

## Women's Rights in Indonesian Constitution

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### Abstract

*Women's rights are part of human rights. Women's Rights is importantly needed because of pathriarkhi culture in the society. This is making women's condition weaken. The aim of this study is to understand how Indonesian Constitution protects women's rights in economic, politic, criminal law and citizenships. The method used in this study is juridis normative with historical interpretation. The finding shows Indonesian Constitutions in economic, politic, criminal law and citizenships have unisexs approach for describe women rights. There is not optimal condition. The affirmative actions in Indonesian Constitution after amendment help to protect women rights with give facilities by acceleration women rights for equality.*

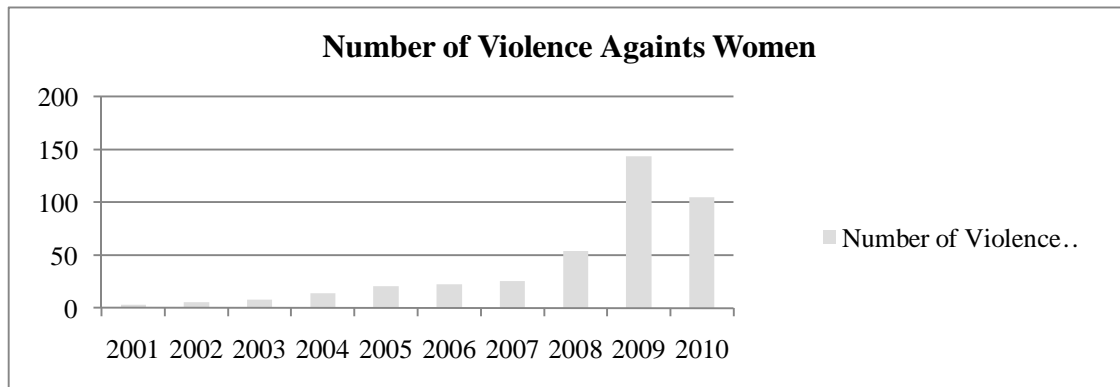
**Keywords:** Women's Rights, Indonesian Contitutions, Gender, Unisex, Equality

### Introduction

Women's rights are part of human rights. As mentioned in the law enforcement community's culture there are debilitating conditions favorable for women and men. Eventually it led to various efforts as a public protest against the unequal conditions. Women's rights concepts though difference men and women in sex, but they are entitled to equal rights and opportunities. Equality is defined as things that need to be fought due to a state or condition that is not culturally or less cooperative in humanity. It is need either equal rights, protection, participation and value in men and women according essence as a human. In International, the concept of women's rights issued in 1975, as started in the 1st World Conference in Mexico "Women have a vital role to play in the promotion of peace in all spheres of life: in the family, the community, the nation and the World."

In Indonesia, this concept is started in 1900 by Kartini, awriter who fought this concept through her letters that sent to her friends in the Netherlands. This discourse then encouraged women's human rights movement in the 1980. The perspective used this movement is a rejection of discrimination between the different roles of men and women. This perspective is a protest against a more feminine traits highlight the role of women and the role of motherhood with welfare-oriented. In the legislation, the concept first appeared in the Guidelines of State Policy Year 1993-1998, which stated that women have the same rights and obligations as men. The concept of the People's Consultative Assembly (MPR) has not used the term equality of men and women, but it is understood that equality of rights and obligations referred to in this MPR is equality . The term women's rights were first used in the Indonesian Guidelines 1999-2004. In these guidelines, mentioned that one of Indonesia's development goals is to struggle for gender equality.

However, since the government enacted Law Number 10 Year 2004 on the Establishment of Legislation guidelines, it will automatically become invalid. This is due to two reasons. Firstly, the People's Consultative Assembly (MPR) is not included in the hierarchy of laws and regulations in Indonesia. Secondly, there is not legislation that commanded higher. Although, now, in Law Number 12 Year 2011, The MPR Regulation can be used. Highest hierarchical setting concept of women's rights contained in the Constitution of the Republic of Indonesia Year 1945 that we called Indonesian Constitution. Article 28D (3) of Indonesian Constitution states that every citizen has the same opportunities in government. As Article 28H (2) which states that every person is entitled to special treatment facilities and to obtain the same opportunities and benefits in order to achieve equality and justice. Both of these rules are also using two terms, namely equality and justice. The fact from the Women National Commission report in 2011.

**Figure 1**

From figure 1 above shows that there is an increasing amount of violence against women. In 2001, the number violence against women is 3,169 cases, increase in 2002, 5,163 cases. Then in 2003 is 7,787 cases and double increase in 2004 is 14,020 cases. In 2005, violence against women in Indonesia is 20,391 cases and increase in 2006 in 22,512 cases. In 2007 become 25,522 cases and double increase is 54,425 cases. The highest peak in 2009 is 143,586 cases and decrease in 2010 105,103 cases.

In fact, Indonesian Constitution is the highest law in Indonesia. However, many laws that have been passed by the House of Representatives together with the President, only eleven lawuse women's rights. Only six of its law that has practical benefits for women including the Law of the Republic of Indonesia Number 8 Year 2012 on Election of Members of the House of Representatives, Regional Representatives Council and the Regional Representatives Council called PEMILU, Law of the Republic of Indonesia Number 23 Year 2004 on the Elimination of Domestic Violence, Law of the Republic of Indonesia Number 12 Year 2006 on Citizenship of the Republic of Indonesia, Law of the Republic of Indonesia Number 13 of 2006 on the Protection of Witnesses and Victims and the Law of the Republic of Indonesia No. 21 Year 2007 on Combating the Crime of Trafficking in Persons.

The substance of the law should be able to bring people to the idea that ideally it wanted. That is, a fact happening in the community has a positive correlation to the formation of the substance of the law, including the formation of a concept . In other words, the concept of women's rights can not be separated from the reality of the need for the fulfillment of women's rights. Number women in Indonesia in 2013 are 118,010,413 person or 49,66%, then numbers of men in Indonesia are 119,630,913 or 50,34 % (tempo.com). That is, 15.6 million from the national illiteracy rate, about 70 percent are women. Although the government has set a budget of 20% of the State Budget (APBN). Article 31 (4) of the Indonesian Constitution, as appropriate, with the increase in the budget for has reduced the impact of illiteracy, especially for women.

In, Maternal Mortality Rate (MMR) in Indonesian Demographic Survey (IDHS) remainsquite high at 390 per 100,000 births. The mortality rate should get the attention of the government. In economic, the number of male labour 67,944,695 people is still bigger than women (40,186,363 people). Not only the number of Labour but also the salary between men and women. The rate of men's salaries on average is 1,141,308 rupiahs, while women's salaries are 854,052 rupiahs in the same jobs. This is makes why important Indonesian Constitution rule women's rights.

The aim of this research is to analyze the women's rights in Indonesian Constitution. The Indonesian Constitution regulate economic, politic, criminal law and citizenships rights. That regulation do not give the impact for protecting women rights.

### **Methods**

This research is normative, because it is a study of laws and regulations as secondary data and literature study methods for collection. Data analysis used is historical interpretation. This research material is included in the Constitutional Law includes discussion of human rights, analysis of legislation and legal protection.

### **Results**

The legal state aims to increase civil society. Legal state is defined as the state according to law. This term actually describes the origin of a word or other words explaining the history behind the word.

This is what makes the difference in opinion of experts related to the term rule of law. First, liken all these terms in the sense that the legal state who represent by Ismail Sunny and Sunaryati Hartono. Second, distinguishing terminology *rechtstaat* and the rule of law as well as other terms who represent by Philippus M Hadjon. (Fachruddin, 2004:p.109-110) Indonesia is legal state. This statement is contained in article 1 (3) of the Indonesian Constitution. Jimly Asshiddiqie, said that The Legal State containing are eleven basic principles. There are The guarantee of equality and equity in the joint life, recognition and respect for difference, Absence of binding rules and used as the primary reference source. The existence of rule-based dispute resolution mechanisms, recognition and respect for human rights, limitation of power, judiciary independent and impartial, the absence of judicial administration, made the constitution and guarantee these rights, and the recognition of the legality.

The Government also has the responsibility for creating a democratic legal state conditions. Tocqueville and Rienow (Manan, 1990: p.60-61) describe three government responsibilities including, (1) to embody the principle of freedom (liberty), (2) to cultivate a habit (habit) so that the people decide for themselves a wide range of public interest is concerned directly with them, and (3) to provide the best possible service to the public that have a wide range of different demands. The first responsibilities of government, means the recognition of human rights. In Laws state of human rights law as part of individual autonomy is fundamental. This arrangement comes from the constitution as a hierarchy of legislation highest. (Isrok, 2010: p.34) The Constitution as the fundamental law as must guarantee of human rights, enact of a state government structure that is fundamental and limit power in state. If one of them missed, the state did not called modern state.

The second duty of government is the creation of a favorable climate for democracy. The creation of this climate not only uses Friedman’s theory, that are need structure, substance and culture. The structure and substance of the law is set in the legislation. The evolving legal culture is in line with the community. The concept is knowledge of human being, and knowledge is an element of culture. Thus, one of the legal culture can be formed of a discussion about a concept. The third, is to provide the best service for the community. Good service is realized from meeting the needs of society. According to attachment Law of the Republic of Indonesia Number 17 Year 2007 on National Long Term Development Plan 2005-2025 economic, legal and political assessment is monitoring the general condition of a state. So that the establishment in that matters, it can mean the success of a democratic constitutional state.

Women’s rights in the context of meaningful concepts Human Rights looked though men and women are sexist different, but they are entitled to equal rights and opportunities (getting something they are entitled to). The concept is very close to the notion of equality before the law, as equality before the law is the status or condition of being treated fairly regularly According to established norms of justice equality before the law means the status or condition of entry into force of something honestly based on fair rules. The Non-neutrality of the culture eventually are gave by social stratification. Social stratification is the distinction of high and low status or position of a person or group of people as compared to a person or group of people in society. The kind of stratification are sociology agriculture (between owners and farmers), feudalism society (between nobles and commoners), stratification colonialism (between colonists and natives) and the stratification in industrial society (owners of capital and labor). So in the discussion of the concept of equality, it will be known of social stratification due to patriarchal culture. Prof .Vivianne We from the University of Hong Kong, gave birth to the concept of social stratification as follows :

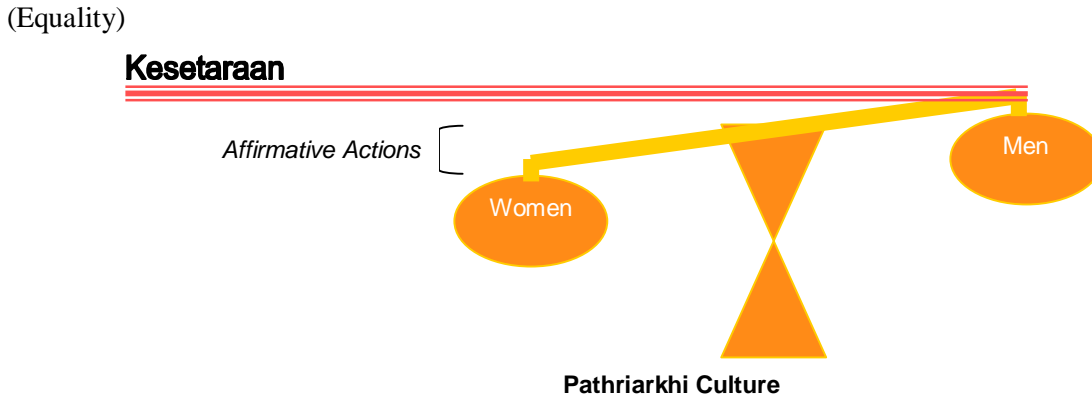
**Table 2: Gender Stratifications**

Men Class	Women Class
Up	Up
Middle	Middle
Under	Under

Source: We, 2006: p.5

Stratification above shows that woman in upper class, she will remain in the class under the men class. That is, social class stratification by gender this may only be changed if there is a change in a patriarchal culture into a culture that understands the concept of women's rights. As for women's rights, it is only possible with affirmative action, i.e. specific action as a result of cultural discrimination. This is confirmed by Jimly Ashshidique. (Ashshidique,2004: p.169). Here are figure relations between men and women, the concept of women's rights and patriarchal culture.

**Figure 1: Human Rights of Women**



Equality based theory comes from thinking Perre van den Berghe which explains that all arrangements reflected the gender roles of basic biogram inherited from the ancestors of modern humans and hominids their primacy. The intensity of the male advantage is not only determined by biological factors but above biogram elaboration of human culture. Thats why equality is not based on sex, but the gender (sex discrimination because the differentiation culture ). Inequalities experienced by women, will give birth to stereotypes, marginalization, subordination, multiple burden, exploitation and violence against women. Therefore, the concept of human rights of women want equal rights, protection, participation and value in men and women according essence as a human. The concept of women's rights are covered only once, on hearing the second amendment. At that time, women activists, urged the importance of the concept of women's rights in the constitution of a state commission on legal reform in the house. Furthermore, women activists only monitor remotely change the existing process.

In the economic there is Article 27 (2), 28A, 28D (2), 28H (2), (3) and (4), Article 33 and Article 34 (1) and (2) Indonesian Constitution. The Article 27

(2) says that every citizen has the right to work and decent living for humanity. The Article 28A says that everyone has the right to live and to live and survive their life. The Article 28D(2) says that everyone has the right to work and to receive benefits and fair treatment and decent working relationships. The Article 28H(2) Everyone is entitled to special treatment facilities and to obtain the same opportunities and benefits in order to achieve equality and justice, (3) Everyone has the right to social security in order to develop oneself fully as a human being with dignity(4) Every person shall have the right to private property and property rights should not be taken over arbitrarily by anyone. The Article 33(1) The economy is structured as a joint venture based on the principle of kinship, (2) Branches of production which are important for the state and which dominate the life of people controlled by the state.(3) Land and water and the natural riches contained therein shall be controlled by the state and used for the greatest welfare of the people.(4) The national economy shall be conducted in accordance with the principles of economic democracy, equitable efficiency, sustainability, environmental friendliness, independence, and balancing economic progress and national unity.

(5) Further provisions on the implementation of this Article shall be regulated by law. The Article 34(1) The poor and abandoned children maintained by the state

(2) The state develops the social security system for all people and empower the weak and incapable in accordance with human dignity.

Sixth above article basically explains that (1) Rights recognized in economics are; The right to work, to decent living, to life, to receive fair treatment and wages in the employment relationship, to social security, to have Private property, to prohibited acts related to the economics right is arbitrary on private property.

The National Economies based on the principle of kinship, economic democracy, solidarity, efficiency, equality, sustainable, environmentally friendly, self-contained, balanced for progress and economic unity. (2) The power of the state economic sector is the mastery of the branches of production and natural resources (land, water and wealth in it), the state responsibilities is to manage natural resources for the welfare of the people, establish a social security system, and the maintenance of the poor and neglected children.

The sixth articles in the economic are basically an amalgamation of the formulation in Article 33 of the Indonesian Constitution before amendments and 27, 28, 30, 35, and Article 36 of the Constitution RIS (Indonesian Republic Federal in 1949-1950). This makes the sixth chapter of the historical use unisex approach, either concrete or abstract.

Ontologically, the nature of the sixth articles of the economics is economic democracy. The Economic democracy is consent of the public interest. Public to participate and be able to take the results of the economic activity. Consequently, each line of business should pay attention to the aspirations of workers, for example in terms of providing fair salaries or discriminatory treatment. On the other side of the state in managing natural resources is for the benefit of the people's welfare, including the provision of facilities for the care of the poor and neglected children. In axiological, the value is evident is the value of family. That is, the government as a parent should be able to protect the peoples. On the other hand family values also means that the government monopoly and control of the production branches are important and natural resources. Government that has the right to regulate or otherwise, transfers control of other parties (individuals or private). For the development of the concept of women rights, the value of benefits and drawbacks is considered. The advantage is that the approach to the economic laws is not gender perspective will be easier to do (law makers perception approach). The disadvantage is in the patriarchal culture that made possible the more economic laws are not gender perspective.

In epistemological, the sixth articles provide knowledge about the distribution of economic management which involves three (3 ) components; government, collective and individual. Government in public domain are the main actors in the field of economics, which is very broad rights , namely the management of important branches of production and natural resources. The Collective and individual in private domain to manage natural resources that are authorized by the government or that it is rightfully hers from the beginning. The Government behavior, the collective and the individual is very influential on the concept of women rights. In teleological, economics clauses aimed at economic progress and national unity. If the concept of women rights, to indicate that its presence is not detrimental to the unity of the national economy it is possible to accommodate in laws under Indonesian Constitution.

Yet in the economic provisions should be looking at the concept of human rights of women. The needs of men and women in the field of economics must be considered, for example in the form of permissibility leave with salaries for women workers are still menstruating, setting proper dress code for women workers, salaries are not the same for women and men with the same workload and so on. The things that is human is what indicates a nation economic progress.

**Table 5: The Concept of women's human rights in Economics in 1945 UUDNRI**

No	Analyze		Indonesian Constitution	Description
	Kind	Spesification		
1.	Historical	-	Articles 27 (2), 28A, 28D (2), articles 28H (2), (3) and (4), articles 33 , articles 34 (1) dan (2)	Uniseks approach
2.	Philosophy	a. Ontology	Articles 27 (2), 28A, 28D (2), articles 28H (2), (3) and (4), articles 33, articles 34 (1) dan (2)	Economic democracy
		b. Axiology	Articles 27 (2), 28A, 28D (2), articles 28H (2), (3) and (4), articles 33, articles 34 (1) dan (2)	Familiar value
		c. Epistimology	Articles 27 (2), 28A, 28D (2), articles 28H (2), (3) and (4), articles 33, articles 34 (1) dan (2)	economic distribution
		d. Teleology	Articles 27 (2), 28A, 28D (2), articles 28H (2), (3) and (4), articles 33, articles 34 (1) dan (2)	Increase Indonesian Economic

In terms of Article 27 of the criminal law, 28B (2), 28D (1), 28G (1) and (2), 28H (2), 28I (1), (2), (4), and (5) Indonesian Constitution. The Article 27 says All citizens shall be equal before the law and government and shall abide the law and government, with no exceptions. The Article 28B says that every child has the right to live, grow and develop as well as the right to protection from violence and discrimination. Article 28D says that Everyone has the right to recognition, security, protection and legal certainty and equal treatment before the law. Then articles 28G says everyone has the right to protection of self, family, honor, dignity, and property under his control, and the right to security and protection from threats to do or not do something that is a human rights. Everyone has the right to be free from torture or degrading treatment of human dignity and the right to obtain political asylum from another state. Article 28H says everyone is entitled to special treatment facilities and to obtain the same opportunities and benefits in order to achieve equality and justice.

In Article 28, everyone have the right to life, freedom from torture, freedom of thought and conscience, freedom of religion, the right not to be enslaved, the right to recognition as a person before the law, and the right not to be prosecuted based on retroactive laws are rights human beings can not be reduced under any circumstances. Everyone shall be free from discriminatory treatment on any grounds and get protection against discriminatory treatment was. The protection, promotion, enforcement and fulfillment of human rights is the responsibility of the state, especially government. To uphold and protect human rights in accordance with the principles of a democratic constitutional state, the implementation of human rights guaranteed, and is set forth in the legislation. The sixth article basically explains that (1) The right to equality before the law and government, (2) The right to live, grow and thrive, (3) The right to receive recognition, security, protection and legal certainty, including from violence, discrimination, torture, slavery, threat to self, family, honor, dignity and property under his control, (5) Rights and privileges have the ease to obtain the same opportunities and benefits.

The Historically, the sixth article of the criminal law field same with the provisions of Articles 4, 5, 6, 7, 10 and 12 of the UDHR and Article 17, 18, 19, 20, 28, 29, 30, 33, 34, and 35 of Law No. 39 Year 1999 on Human Rights first amendment was passed than Indonesian Constitution. UDHR and in Law No. 39 Year 1999 on Human Rights approach used is sexist approach, meaning that the approach that distinguishes men and women based on their needs against discrimination law and behavior. But apparently in Indonesian Constitution approach used is unisex approach but provide space for sexist approach in case of discriminatory behavior.

Ontologically, the essence of the article is the sixth equation. That is, the law does not distinguish men and women. They were both placed as an individual in the state, equally entitled to be protected and guaranteed rights. Related to the concept of women rights, if the discriminatory behavior occurred in men, his deserve special treatment. This is what seems to obscure the government firmness to defend affirmative action in women. Man behind the Indonesian Constitution escape considering the facts of inequality that need confirmation government goals has been created as a result of adverse conditions of women. The facts of violence, trafficking, and prostitution is a testament to the need for government attention to women. At the very least, the government places emphasis on the article that clause for the protection of women rights, including the right not to be assaulted both psychological and physical, free from acts of prostitution and trafficking in women. In the case of prostitution, for example, during the government see commercial sex workers (*Pekerja Tuna Susila*) as perpetrators of immoral actions, but the government does not see them as victims who need assistance to lift from immoral situation. Take workers in prostitutes into rehabilitation centers will not give benefit to them, if not accompanied by economic and al systems are well established.

In axiological, the value is evident is the value of legal certainty. That is, the law strictly regulates what rights are recognized, the states have responsibilities to guarantee and what things are included in the category of offense or crime against the right. This confirmation is important as a basis that the law has forced power. Related to the concept of women's rights on the article, then the value of the rule of law appears on the government guarantee on acts of violence or discrimination. In Epistemology, the concept of women's rights in the sixth articles of criminal law related field with knowledge of the Constitution, the fundamental law that there is always a guarantee of human rights. The Guarantee of human rights is the principle thing, because the guarantee reflects the concern of the state of contact between individual rights. The Violence, discriminatory behavior, threats, enslavement and torture is action bad individual or collective against to other individuals or collectively. In addition, the concept of women's rights is also related to law enforcement, where there must be structure, substance and culture that supports it. In terms of substance, not an offense or crime may be prosecuted if there is no legal certainty. The legal certainty in the articles of Indonesian Constitution very important as a guide to establish other laws.

In teleological, concept of women's rights in the sixth articles of the field of criminal law relating to the Indonesian government efforts to realize the democratic constitutional state. In the democratic constitutional state, a legal product that is responsive to the primary output, evidence of the success of the country.

**Table 6 : The Concept of Women's Human Rights in Indonesian Constitution About Criminal Law**

No	Analyze		Indonesian Constitution	Description
	Kind	Specification		
1.	History	-	Articles 27, 28B (2), 28D (1), 28G (1) and (2), 28H (2), 28I (1), (2), (4), (5)	<i>unisex</i> approach but give space for <i>sexis</i> approach if discrimination behavior happen
2.	Philosophy	a. Ontology	Articles 27, 28B (2), 28D (1), 28G (1) and (2), 28H (2), 28I (1), (2), (4), (5)	Similarity
		b. Axiology	Articles 27, 28B (2), 28D (1), 28G (1) and (2), 28H (2), 28I (1), (2), (4), (5)	Legality Value
		c. Epistimology	Articles 27, 28B (2), 28D (1), 28G (1) and (2), 28H (2), 28I (1), (2), (4), (5)	Guarantee Rights are substance of constitution in <i>fundamental law</i> and it is important for law enforcements
		d. Teleology	Articles 28I (5)	The Legal Democratic State

In terms of nationality Article 26, 27 (3) and 28D (4) Indonesian Constitution discusses the field of citizenship. The Article 26 describes the citizens are the indigenus people of Indonesia and the people of other nations who passed the law as citizens and Residents shall consist of Indonesian citizens and foreigners who reside in Indonesia. In article 27(3) Every citizen has the right and duty to participate in defending the country. The Article 28D(4) Everyone has the right to citizenship.

Historically, the third articles is a conceptual improvement to the concept of women's rights in the field of citizenship. Because, in the formulation of the Constitution take from Indonesian Federal Constitution in 1949-1950. The third articles in the field of citizenship on Indonesian Constitution turned out to consistently maintain the existing unisex approach. Though not sexist, but the approach used provides enough space for the impossibility of removing the laws under Indonesian Constitution that discriminate against the rights of citizenship for women.

Ontologically, the essence of the concept of women's rights in Indonesian Constitution is similarity. The Similarities between the view that men and women are equal, they are entitled to choose which citizenship they want based on the requirements of the applicable legislation. In axiological, its value is the value of the apparent equality. That with the rights of citizenship status, they are also charged a sameresponsibilities in terms of the defense of the state. In Epistemological, the concept of women's rights is evident is the function formula in UUDNRI 1945 as a guideline for the underlying legislation. Stufenbou theory developed by Hans Kelsen - Nawiasky, mentioned in Article 26 (1) Indonesian Constitution, that the provisions of the Indonesian Constitution will be further described in the law on citizenship. In teleological, article 26, 27(3) and 28D (4) Indonesian Contitution have aims to provide legal protection for the community. It is a hallmark of the state law, which in the case of constitutional always related to power restrictions by law.



**Table 7: The Field Citizenship Concept of Women's Rights in Indonesian Constitution**

No	Analyze		Indonesian Constitution	Description
	Kind	Spesification		
1.	History	-	Articles 26, 27 (3) and 28D (4)	<i>unisex</i> approach in its better concept than concept in Indonesian Federal Constitution and Constution 1950
2.	Philosophy	a. Ontology	Articles 26, 27 (3) and 28D (4)	Similarity
		b. Axiology	Articles 26, 27 (3) and 28D (4)	Balancing Value
		c. Epistimology	Articles 26, 27 (3) and 28D (4)	Laws Hierarkhies
		d. Teleology	Articles 26, 27 (3) and 28D (4)	Legal state

The politics are in article 28, 28D (3), 28E (3), 28F, 28H (2), and Article 28 (1), (2), (4) and (5) Indonesian Constitution mentions that Article 28 Freedom of association and assembly, of expression with oral and written and set forth by law. Beside that, Article 28D(3) Every citizen has the right to obtain equal opportunities in government. The Article 28E(3) Everyone have the right to freedom of belief believe, states of mind and attitude, in accordance with his conscience. The Article 28F describe that everyone have the right to communicate and obtain information to develop personal and social environment, and the right to seek, obtain, possess, keep, process and convey information by using all available channels. Article 28H(2) Everyone is entitled to special treatment facilities and to obtain the same opportunities and benefits in order to achieve equality and justice. Then Article 28 are;

(1) The right to life, freedom from torture, freedom of thought and conscience, freedom of religion, the right not to be enslaved, the right to recognition as a person before the law, and the right not to be prosecuted based on retroactive laws are rights human beings can not be reduced under any circumstances, (2) Everyone shall be free from discrimination treatment on any grounds and have Rights to get protection against this treatment, (4) The protection, promotion, enforcement and fulfillment of human rights is the responsibility of the state, especially government, (5) To uphold and protect human rights in accordance with the principles of a democratic constitutional state, the implementation of human rights guaranteed, and is set forth in the legislation.

The sixth articles describe the politics of the three matters. There are the rights and duties of citizens and the responsibility of government, rights of politics consists of the right of association, the right to assemble, the right of expression, the right to communicate, the right to information and equal rights in government and got special treatment to get the same opportunity. The Responsibilities of citizens in the political field is not against the law. The government's responsibility is to conduct the protection, promotion, and fulfillment of human rights enforcement.

Historically, the sixth article similar to Article 6, 7, 18, 19 and 20 of the Universal Declaration of Human Rights and Indonesian Federal Constitution. The same its that guarantees the right of association and expression. Neither the Indonesian Federal Constitution, all using the unisex approach concretely and abstractly sexist approach. That is, there is no writing that women's political rights specifically guaranteed, but the clause allows for the women received special treatment as a result of discrimination. Ontologically, the nature of the sixth chapter is freedom and equality. The Freedom means guarantees the right of individuals to freedom of association, argue, get information and communicate. It is a basic human right. The equality means through unisex approach, then the clause in the article there is no mention guarantee of women's rights. The Women's rights are automatically accommodated as the rights of men, with a portion of the same, unless there is discrimination in it. In axiological, the values contained in the sixth chapter of populist politics is the value and the value of legality. The Democratic Values is the main priority, meaning that where the law can satisfy the basic human freedoms. While the value of legality is a supporter of democratic values, meaning how democratic values can be created by state legislation in both synchronous and harmonious.



In epistemological, the sixth articles of the politics associated with the government's responsibility in a democratic constitutional state. First , the government is able to realize the fundamental law that guarantees basic human rights of freedom in association, expression, opinion, communication and obtain information. Second, the government created a custom or habit to guarantee the right to do the protection, promotion, and fulfillment of human rights enforcement. If Indonesian Constitution provide space for women's political rights, would be a liability for the underlying legislation to give the development of women's political rights.

In teleological, all laws concerning the establishment of basic human rights aimed at establishing a democratic state of law. The Democratic Legal State means in politics, women have the right to create, implement and subject to the impact made by the law. In order to achieve these steps, we need more space for women to make, and subject to the impact of implementing legislation under Indonesian Constitution. This is because the house of representative in Indonesia, from year to year showed the small number of women representation, as well as in the executive and judicial branches.

**Table 8: The Politics Concept of Women's Rights in Indonesian Constitution**

No	Analyze		Indonesian Constitution	Description
	Kind	Spesification		
1.	History	-	Articles 28, 28D (3), 28E (3), 28F, 28H (2), and articles 28I (1), (2), (4) dan (5)	<i>unisex</i> approach in concretee and use <i>sexis</i> approach inabstract
2.	Philosophy	a. Ontology	Articles 28, 28D (3), 28E (3), 28F, 28H (2), and articles 28I (1), (2), (4) dan (5)	Freedom and similarities
		b. Axiology	Articles 28, 28D (3), 28E (3), 28F, 28H (2), and articles 28I (1), (2), (4) dan (5)	Democratic an legality values
		c. Epistimology	Articles 28, 28D (3), 28E (3), 28F, 28H (2), and articles 28I (1), (2), (4) dan (5)	Government Responsibilities in legal state
		d. Teleology	Articles 28I (5)	Democratic Legal State

This perspective that can be analyzed from the current condition of Indonesian constitution. Thesis writers ever write and worth pointing out here is that this condition better than the condition in the days before the amended constitution. The following table;

**Table 9: Comparison of Women's Human Rights Concept Five Substitution Periods in Constitution**

Period \ Space	UUD 1945 (1945-1949)	Konstitusi RIS (1949-1950)	UUDS 1950 (1950-1959)	UUD 1945 (1959-1999)	UUDNRI 1945 (1999-Now)
Economic	TP	P	TP	TP	TP
Criminal Law	TP	P	P	TP	P
Citizenship	TP	TP	TP	TP	P
Politic	TP	P	P	TP	P

Description:

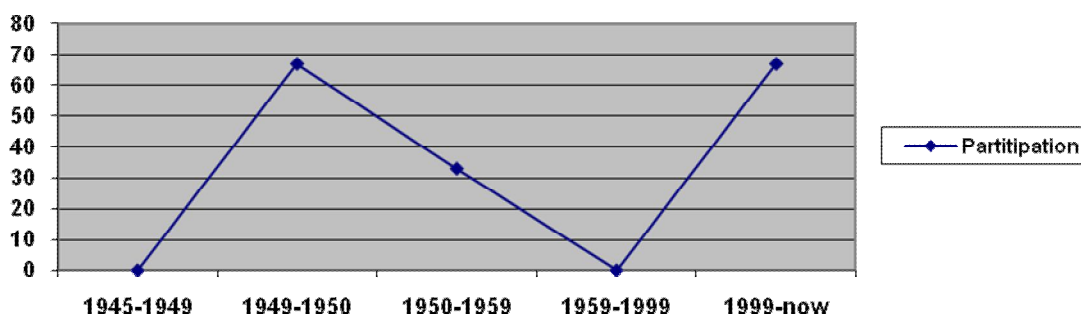
- TP : Not Participatory
- P : Participatory
- UUD 1945 : Indonesian Constitution before amandemen
- Konstitusi RIS: Indonesian Federal Constitution
- UUDS : Indonesian Constitution 1950
- UUDNRI 1945: Indonesian Constitution

From the table above can be explained that in the period 1945-1949 there is no formula that shows existence and guarantee of women's rights concept. In criminal law, citizenship and the politics aren't participatory visible in the absence of opportunities for the existence of affirmative action. In the ,The NonParticipatory appears in the formulation of care settings that focus on physical of its. It is not beneficial for both women and men both have grown or are still children. In the economic field, especially in axiological, it seems there is space for discriminatory behavior against women . In 1949-1950 period setting to experience the concept of women's rights progress. Setting the formulation of article, economics and criminal non participatory is raised. The Non Participatory only appear in the formulation of and citizenship. The field of citizenship provisions appeared to disadvantage women. As for the sector shows the government monopoly in , so that the rule of law takes precedence over the value of fairness.

Period 1950-1959 showed degradation or decreased levels of participatory. If in the previous period non participatory only appear on two field, then in this period rose to four areas. This is because very seen in government monopoly. Another reason is that the paradigm of patriarchal culture thinkers Provisional Constitution 1950 to complement the non participatory.

In the period 1959-1999 the participatory levels declined rapidly as the condition it was in before independence (period 1945-1949). There is no sound articles that provide opportunities for the continuation of the concept of women's rights. The period 1999-present setting women's rights concept that significant increases although not optimal. There are three (3 ) domains that show that is al, criminal law and citizenship and politics. The Non Participatory Constitution appears on the economy and . This participation rate appears on the following chart:

**Figure 2: The Development Level of Participation as Embodiment Concep Women's rights in the Constitution**



**Description**

- Value is calculated based on the average estimate of the percentage of the amount of participation in some areas than the overall field multiplied by 100%
- The figure shows the value chart on the vertical axis, while the horizontal axis shows the period

**Conclusion**

Women Rights are written by Constitution in these periods with unisex approach. That approach give opportunities for interpretation that help women to realize their rights in patriarchal culture. The Government has responsibilities about it. This condition makes legislator in article 28H Indonesian Constitution give affirmative actions for realizing their rights. The affirmative actions must be helped by another laws under Indonesian Constitution for equality condition.

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