

# The theory and practise of legal feminism: examining its impact on the representation of women in Indonesia



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## Abstract

*This paper examines Indonesian legal feminist theory on public sector women representation. Data is collected and analyzed by observation in this sociological legal research. According to the findings, gender inequality underpins a variety of attitudes and activities that promote equal rights. Elizabeth Cady Stanton's feminism was founded on the conflict. The pursuit of rights requires active lobbying, which has sparked social change, mostly through new laws passed by governments. Feminist legal consciousness shapes legislation. However, legal culture appears to affect activists' different methods of communicating their goals. As pre-18th-century nations, Britain and America have faced political turbulence caused by feminists campaigning for women's suffrage. The UK addressed the matter by legislation, while the US changed the constitution. Contrary to Indonesia, where women's political rights were recognized later, equality was achieved by affirmative action laws to increase women's political representation. However, following socioeconomic shift also limited affirmative action implementation, hindering democratic progress.*

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## 1. Introduction

This essay will examine the ways in which legislation that advocates for feminist principles serves as a mechanism for effecting societal transformation. In order to examine this matter, a doctrinal legal research methodology is employed, employing both a statutory and conceptual framework. The present study will employ the theories of legal feminism and legal effectiveness.<sup>1</sup> This discourse will provide a comprehensive elucidation pertaining to the initial phase of the endeavours undertaken by many women's movements in their pursuit to attain fundamental rights. Subsequently, a similar occurrence was observed in Indonesia, where the recognition of the imperative to

<sup>1</sup> Lawrence M. Friedman, "The Concept of the Self in Legal Culture," *Cleveland State Law Review* 38, no. 4 (1990).

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advocate for women's inclusion in Parliament led to the emergence of discussions surrounding the implementation of a 30% quota for women in the realm of politics.

The implementation of affirmative action generally involves a range of initiatives aimed at promoting awareness and addressing concerns related to gender equality.<sup>2</sup> The purpose of this action is to utilise the special treatment afforded to women as a strategy for the government to achieve de facto equality between men and women. The discussion at hand pertains to one of the obligations outlined in The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).<sup>3</sup> The adoption of conventions aimed at eradicating all types of discrimination against women globally has served as a rationale for nations to implement legislation that may be perceived as reverse discrimination, provided that these rules are designed to expedite the achievement of desired equality.<sup>4</sup> Although the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was officially signed in 1979 and became effective on 3 September 1981, the origins of feminist groups and its associated battles may be traced back to a significantly earlier period.<sup>5</sup>

The prevalence of systemic discrimination within the legal system in different regions of the world has prompted the emergence of women activists who have begun movements aimed at achieving a more equitable distribution of responsibilities and the realisation of women's rights that have historically been ignored.<sup>6</sup> The historical documentation of the feminist movement includes the inaugural women's conference that took place at Seneca Falls, New York in 1848.<sup>7</sup> Consequently, a concerted effort emerged to advocate for societal and juridical changes in various domains, including governance, familial structures, religious practises, and economic transactions. The aforementioned movement can be regarded as an evolution of its precursors, who had actively opposed the institution of slavery since the era of notable social reformers like Lucretia Mott. Furthermore, the Seneca Falls movement had backing from prominent abolitionists, namely Angelina and Sarah Grimké, who advocated for women's right to engage in public speaking.

J.S. Mill was another prominent individual who actively engaged in the pursuit of feminist principles. As an individual engaged in the field of philosophy, I have a

<sup>2</sup> Riris Ardhanariswari, Tenang Haryanto, and Supriyanto, "Gender Equality in Politics (Study on The Indonesian Constitutional Court's Decisions on Judicial Review Related to Women's Political Participation)," *Jurnal Dinamika Hukum* 21, no. 3 (September 2021).

<sup>3</sup> Malika Rajan Vasandani, Dwi Putra Nugraha, and Susi Susantijo, "Affirmative Action Study on the Political Rights of Women in the Indonesia Constitution," *Constitutional Review* 8, no. 1 (May 2022).

<sup>4</sup> Stephen D. Johnson, "Consequences of Reverse Discrimination," *Psychological Reports* 47, no. 3\_suppl (December 1980): 1035–38, <https://doi.org/10.2466/pr0.1980.47.3f.1035>.

<sup>5</sup> Rhoda Reddock, "CEDAW and Violence Against Women: Reflections After 40 Years," *Violence Against Women* 28, no. 8 (June 2022): 1723–27, <https://doi.org/10.1177/10778012221086003>.

<sup>6</sup> Sapto Budoyo and Marzellina Hardiyanti, "Urgency of Strengthening Women Participation in the Building of Gender Justice Based Village," *Law Reform* 17, no. 2 (259 252AD).

<sup>7</sup> Judith Wellman, "The Seneca Falls Women's Rights Convention: A Study of Social Networks," *Journal of Women's History* 3, no. 1 (1991): 9–37, <https://doi.org/10.1353/jowh.2010.0101>.

perspective aligned with liberal feminism or, alternatively, radical feminism.<sup>8</sup> The feminist concepts proposed by Mill were significantly influenced by the prevailing social phenomena of the era. The concept of social construction posits the notion of a male fulfilling a significant role in providing support for a sizable family. However, it is important to note that during this period, there were numerous perspectives that diminished the significance of women, particularly in light of the emergence of female enslavement and the societal position of married women. The endeavour to emancipate women from enslavement did not always eradicate gender-based prejudice within society. In the historical setting, women were perceived as individuals whose primary role encompassed the fulfilment of reproductive duties and the upbringing of offspring.

Mill's endorsement of women's rights led to his subsequent strong engagement in feminist groups. In a manner reminiscent of the events of 1967, J.S Mill assumed the role of a prominent figure in spearheading the initial discourse aimed at articulating the objectives of British women in their quest for suffrage. The protracted process of political contention inside the British Parliament ultimately culminated in the attainment of optimal outcomes just in the year 1929. Following the enactment of The Equal Franchise Act in 1928,<sup>9</sup> at that juncture, women in Britain who were at least 21 years old were granted the right to participate in general elections. On May 30, 1929, a significant event known as the Flapper election phenomenon gained widespread recognition, wherein a considerable number of fifteen million British women became eligible to exercise their voting rights.<sup>10</sup>

The endeavour to enhance gender parity between men and women has also been witnessed in the context of Indonesia. The government has demonstrated its commitment to upholding the principles outlined in the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) by enacting Law Number 7 of 1984, which ratifies the requirements of this international agreement. The Indonesian government has implemented affirmative action through the enactment of Law Number 12 of 2003, which pertains to the conduct of general elections for the House of Representatives, the Regional Representatives Council, and the Regional People's Representatives Council. According to Article 65, paragraph (1) of the Law, it explicitly stipulates that any political party involved in the electoral process has the right to nominate candidates for the Regional Representative Council (DPR), Regional Representative Council (DPD), and Regional Legislative Council (DPRD) in each electoral district, while ensuring a minimum representation of women at 30%. Furthermore, it should be noted that Law Number 2 of 2008 on Political Parties mandates the inclusion of a minimum of 30% women's representation in the founding of political parties, as stipulated in Article 2.

<sup>8</sup> Keith Burgess-Jackson, "John Stuart Mill, Radical Feminist," *Social Theory and Practice* 21, no. 3 (1995): 369–96.

<sup>9</sup> Mari Takayanagi, "Women and the Vote: The Parliamentary Path to Equal Franchise, 1918–28," *Parliamentary History* 37, no. 1 (February 2018): 1918–28, <https://doi.org/10.1111/1750-0206.12344>.

<sup>10</sup> Philip Williamson, "'Safety First': Baldwin, the Conservative Party, and the 1929 General Election," *The Historical Journal* 25, no. 2 (June 1982): 385–409, <https://doi.org/10.1017/S0018246X00011614>.

Nevertheless, the implementation of affirmative action does not guarantee the election of candidates who effectively represent Indonesian women as members of the DPR, DPD, and DPRD. The aforementioned situation arises as a result of the implementation of the majority vote system, as stipulated in Constitutional Court Decision Number 22-24/PUU-VI/2008. The Constitutional Court, functioning as a state entity empowered to undertake the process of judicial review, with the authority to pronounce the inapplicability of specific articles within a statute or the law in its whole, in the event that the judicial review process determines the presence of both formal and material unconstitutionality.<sup>11</sup> Consequently, notwithstanding the provisions set forth in Law No. 12/2003 and Law No. 2/2008 mandating women's inclusion, their election as council members did not occur automatically. Subsequently, the government repealed Law Number 12 of 2003 and introduced Law Number 10 of 2008 as its replacement. Furthermore, Law Number 7 of 2017, which pertains to Elections, was enacted, wherein the government retained the provision mandating a minimum 30% representation of women as candidates for DPRD, DPR, and DPD.

Following a comprehensive comprehension of the issues pertaining to gender equality across many nations, it becomes imperative to undertake a more thorough analysis of the initiatives that have been undertaken and evaluate their efficacy. Therefore, it is imperative to comprehend the theoretical framework of legal efficacy, which both shapes and is shaped by the legal culture within a given community.<sup>12</sup> The legal recognition of feminist rights leads to social transformations, prompting individuals to assert new expectations. In order to prevent social conflict and address emerging social forces, the government must accommodate these demands. Certain initiatives aimed at promoting gender equality involve the implementation of legal measures that anticipate modifications in legislation. This is based on the understanding that the legal culture significantly influences the content and framework of the law, which in turn impacts its efficacy, as outlined by Lawrence M. Friedman.

Legal feminist theory encompasses a set of concepts that serve as influential variables shaping the strategies employed by women activists in their pursuit of rights. Elizabeth Cady Stanton underscores the overarching principle of legal feminism theory prioritises the inclusion of women as the focal point of examination and acknowledges the pivotal function of law as a primary catalyst for societal transformation. This principle is crucial in fostering social change and promoting awareness among individuals who are committed to advocating for women's rights.<sup>13</sup> This study aims to examine the dynamics surrounding the efforts to enhance women's representation within Indonesian

<sup>11</sup> Maruarar Siahaan, "Integrasi Konstitusional Kewenangan Judicial Review Mahkamah Konstitusi Dan Mahkamah Agung," *Jurnal Konstitusi* 17, no. 4 (Desember 2020), <https://doi.org/10.31078/jk1742>.

<sup>12</sup> Alan Watson, "Legal Change: Sources of Law and Legal Culture," *University of Pennsylvania Law Review* 131, no. 5 (1983): 1121.

<sup>13</sup> Tracy A. Thomas, "The Long History of Feminist Legal Theory," in *The Oxford Handbook of Feminism and Law in the United States*, ed. Deborah Brake, Martha Chamallas, and Verna Williams, 1st ed. (Oxford University Press, 2021), <https://doi.org/10.1093/oxfordhb/9780197519998.013.1>.

government structures, as well as evaluate the efficacy of legislation reforms in achieving political rights parity for women in Indonesia.

To ensure a comprehensive presentation of the findings from the study pertaining to this phenomenon, this paper will be structured into multiple subsections for elucidation. The initial section of this study will elucidate the contextual underpinnings of the issues pertaining to gender injustice. The subsequent section will elucidate the problem formulation that serves as the central focus of this study, as well as the research methodology employed as a standard for analysis. The subsequent section of this study will encompass the theoretical underpinnings of legal efficacy and feminist legal theory as an analytical framework to examine the phenomena of the women's activist movement in Indonesia. The fourth section of the document comprises a compilation of historical records documenting the endeavours of women activists throughout many regions of the globe. The subsequent part will analyse the efficacy of the efforts made to achieve gender equality in Indonesia by means of implementing a 30% representation of women in parliament and DPRD.

## 2. Research Method

The study employed socio-legal research approaches to carry out the investigation.<sup>14</sup> This study aims to examine the impact of feminist legal theory on the legal culture of society and its subsequent implications for the need for modifications in legal regulations, hence influencing legal effectiveness. In this particular study, the research will focus on analysing the phenomena that occur within the dynamics of the endeavour to establish a 30% quota for the representation of Indonesian women. This endeavour is aimed at achieving gender equality. The study employs two distinct methodologies, namely the legislation approach and the conceptual approach.<sup>15</sup> This study will employ a conceptual framework that draws upon the philosophy of legal feminism as articulated by Elizabeth Cady Stanton, as well as Lawrence M. Friedman's theory of legal efficacy. The idea of legal efficacy serves as a mechanism for understanding the dynamic nature of law, as it is both impacted by and has an impact on society, thereby establishing a tight relationship with the evolving legal culture.<sup>16</sup> This research will examine the legal culture with a specific focus on the impact of the idea of legal feminism on society, aiming to promote awareness of women's rights, including their political rights. The present study will utilise many legal sources, including primary legal sources in the form of laws and regulations, as well as secondary legal materials derived from scholarly

<sup>14</sup> Taufiq Yuli, Ramalina Ranaivo, and Mikea Manitra, 'The Proposal for the Implementation of Elections in Indonesia: A Framework Based on the Presidential System', *Wacana Hukum*, 29.2 (2023), 181–205 <<https://doi.org/10.33061/wh.v29i2.9815>>.

<sup>15</sup> Muhamad Khalif Ardi and others, 'The Imperative Is to Restrict Customary Criminal Offenses after Implementing Indonesia's New Criminal Code', *Wacana Hukum*, 29.2 (2023), 130–45 <<https://doi.org/10.33061/wh.v29i2.9829>>.

<sup>16</sup> Tara Nadya Andiani, FX Hastowo Broto Laksito, and Jose Gama Santos, 'Evidence from Indonesia on the Legal Policy Confronting Discrimination of Minority Groups Based on Race and Ethnicity', *Wacana Hukum*, 29.2 (2023), 146–62 <<https://doi.org/10.33061/wh.v29i2.9808>>.



literature such as books, journals, and scientific publications. The research methodology employed in this study involves the utilisation of a literature review as the primary data analysis tool.

### 3. Results and Discussion

#### **The early development of the legal feminism theory and the impact on the legal system in Indonesia**

The perspectives on the challenges faced by feminism have evolved across various regions globally. Thus far, a minimum of three significant waves of gender equality movements have surfaced since the mid-19th century. Typically, the aforementioned feminist endeavours did not inherently adopt the feminist designation within their own campaigns. In societies characterised by a prevailing patrimonial culture, a novel ideological paradigm emerged, advocating for the recognition and protection of women's fundamental rights. This movement, sometimes referred to as "strong minded," "true women," or "women's rights," sought to challenge and address the existing gender disparities.<sup>17</sup> The concept in question originated prior to its subsequent rebranding through the application of feminist discourse.

The term "feminism" originated in France and was used to characterise the activism and editorial work of Hubertine Auclert, a prominent female advocate and newspaper editor.<sup>18</sup> The Auclert movement, which originated in the latter half of the 19th century, aimed to exemplify the tenets of social revolution in its advocacy for women's liberation and egalitarianism. The growth of the movement was initially swift, but subsequently experienced a decrease due to its association with radical, destructive, and anti-male ideologies.<sup>19</sup> Nevertheless, notwithstanding the evolving connotations associated with the concept, there exist individuals who engage in proactive advocacy for the tenets of feminism, grounded in their philosophical convictions.<sup>20</sup>

The feminist movement is mostly driven by endeavours aimed at combating instances of discrimination and injustice. The aforementioned recognition stems from the imposition and debasement that ensues from the classification of individuals based on their gender, therefore giving rise to inequity and necessitating the pursuit of liberation and equal prospects to rectify this subjection. The aforementioned comprehension subsequently evolved into three significant phases, each exhibiting distinct attributes. The inception of the women's movement during its initial phase can be attributed to the collective agreement reached at the Seneca Falls Convention in 1848, wherein the primary objective was to advocate for political rights. Subsequently, progressive feminism broadened the conceptual framework of feminist

<sup>17</sup> Leslie Ellen Petty, *Romancing the Vote: Feminist Activism in American Fiction, 1870-1920* (Athens: The University of Georgia, 2003), 1870–1920.

<sup>18</sup> Carolyn J. Eichner, "La Citoyenne in the World: Hubertine Auclert and Feminist Imperialism," *French Historical Studies* 32, no. 1 (February 1, 2009): 63–84, <https://doi.org/10.1215/00161071-2008-013>.

<sup>19</sup> Ellen Willis, "Radical Feminism and Feminist Radicalism," *Social Text*, no. 9/10 (1984): 91, <https://doi.org/10.2307/466537>.

<sup>20</sup> Sarah S. Richardson, "Feminist Philosophy of Science: History, Contributions, and Challenges," *Synthese* 177, no. 3 (December 2010): 337–62, <https://doi.org/10.1007/s11229-010-9791-6>.

ideology that emerged during the first decades of the 20th century, encompassing a range of domains including: (a) the notion of worldwide peace; (b) the functioning of the market economy; (c) the autonomy to regulate reproductive choices. The emergence of the third wave of feminism in the modern era can be attributed to a renewed focus on the pursuit of formal equality and legalism, with the aim of attaining equal rights and protection.<sup>21</sup>

The theory employed in this study is the first wave theory of legal feminism, which serves as the primary focus. The selection of this perspective was based on the recognition that the first wave encompasses a wider and more foundational range of feminist activism. Due to this rationale, it is commonly denoted as a comprehensive perspective on feminism. The feminist perspective, as a general approach, emphasises the central position of women in analysis and acknowledges the role of law as a catalyst for societal transformation. Due to this rationale, feminism, as an ideological construct, possesses the potential to fundamentally alter individuals' cognitive frameworks and behavioural patterns. The aforementioned process engenders dynamics within individuals' lives, hence leading to the emergence of the phenomena known as social change. According to Lawrence M. Friedman's theory of legal effectiveness, the presence of feminist ideology can exert an influence on the legal culture and legal consciousness within a community, thus leading to a need for legal reforms. Consequently, the implementation of legal reforms will subsequently lead to shifts in the legal culture within the community, so impacting their way of life and giving rise to social changes influenced by feminist perspectives.<sup>22</sup>

The ideals of feminism that emerged during the initial wave of the movement have a rich historical background that is intricately connected to the endeavours undertaken as a means of emancipation from enslavement. Despite its commonly accepted development in 1970, the feminist movement had actually emerged well before that time. The inaugural phase of this movement can be observed, at the very least, through the proceedings of the convention that took place in Seneca Falls, New York in 1848.<sup>23</sup> The inaugural women's convention was driven by a collective commitment to advocate for the social, civil, and religious rights of women. This gathering brought together women activists representing all backgrounds and experiences, who collectively formulated a comprehensive agenda. Among the individuals were activists who had formerly experienced enslavement. The primary objective of the convention was to articulate the necessity for social and legal reforms pertaining to the rights including citizenship, family, church, and the labour market system.

The emergence of the women's rights movement, which was a direct consequence of the abolition of slavery, garnered the backing of prominent social reformers like Lucretia Mott. These individuals recognised the significance of women's rights within the fabric of society. Furthermore, the abolitionist movement received backing from prominent figures such as Angelina and Sarah Grimké. Their primary focus was advocating for the recognition of women's right to engage in public speaking. In the interim, Mott and renowned individuals

<sup>21</sup> Paula A. Monopoli, "Mother, Orator, Woman Suffrage Leader: The Feminist Legacy of Elizabeth Cady Stanton," *Journal of Legal Education* 66, no. 4 (2017).

<sup>22</sup> Mateja Čehulić, "Perspectives of Legal Culture: A Systematic Literature Review," *Revija Za Sociologiju* 51, no. 2 (August 31, 2021): 257–82, <https://doi.org/10.5613/rzs.51.2.4>.

<sup>23</sup> Sally G. McMillen, "Review: The Seneca Falls Convention of 1848: A Pivotal Moment in Nineteenth-Century America," *Review in American History* 36 (2008): 341–48.

who were formerly enslaved, including as Frederick Douglass, lent their support to a grassroots women's rights convention that had the potential to be organised on a yearly basis. Additional individuals who provided their support to the campaign included Lucy Stone, Susan B. Anthony, and Sojourner Truth, a former enslaved person.<sup>24</sup>

Elizabeth Cady Stanton subsequently engaged in advocacy for women's rights through the establishment of a movement informed by the initial legal framework of feminism. This ideology is commonly referred to as comprehensive holistic feminism due to its incorporation of diverse perspectives on feminism, including: (1) the principle of equal ability and opportunity; (2) recognition of the biological distinctions between women and men; (3) acknowledgment of the systemic influence of institutions in perpetuating gender inequity.<sup>25</sup> The significance of combining the private and public spheres in order to foster the development and implementation of feminist legal procedures is underscored. In her pursuit, Stanton also interrogates the prevailing norms that dismantle legal frameworks, so exposing inherent biases and misogyny favouring males. One potential outcome of this movement is the development of a new conceptualization of statehood that aims to establish a comprehensive legal framework that is inclusive in nature.

During the Seneca Falls convention, Stanton played an active role in the formulation of a document that proclaimed the culpability of women and advocated for their rights. The document has a minimum of 18 distinct reform measures that are anticipated to be implemented in the future as a means of acknowledging and promoting gender equality. The aforementioned points encompass several aspects such as suffrage in electoral processes, modifications to legislation pertaining to divorce, regulations for distribution of marital assets, determination of child custody, appointment of guardians, employment practises, educational opportunities, salary disparities, professional entry prerequisites, ecclesiastical administration, and measures implemented to address domestic violence. Stanton additionally criticised societal conventions pertaining to male privilege, the perception of female inferiority, religious subordination, as well as moral and sexual disparities.<sup>26</sup>

Stanton's intellectual capacity, which beyond that of contemporary women, was undoubtedly influenced by a complex backdrop and circumstances. Stanton had the privilege of acquiring knowledge in the art of constructing legal arguments from her father, who held the esteemed positions of both a judge and a lawyer. Additionally, she had the privilege of observing her father's approach to handling problems that were presented to her, as well as the gender-related challenges she faced. Having received formal training in the analysis of legal matters, Stanton proceeded to assert that the liberation of African women from slavery would not inherently address the issue of gender inequality. This line of reasoning was predicated on the observation that these women remained constrained and frequently associated with the institution of marriage, particularly with regard to their position as

<sup>24</sup> Carolyn S. Bratt, "Introduction, The Sesquicentennial of the 1848 Seneca Falls Women's Rights Convention: American Women's Unfinished Quest for Legal, Economic, Political, and Social Equality," *Kentucky Law Journal* 84, no. 4 (1996 1995): 715–20.

<sup>25</sup> Karlyn Kohrs Campbell, "Stanton's 'the Solitude of Self': A Rationale for Feminism," *Quarterly Journal of Speech* 66, no. 3 (October 1980): 304–12, <https://doi.org/10.1080/00335638009383528>.

<sup>26</sup> Thomas, "The Long History of Feminist Legal Theory."



married individuals.<sup>27</sup>

Stanton's legal reasoning and arguments faced opposition from many critics. Stanton's conceptual framework elicited a critical reaction from Karl Marx. Marx purportedly regarded Stanton's endeavour to advocate for gender equality as an instance of the 'false awareness' problem. Marx provided further elucidation on the matter, positing that this state of affairs can be seen as a manifestation of false consciousness, which emerges within the perspective of the marginalised social group that lacks an awareness of their subordinate status. Nevertheless, Stanton maintains the perspective that the consolidation of women as a collective entity solely based on gender has resulted in the perpetuation of discriminatory ideologies. The structural injustice of law and power manifests in the unequal treatment of women, perpetuated by negative stereotyped biases that associate them with weakness, inferiority, and ineptitude. Moreover, Stanton posits that the safeguarding provided to women can be perceived as a form of oppression.<sup>28</sup>

Stanton formulated a legal feminist theory that examines the concepts of formal equality, relational difference, and systematic oppression, building upon the aforementioned premise. The initial concept pertaining to formal legal equality is expounded as a manifestation of adherence to individualism and the fundamental rights of women. In this particular scenario, women are regarded as self-governing entities who are entitled to equal rights, liberties, and prospects as males. Stanton proceeded to elaborate on the notion that this principle is an evolution of the political ideology of liberalism, which encompasses the concepts of natural rights and social contract equality as posited by John Locke. Furthermore, J. S. Mill, a prominent thinker, had similar perspectives and actively advocated for the principles of liberal feminism, emphasising the need of equality.<sup>29</sup>

These perspectives argue that advocating for women's rights is justified solely on the basis of the fundamental principle of equality and uniformity among all individuals. Nevertheless, it is worth noting that throughout history, there has been a tendency to overlook the inclusion of women's rights within the framework of the social contract and the realm of political rights associated with citizenship. Within various republican ideas and practises, the concept of women's civic rights has often been construed as being confined to the realm of domesticity, wherein their primary responsibilities revolve around nurturing and shaping the moral development of future generations, particularly men. Through the lens of social construction, women are often shown as occupying a subordinate and less powerful position in comparison to men. In popular portrayals, women are often seen as possessing lower intellectual capacities, while being defined as sentimental and emotional. Consequently, they are positively portrayed as embodying qualities such as gentleness, kindness, morality, and virtue.

In elucidating the second principle, Stanton posits that the biological dissimilarities between males and females manifest in distinctive encounters of motherhood and the

<sup>27</sup> Sue Davis, "Elizabeth Cady Stanton and the Feminist Foundations of Family Law," *Journal of American History* 104, no. 4 (March 1, 2018): 1027–28, <https://doi.org/10.1093/jahist/jax475>.

<sup>28</sup> Oluwatosin Shenbanjo, "Falsifying the Existence of Women: Exploring Marxian and Gender Theories in Mad Men to Examine Roles of Consciousness in the Gender Dynamics of the Workplace," *Discussions* 9, no. 2 (2013).

<sup>29</sup> Thomas, "The Long History of Feminist Legal Theory."

attendant obligation to nurture offspring, which are not shared by men. Therefore, it is appropriate that these responsibilities are delineated as legal rights for women. These rights encompass various aspects, including as parenting rights, the entitlement to joint property ownership within the context of marriage, and the prerogative to exert authority over reproductive processes. Nevertheless, this argument thereafter presents a dialectical discourse that is widely regarded as imbued with notions of inferiority. According to proponents of Darwinian theory, there exists a belief that women possess physical and intellectual inferiority in comparison to men. Supreme Court Justice Bradley concurred with this viewpoint in *Bradwell v. Illinois*, asserting that both civil law and natural law have acknowledged the presence of significant distinctions and divergent fates between males and females. According to this notion, a woman's fate is to perform her role and purpose as a virtuous and compassionate spouse and parent. According to her perspective, this represents the principle established by the creator.<sup>30</sup>

However, Stanton holds a contrasting viewpoint on this matter. The author underscores the notion that if a concept of superiority exists, it is women who possess this superiority. Stanton's viewpoint is grounded in the premise that women possess anatomical structures of greater complexity, hence enabling them to undertake a greater range of tasks. Based on these aforementioned arguments, it is thus justifiable to assert that the status of women should be elevated due to their superior cognitive aptitude and competence. This view is further substantiated by sociological and positivist theories that recognise the significant role of the feminine element within the social structure of society.

The third premise put out by Stanton underscores the significance of directing attention towards structural oppression. One manifestation of this oppression arises from religious ideologies. The church, as a significant institutional entity involved in shaping societal moral standards, appears to have constructed a social framework that perceives women as inferior. The genesis of this belief can be traced back to the narrative of Eve, who is believed to have borne the burden of original sin. Consequently, women were purportedly subjected to divine retribution, resulting in the experience of pain during childbirth. Furthermore, the existence of diverse social cultures has contributed to the development of a perspective that perceives women as objects solely intended for the gratification of male sexual desires, irrespective of marital or non-marital contexts. This perspective that deviates significantly from conventional norms also necessitates correction in order to prevent its evolution into a type of institutionalised subjugation. In order to tackle this issue, Stanton collaborated with abolitionists to articulate the significance of race. Black activist reformers made significant contributions to the anti-racism movement, with one notable aspect of their work also encompassing issues of gender.

The concepts espoused by Stanton in the feminist movement subsequently precipitated significant societal transformations. The development of legal consciousness was founded upon compelling arguments on the significance of acknowledging and upholding women's rights, thus motivating activists to engage in the movement and endeavour to reform the existing legal framework. According to Friedman, this phenomena subsequently becomes integrated into the legal culture, so contributing to the enhanced dynamism of the legal

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<sup>30</sup> Gwen Hoerr Jordan, "'Horror of a Woman': Myra Bradwell, the 14th Amendment, and the Gendered Origins of Sociological Jurisprudence," *Akron Law Review* 42 (2015): 1201.

system. The recognition of the significance of women's rights caused discontent among the community, subsequently prompting them to pursue legal recourse. Stanton's decision to pursue legal recourse and underscore the significance of law as a catalyst for societal transformation is inherently intertwined with the prevailing legal milieu that permeates her personal and professional sphere.<sup>31</sup>

The individual's upbringing in a family with a background in the legal profession, specifically as judges and lawyers, contributes to the development of a legal culture in Stanton's surroundings that is inclined towards advocating for reform through modifications in the existing laws. Consequently, this particular movement advocates for modifications in both the framework and content of legislation, a characteristic that Friedman identifies as significant in shaping the efficacy of legal enforcement. Hence, it is evident from the aforementioned hypotheses that the introduction of feminism by Stanton significantly alters women's perception of their fundamental rights. The shift in viewpoint led to a sense of discontentment with structural inequity, prompting individuals to take action in order to reform the established legal framework. The fight subsequently resulted in the implementation of legal reforms that sought to address women's rights. Consequently, these legal changes prompted corresponding shifts in social norms and values, thereby accommodating the principles and objectives of feminism.

#### **A comparison of women's movements and struggles: an examination of the outcomes and impact of women's struggles in the US and UK.**

Evidently, social forces have emerged in different regions of the globe that demand modifications to the structure and substance of legislation concerning the achievement of gender equality. To commence, the United Kingdom has a rich historical chronicle of the endeavour to secure equitable opportunities for women. The pursuit of gender equality in general elections appears to have commenced as early as 1832. As described by Stanton, the Great Reform Act has resulted in a systemic form of oppression. The Act's definition of a voter as a male obviously precludes women from exercising their right to vote. Later that year, a petition advocating for women's electoral participation was submitted in response. The debate, however, that J.S. Mill initiated in an effort to defend this privilege did not occur until 35 years later.<sup>32</sup>

In spite of numerous unsuccessful endeavours to codify women's political rights into legislation, women's suffrage movements persisted in their emergence. In an effort to unite peaceful campaign groups, organisations such as The Women's Franchise League, which was established in 1889 to secure votes for married, single, and widowed women, was succeeded by The National Union of Women's Suffrage Societies, led by Millicent Fawcett, in 1903. Emmeline Pankhurst established The Women's Social and Political Union in Manchester in 1903. Furthermore, numerous feminist organisations emerged employing diverse tactics in

<sup>31</sup> David Nelken, "Disclosing/Invoking Legal Culture: An Introduction," *Social & Legal Studies* 4, no. 4 (December 1995): 435–52, <https://doi.org/10.1177/096466399500400401>.

<sup>32</sup> Marian Sawer, "Parliamentary Representation of Women: From Discourses of Justice to Strategies of Accountability," *International Political Science Review* 21, no. 4 (2000).

an effort to secure the right of women to participate in elections.<sup>33</sup>

In the years 1914–1918, when Britain proclaimed war on Germany, over two million British women were forced to fill positions traditionally occupied by men. The government subsequently recognised this and, on 6 February 1918, passed the Representation of the People Act, which granted women the right to vote if they were at least 30 years old and their husbands satisfied the property ownership requirements. Furthermore, the Parliament Act of the same year established the criteria by which women could qualify to run for parliament. The aforementioned Act facilitated the inaugural participation of eight million British women in a general election on December 14, 1918. Feminist activists' efforts ultimately bore fruit in 1928, when the government passed the Equal Franchise Act, granting suffrage to women aged 21 and above. The following year, on May 30, 1929, fifteen million women in Great Britain were granted the right to vote in the Flapper election.<sup>34</sup>

Second, the struggle of female activists occurred in the United States as well. The 19th Amendment to the United States Constitution granted women the ability to vote at that time. This occurred in 1920, despite the fact that the conflict had begun in the 1800s.<sup>35</sup> To attain the right to vote, female activists orchestrated collective action, submitted petitions, and exercised their right to vote. This was a component of the unique legal culture that formed the foundation of the ideology of activists operating within the United States. Despite the fact that Congress introduced the first amendment in 1878, the political rights of American women could not be fully incorporated until the 19th amendment. Achieving equal political rights for women included, among other things, challenging male-only voting laws in court, implementing hunger strikes or remaining silent, and passing legislation in nine states to implement women's suffrage in 1912. Activism against these endeavours was met with jeers, harassment, and imprisonment. This conflict was subsequently united in 1916 in an effort to amend the Constitution. The following year, New York ratified the Eighteenth Amendment, which granted women the right to vote. President Wilson also supported the amendment.

The political equilibrium was altered by the President's ratification of the amendment. Nonetheless, the amendment was ultimately approved by both the Senate and the House of Representatives on May 21, 1919. Twenty-six states ratified the amendment, with Tennessee being the 36th. The ratification was subsequently authorised by Bainbridge Colby, in his capacity as secretary of state, on August 26, 1920. At that point, three-quarters of the states had formally approved the regulation. Still, despite the granting of American women the right to vote, there remain unresolved issues that continue to this day. The challenges encompass the following: (a) the enforcement of voting rights for unaccommodated African-American women; (b) the provision of voting rights for minority groups; and (c) the retention of discriminatory voting policies in certain states.

Legal awareness rooted in feminism can subsequently propel both nations to the forefront

<sup>33</sup> Claire Hirshfield, "The Actresses' Franchise League and the Campaign for Women's Suffrage 1908–1914," *Theatre Research International* 10, no. 2 (1985): 1908–1914, <https://doi.org/10.1017/S030788330001066X>.

<sup>34</sup> Toke S. Aidt, "Review of Forging the Franchise: The Political Origins of the Women's Vote," *Journal of Economic Literature* 60, no. 3 (September 1, 2022): 1039–51, <https://doi.org/10.1257/jel.20201567>.

<sup>35</sup> Ellen DuBois, "The Radicalism of the Woman Suffrage Movement: Notes toward the Reconstruction of Nineteenth-Century Feminism," *Feminist Studies* 3, no. 1/2 (1975): 63, <https://doi.org/10.2307/3518956>.

of social transformation. The legal culture of a society is intricately linked to endeavours to alter the structure and substance of the law, as Friedman asserts. The distinct tactics employed by female activists in the United Kingdom and the United States are evident in the aforementioned instances. This is undoubtedly attributable to the variants in legal culture that form the foundation of their respective perspectives. Stanton's feminism, which places women at the centre of analysis and the law as the primary agent of transformation, continues to hold true in its pursuit of social change.

### **The dynamics of Indonesian women: the pursuits of seats in the house of representatives**

Following a comprehensive comprehension of the mechanisms via which societal change and the impact of feminist perspectives can galvanise activists to advocate for gender equality across diverse nations, a similar phenomenon has transpired within the context of Indonesia. The focal point of feminist activism in Indonesia that has garnered significant attention revolves around the endeavour to enable and enhance women's participation and representation inside the parliamentary sphere. Indonesia, as a signatory to the International Bill of Rights, has made necessary adaptations to its rules in accordance with globally acknowledged human rights standards. The International Bill of Rights encompasses various sections, including the Covenant on Civil and Political Rights (ICCPR), the Covenant on Social, Cultural and Economic Rights (ICESCR), the Universal Declaration of Human Rights (UDHR), and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).<sup>36</sup>

By instilling a fervent commitment to advocating for human rights, particularly in relation to women's rights, it is anticipated that several stakeholders can enhance women's comprehension and legal consciousness regarding their entitlements. In this particular scenario, it is imperative for women to expand their knowledge beyond just awareness of their rights, and instead actively seek out mechanisms and strategies to secure and exercise their rights. The ratification of the International Bill of Rights is encompassed within various laws, namely: (1) Law No. 68 of 1958, which approves the Convention on the Political Rights of Women; (2) Law No. 5 of 1998, which ratifies the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; (3) Law No. 7 of 1984, which ratifies the Convention on the Elimination of All Forms of Discrimination Against Women; (4) Law No. 11 of 2005, which ratifies the International Covenant on Economic, Social and Cultural Rights; and (5) Law No. 12 of 2005, which ratifies the International Covenant on Civil and Political Rights. The Indonesian government also addresses women's rights in the 1945 Constitution of the Republic of Indonesia, specifically in Article 28 H paragraph (2), which ensures that all individuals have the entitlement to access resources and receive preferential treatment to attain equal opportunities and benefits for the purpose of attaining equality and justice. The aforementioned law serves as the foundation for the government's implementation of affirmative action measures for women, as outlined in Article 4 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

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<sup>36</sup> Debora Aprilany Grace Rompis, "Praktik Ratifikasi Terhadap Perjanjian Internasional Di Bidang Hak Asasi Manusia," *Lex Crimen* 6, no. 4 (2017).



Additional laws and regulations that also encompass women's rights can be observed in many legal frameworks, such as the Criminal Code, Civil Code, Law Number 1 of 1974 pertaining to Marriage, Human Rights Court Law, among others. The present study aims to examine the dynamics of affirmative action provided to Indonesian women in order to fulfill the quota for women's representation in various political bodies, including DPRD, DPD, DPR, and political party administration. The ratification of the International Bill of Rights appears to have a notable impact on social dynamics within Indonesia. The inclusion of provisions in the constitution that address reverse discrimination provides the government with the opportunity to promptly establish rules aimed at expediting the achievement of gender equality in Indonesia.

This endeavor is encapsulated inside a set of legal regulations that control the electoral processes of the DPR (People's Consultative Assembly), DPRD (Regional People's Representative Council), DPD (Regional Representative Council), general elections, and political parties. Following the implementation of Law No. 12/2003, the government has mandated that political parties must ensure a minimum of 30% representation of women as candidates for the Regional Representative Council (DPRD), Regional Representative Council (DPD), and People's Consultative Assembly (DPR). Furthermore, the Election Law include provisions mandating that political party administration must have a minimum representation of 30% women. This clause constitutes a sort of preferential treatment that women are eligible to obtain. Therefore, it can be said that the legal culture in Indonesia has been impacted by the International Bill of Rights, resulting in the establishment of these regulations.

However, the emergence of challenges occurred upon the issuance of Constitutional Court Decision No. 22-24/PUU-VI/2008. In accordance with the ruling of the Constitutional Court, the elections for the Regional People's Representative Council (DPRD), Regional Representative Council (DPD), and People's Representative Council (DPR) are required to strictly conform to an open proportional system. In this scenario, the regulations pertaining to the representation of women are applicable solely up until the point of nomination. The ability of the government and political parties to guarantee the electoral success of women nominated for positions in the DPR, DPD, or DPRD has diminished. The judge, in his ruling, contended that Article 55 paragraph (2) of Law Number 10 Year 2008 exhibits characteristics of reverse discrimination, hence justifying its preservation and alignment with constitutional principles. However, it has been asserted that there exist some constraints that must be taken into account while implementing affirmative action. In this instance, the judges posited that it is imperative to afford women the chance to participate in open competition, thereby substantiating their qualifications for membership in the DPR, DPD, and DPRD, rather than merely occupying vacant positions.

According to Stanton (year), feminism has emerged as a novel perspective that informs endeavors aimed at advancing gender equality. In this particular instance, a transformation in the social fabric of Indonesian society took place, prompting the government to take action by implementing a policy that offers possibilities through the establishment of a 30% quota for nominations. Nevertheless, it is evident that the legal imperative within Indonesia's legal culture, which emphasizes the need for transparency in the electoral system, has resulted in modifications to the framework and content of the law. Consequently, this has brought about alterations in the outcomes of feminist activists' endeavors. The efficacy of the government's

30% quota in guaranteeing the attainment of council member positions is no longer assured. This incident exemplifies the intricate dynamics that arise from social and legal transformations within the context of feminist activism in Indonesia. The judge's ruling, which affirms that women possess the capability to compete with male candidates on par with regard to quality, is deserving of commendation. This decision should serve as a catalyst for women to enhance their capacities and substantiate their abilities.

## 4. Conclusion

Based on the provided explanation, one may draw the inference that the recognition of gender inequality serves as a fundamental basis for diverse ideologies and initiatives aimed at advocating for parity. The aforementioned fight serves as the foundation for the emergence of the concept of feminism, as formulated by Elizabeth Cady Stanton. The pursuit of rights necessitating active advocacy has engendered a societal impetus that catalyzes transformative shifts in social dynamics, primarily driven by legislative enactments by governing bodies. The modification of the content and framework of legislation can be attributed to the development of a legal culture shaped by the presence of a feminist consciousness advocating for gender equality. Nevertheless, it appears that the diverse legal cultures present inside a nation exert an influence on the various modes of activism employed by individuals in order to express their ambitions. Both Britain and America, as longstanding nations predating the 18th century, have seen episodes of political turmoil stemming from the efforts of feminists advocating for women's suffrage. In the United Kingdom, the conflict was resolved by the enactment of legislation, whereas in the United States, the struggle was addressed through constitutional amendments. In contrast to Indonesia, where women's political rights were recognized at a later stage, efforts were made to achieve equality through the implementation of legislation that included affirmative actions aimed at promoting women's representation in politics. Nevertheless, the subsequent dynamics of social change also exerted a constraining influence on the implementation of affirmative action, aimed at fostering a more robust democratic process.

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