have the characteristics needed to be involved in public affairs. This reality still occurs even in the context of a modern state where every citizen has the same rights and obligations in the context of state life and among fellow citizens.

Citizenship as a concept and practice that exists goes along with human civilization. As a concept, citizenship changes as human civilization changes. During the Greek period, the concept and practice of citizenship did not give status to women as given to men as citizens. This case results in the neglect of women's rights as human beings who should have an equal position with men to be treated equally. A person's citizenship status determines the fulfillment of his rights in addition to the obligations that

must be fulfilled. Roseneil et al stated that citizenship is a key word to obtain guarantees of rights and recognition especially for women and other minority groups in a state life bond [2]. Recognition of one's membership as a citizen is crucial because it relates to fulfilling the rights belonging to them as part of the state. However, the reality shows that in the context of citizenship status, women experience neglect and exclusion so that women do not have the same citizenship experience as those of men.

Historical reality that depicts the neglect of women's citizenship rights is the basis for efforts to realize equal citizenship rights for men and women. One of the parties that has an important role in guaranteeing and realizing women's citizenship rights is the state. In the modern era, most countries adopt a constitutional democratic system that guarantees the rights of their citizens. This becomes the basis for the protection of women's citizenship rights. Indonesia as one of the largest democracies in the world has a constitution that clearly provides guarantees for the citizenship rights of its citizens, both men and women. In addition, various legislative instruments and institutions relating to the guarantee and fulfillment of women's citizenship rights have been created. Laws that have the spirit of realizing gender equality are: Law No. 39 of 1999 concerning Human Rights; Law No. 12 of 2006 concerning Citizenship; Law No. 23/2004 concerning the Elimination of Domestic Violence, Law No. 12/2006 concerning Citizenship, Law No. 21/2007 concerning Eradication of Trafficking in Persons. The institution that specifically protects and guarantees women's rights is the National Commission on Violence against Women which was established on October 9, 1998 through Presidential Decree No. 181 of 1998 concerning the National Commission on Violence against Women.

## II. DISCUSSION

### A. *Conceptual Study of Gender*

The distinction that is attached to men and women regarding the roles, functions and responsibilities of each side is a distinction which is a cultural formation or created by society and is called a gender difference. According to Htun & Weldon, gender is related to the formation of roles, relations and identities inherent in men and women, as well as feminine and masculine that influence the implementation and products of formal institutions both in policies, laws and norms [3]. Gender roles that limit women in the domestic sphere, while men in the public sphere affect not only social relations between men and women, but in relation to formal institutions that also influence various policies, norms including laws that are created so as to give birth to inequality and discrimination on the basis of gender. Women are identified with feminine traits that are graceful, patient, gentle and so on, while men are identical with masculine traits which are described by firmness, courage, logic, and not emotional. This difference is a result of the socialization process that takes place in people's lives based on patriarchal culture. The state should be present as a guarantor for equal rights without any restrictions on any basis for each of its citizens. Herzog and Adams state that policies issued by the

welfare state should have a broader perspective in understanding the relationships and boundaries between public and private spheres and institutionally provide an equivalent definition of masculinity and femininity [4].

The separation of gender roles that places men in the public sphere, while women in the private sphere becomes a barrier for women to gain various access as possessed by men. This has led to subordination of relations between men and women and gender injustice. The state plays an important role in realizing gender equality where men and women have institutional relations and equal positions. According to Bericat, gender equality is a process of social change. The gender equality index needs to be designed to measure the conditions of gender equality in a country. Besides, it is necessary to identify factors that contribute to a future that better guarantees gender equality [5]. Efforts to create equal relations on the basis of gender at the international level can be seen in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), a declaration aimed at eliminating all forms of discrimination faced by women. Raday stated that the citizenship rights guaranteed in CEDAW were efforts to ensure equality of women as a minority group. As humans, women have the right to be treated equally even if it is against the will of the majority group [6]. It takes the commitment of the state through the instrumentation of legislation and gender equality policies that greatly affect the realization of an equal and non-discriminatory life on the basis of gender. Based on the various concepts regarding gender, a common thread can be drawn that the concept of gender is a concept "created" by culture not a natural condition that is natural. In the reality of life, gender roles and the natural roles of men and women overlap and affect each other's different duties, functions and responsibilities where men play in the public domain while women are in the domestic or private sphere. Gender roles attached to men and women limit each him/herself to be able to make the best contribution in various fields of life, both in the domestic and public spheres. Public roles attached to men and domestic roles to women result in unequal relations between men and women, where men have a dominant role that positions women subordinately.

### B. *Conceptual Study of Citizenship*

Citizenship regards to the concept of one's status in relation to the state. McCown states that "Citizenship with regard to the concept of one's status in relation to the state, that citizenship refers to the official status possessed by someone in relation to the state which shows one's identity as part of the state. In addition, citizenship also refers to expectations held by someone as a member of a country that obtains the guarantees of their rights as citizens" [7]. Citizenship status is an important basis, not only with regard to a person's identity in the context of state life but also relates to guarantees for a set of rights, including guarantees for freedom, equality, justice, participation, equal power relations and obligations inherent as citizens. Citizenship status owned by a person is an official recognition by the state. The consequence of this recognition is in the form of a set of rights held by citizens

and becomes the basis of hope for those citizens to obtain life as guaranteed by the state regarding the rights attached to every person who is a citizen. In addition, recognition of citizenship status is followed by obligations that must be carried out by someone in his status as a citizen.

For women, citizenship status is very meaningful according to the reality that depicts the deterrence of women in the concept and practice of citizenship. Throughout human civilization through citizenship status, women have access to participate and contribute in the context of state life in various fields of life. Citizenship as a concept and practice of state life often positions women differently in fulfilling their rights as fellow citizens. Pant and Standing states that the existence of a denial of women's citizenship is an attempt to deny women's rights to property, inheritance, land choice, and this condition strengthens patriarchal cultural control [8]. This condition is found in various countries. Patriarchal culture often underpins various laws and policies made by the state such as statutory regulations on citizenship which in some countries do not give citizenship status to women or children born when married to foreign citizens. The laws and regulations regarding the age of marriage for women are so small that they deprive girls of their right to obtain various access to their future. This is confirmed by Prokhovnik Shklar Somers that the concept of citizenship is not only related to the rights and obligations inherent in citizens, but citizenship also deals with various forms of social, moral, non-instrumental relations between citizens and the state or among fellow citizens [4].

#### *C. Women's Citizenship Rights from a Juridical Perspective: The Indonesian Context*

Indonesia as a democratic country has gone through several governmental shifts with various approaches regarding the guarantee of citizens' equality from a gender perspective. Brenner stated that during Orde Baru era, the government created an image of women as a wife who was loyal, willing to sacrifice, obedient to the family and followed the family planning program launched by the government. In this case the private and public domains are blurred because the state feels having the right to interfere in the affairs of citizens in the context of domestic life as the state's authority in managing public affairs [9]. The image created by the government is in line with the gender role that puts women in charge of the domestic sphere and as a "koncowingking" which means that a woman only becomes a husband's companion.

Regarding to the juridical guarantee of women's citizenship rights, it can clearly be found in the Indonesian constitution in Article 27 Subsection (1) that every citizen without discrimination on any basis including on the basis of sex has an equal position before the law and government and has the same obligations in upholding law and government. Recognition of equality before the law and government is the basis for women to be treated equally as fellow citizens.

Besides constitutional grounds, there are various laws and regulations that guarantee women's citizenship rights such as Law No. 39 of 1999 concerning Human Rights, this law is an instrument that guarantees the human rights

of every citizen both men and women in obtaining their human rights. In addition, the new citizenship law, namely Law No. 12 of 2006 concerning Citizenship grants the rights of citizenship status to women and children born to women married to foreign nationals. This law pays attention to and guarantees women's rights which had not been regulated in the previous citizenship laws and tended to harm women. The high level of domestic violence is one of the grounds for the issuance of Law Number 23 of 2004 concerning the Elimination of Domestic Violence. With this law, domestic violence is no longer seen as a domestic matter where outsiders are not allowed to interfere, and as a protection for women as those who in a patriarchal culture have subordinate positions so that the potential to face a variety of violence is not only physical, but also psychological, social, economic and others.

Women often become victims of trafficking, some of whom enter the world of prostitution. Law Number 21 of 2007 concerning Eradication of Trafficking in Persons provides protection for women to avoid trafficking in persons. In addition to various instrumentation legislation aimed at fulfilling the rights of citizens and specifically the rights of women citizens, there is an institution that specifically protects and guarantees women's rights, namely the National Commission for Women which was established on October 9, 1998 through Presidential Decree No. 181 of 1998 concerning the National Commission on Violence against Women. Even though there is a legal guarantee on women's citizenship rights, it does not mean that automatically the citizenship rights of women are guaranteed and free from various forms of discrimination and injustice on the basis of gender.

Kania stated that the legal and regulatory instrumentation in Indonesia recognized the principle of equal rights for men and women. However, in the practical level of state life, the juridical implementation of equality guarantees for the rights of male and female citizens has not yet been fully realized, various forms of discrimination and injustice in various fields of life must be experienced by women. The condition is caused by patriarchal culture which is still maintained mainly by indigenous peoples in Indonesia [10]. The commitment of the government to ensure that legislation that protects the rights of women citizens is protected becomes one of the main barometers in realizing the life of a gender-equitable state. In addition, civil society support, especially gender equality and justice organizations and activities that play a role in overseeing and ensuring the government works in accordance with its obligations and responsibilities in ensuring the rights of every citizen to be fulfilled and not deprived by anyone and on any basis including on the basis of gender.

### III. CONCLUSION

Conceptually and practically citizenship is closely related to gender. In the context of the modern state, men and women cannot be separated from the state as givers of citizenship status, where the citizenship status is followed by a series of rights and obligations attached to each sides. The concept of citizenship which often denies the existence of women as a reality in the context of state life

influences the fulfillment and guarantee of citizenship rights owned by women.

Gender as a concept that gives different functions, roles and responsibilities to men and women originating from patriarchal culture is often the basis in determining the fulfillment of citizenship rights of men and women. Separation of roles between men and women makes women have different citizenship experiences as experienced by men.

The structural approach is an effort to realize the fulfillment of women's citizenship rights. This, through the ratification of various legislation instruments that guarantee women's citizenship rights, needs to be supported by a cultural approach, so that legislation that guarantees equal citizenship rights as those of men can be effectively applied. There are still many women's citizenship rights that have not been fulfilled as well as various forms of discrimination faced by women both at work, in the political, economic, and in the family, and various other fields illustrate the strong influence of patriarchal culture that inhibits the fulfillment of women's citizenship rights even though it has been guaranteed constitutional juridical.

#### REFERENCES

- [1] A. Cornwall and A. M. Rivas, "From 'gender equality and 'women's empowerment' to global justice: reclaiming a transformative agenda for gender and development," *Third World Q.*, vol. 36, no. 2, pp. 396–415, 2015, doi: 10.1080/01436597.2015.1013341.
- [2] S. Roseneil, B. Halsaa, and S. Sümer, "Remaking Citizenship in Multicultural Europe: Women's Movements, Gender and Diversity," in *Remaking Citizenship in Multicultural Europe*, B. H. and S. S. Sasha Roseneil, Ed. Palgrave Macmillan, London, 2012, pp. 1–20.
- [3] M. Htun and S. L. Weldon, "When do governments promote women's rights? A framework for the comparative analysis of sex equality policy," *Perspect. Polit.*, vol. 8, no. 1, pp. 207–216, 2010, doi: 10.1017/S1537592709992787.
- [4] B. Herzog and J. Adams, "Women, Gender, and the Revocation of Citizenship in the United States," *Soc. Curr.*, vol. 5, no. 1, pp. 15–31, 2018, doi: 10.1177/2329496517725331.
- [5] E. Bericat, "The European Gender Equality Index: Conceptual and Analytical Issues," *Soc. Indic. Res.*, vol. 108, no. 1, pp. 1–28, 2012, doi: 10.1007/s11205-011-9872-z.
- [6] F. Raday, "Gender and democratic citizenship: The impact of CEDAW," *Int. J. Const. Law*, vol. 10, no. 2, pp. 512–530, 2012, doi: 10.1093/icon/mor068.
- [7] T. McCowan, *Rethinking Citizenship Education: A Curriculum for Participatory Democracy*, vol. 10, no. 2. London: Continuum International Publishing Group, 2009.
- [8] B. Pant and K. Standing, "Citizenship rights and women's roles in development in post-conflict Nepal," *Gend. Dev.*, vol. 19, no. 3, pp. 409–421, 2011, doi: 10.1080/13552074.2011.625656.
- [9] S. Brenner, "Private moralities in the public sphere: Democratization, Islam, and gender in Indonesia," *Am. Anthropol.*, vol. 113, no. 3, pp. 478–490, 2011, doi: 10.1111/j.1548-1433.2010.01355.x.
- [10] D. Kania, "Hak Asasi Perempuan dalam Peraturan Perundang-Undangan Di Indonesia," *J. Konstitusi*, vol. 12, no. 4, pp. 716–734, 2015, doi: 10.31078/jk1243.