

THE SENSE OF GENDER EQUALITY IN PAPUANS' PHILOSOPHY

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Abstract

The construct of gender in social life manifests onto its discrimination in every aspect of society. Women have a weak position and thus, become a "weapon" to weaken their own development in this growing emancipation era. Some legal efforts and the theory of feminist have developed to advocate them to grow up and get involved in various aspects of development; at least, it may suppress the level of discrimination toward women. Implementing the theory of feminism, however, should understand and see through some values that exist in society, as in Papuan women's life. In the context of kinship, it may tie and harmonize the family bond. Therefore, the theory of feminism can be well implemented and accepted in a society which is full of togetherness, kinship, relatives, and love values.

Keywords

gender-based justice, feminism, kinship

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Introduction

One day, I saw someone's update on a social media who was intensively taking an issue of rights and gender equality in social construction into a great concern both in the broadest and even 'the smallest' contexts, such as family. I basically agree with that. Gender equality is defined as a natural human right that every individual has. It is a basic right from God that we have since this heart is beating in our mother's womb.

Therefore, regarding to the concept of gender equality, it is a concept of equality that belongs to every individual and be evenly manifested in a set of roles and thus, it may not violate any of basic rights and right to live that every individual has as *zoon politicon*.

The Concept of Gender Equality

Concepts and theories are fundamental, as like pillars constructing a text. In this article, it refers to the basic understanding of the concept of gender, gender marginalization, gender discrimination, and the theory of legal feminism. Another social aspect used as the basic study of this article points to the system of kinship and the value of equality in social life of Papuans, and it should be explained in detail to provide a general description of the basic concept.

The term "gender" in Bahasa Indonesia derives from British. However, the dictionary does not clearly show the difference between the term 'sex' and 'gender'. Echols and Shadily, for instance, define the term 'gender' as 'sex' (John Echols; Hassan Shadily, 2002). Looking into its values and behaviors, gender is clearly apparent from individuals' sex, men and women. The term 'gender' is proposed by some social experts and aimed to describe the difference between men and women with congenital traits (God's creature) and the manifestation of culture (social construction). People often mix the natural traits of human being with unnatural traits (i.e., gender) which may change. This different role of gender also makes people rethink about the allotment of roles embedded on them.

Nevertheless, gender is actually different from 'sex'. Gender refers to the difference of roles, functions, and responsibilities between men and women as the result of social construction and it may change according to the development of era.

Gender is a term to describe the difference between men and women in social context. It is a group of attributes, behaviors, functions, and roles in socio-cultural context toward men and women. For instance, women are assumed as individuals with

gentle, emotional, motherhood, and other soft traits. In fact, those traits are unnatural as they do not last forever and may even be interchangeable. Means, some men may have emotional and gentle traits while some women may become strong and rational. Next, the description about the difference between 'sex' and 'gender' will be discussed along with its examples.

Sex is biological differences and physically embedded as the organ of reproduction. As it is natural, sex is permanent and universal. Margert Mead defines 'sex' as biological nature, while 'gender' refers to social construction (Geraldi Gosal, 2017). She argues that environmental and social conditions may influence the roles and characteristics of gender. Again, sex refers to biological nature. Thus, the concept of sex is used to distinguish between male and female based on the biological elements and anatomy of their physical body. For instance, males have Adam's apple, penis, sperms, and other biological traits that are totally different from females. On the other hand, females have uterus and other organs of reproduction causing them to have menstruation, pregnancy, and lactation. Those all biological traits are congenital, permanent, non-interchangeable, and natural.

In regard of understanding the concept of gender as socio-cultural construction, Ann Oakley (in Sutina, 2004) defines it as a good instrument of analysis to see the issue of discrimination toward women in general. Noted that gender points to the allotment of roles between men and women in socio-cultural context. In fact, it happens through a very long process including socialization, reinforcement, socio-cultural construction, and even government's power. The process of this 'genderization' makes the socio-cultural construction look like a fate from God and seem to be natural, biological, and permanent. Hence, many people see the characters of women as the result of a socio-cultural construction or gender. Furthermore, gender influences the people believe and culture about how men and women are supposed to think and behave according to the shared social norms. Such distinctiveness is considered as God's rules.

People as society create the classification of gender to determine what they assume as compulsion and to distinguish between men and women, such as: educating children, organizing and maintaining the cleanliness and fineness of domestic matter, and other domestic matters such as washing, cooking, and taking care children are considered as women's roles. Such gender-based roles, however, is actually the result of socio-cultural construction in society, although men may do so. Thus, the kinds of responsibilities are actually interchangeable and non-universal.

Implicitly, the result of socio-cultural construction of gender contributes to the rise of gender discrimination. The different treatment may cause social lameness and even a violence toward women. In fact, gender-based differences may cause inequality both on men and women. However, gender inequality is a system and structure that victimize both men and women. Several problems related to this issue then finally arise.

Gender and marginalization (women exploitation). Women marginalization is a process of impoverishing and underestimating particular gender (i.e., women) due to gender inequality, such as: the process of such a social relationship that makes women difficult to get access into some crucial sources from the level of domestic up to governmental contexts. This may be due to policies, religions, custom/culture, etc.

Gender and subordination. It is another part of socio-cultural approach in which women subordination derives from socio-cultural construction that put their function under men's function. A societal assumption that women are emotional, irrational, and unable to be leader/to make decisions makes them have unimportant function. In a family, for instance, men are more prioritized than women.

Gender and stereotype. Stereotype is labeling particular parties which may disadvantage others and cause partiality. For instance, women are not primary breadwinners in a family and thus, they merely act as "co-helper" for their spouses. Another example relates to "the localization of prostitutes" that tends to give more "social judgment" on women rather than men.

Another gender-based discrimination is in the form of violence. It refers to physical, psychological, and moral harassment toward individuals due to various factors, including gender differences. Inequality of strength and power in society may become one of the factors. Gender-based violence may happen in domestic level up to government, such as: rape, physical attack by husband toward wife, sex organ torturing (e.g., circumcision toward women for controlling purposes), prostitutes, violence in case of pornography, etc.

Another construct of this article is the theory of feminism and feminists. Feminists claim that history comes from men's perspective, which make and construct the social structure, not women. Such history creates bias on social norms and the concept of human nature, competence, and gender capability. Language, logic, and legal structure are created by men and thus, those all strengthen their values. Taking

masculinity as norms, feminism is a deviation of the norm and it is hegemonic in its concept, legal reinforcement, and patriarchal power.

Feminists challenge and wreck a belief and myth that men and women are different, thus, particular behaviors can be seen based on gender differences. Following the feminists, gender is created socially, not biologically. Sex may determine people physical appearance and their capacity of production but not for their psychological, moral, and social characters. A document by *Australian Law Reform Commission* (ALRC) in *Equality before the Law* identifies how gender inequality such as women contribution to the community is undervalued; Women have less access to financial resources than men; women suffer inequality in the workplace; women are restricted in contributing to legal and political institutions; and women experience violence.

Feminist legal theory or feminist jurisprudence or feminism-perspective legal approach is a legal philosophy based on gender equality in politic, economy, and social. Feminist legal theory is based on feminists' perspectives that legal history is an instrument to preserve the function of women under men's function. Feminist legal theory, known as feminist jurisprudence, sees law from the perspectives of feminist theories. The first agenda is explaining how law plays its role to legalize women's status in men's subordination. In other word, law is used to preserve a status quo 'men dominate women'. The second agenda is transforming the status by altering the law along with its approaches and perspectives about the issue of gender to be more fair and equal. This is a project of women emancipation in legal context.

Feminist jurisprudence influences the ideas of law in every aspect, such as domestic relations like marriage, divorce, and family, violence in domestic relations, workplace, sexual abuse, and civil rights, taxation, human rights, and right of reproduction. The movement of feminism happens across aspects for the sake of equality. It is expected to have equality of gender for women in every aspect of life. One attempt in legal context is the establishment of Act No. 23/2004 about the abolition of violence in domestic area. In juridical manner, it gives chances for women to have legal protection from any harassment and violence in their family.

Another legal concept as the form of legal policies over the equilibrium of roles in social construction of gender is the provision of quota for women in every aspect of nation. The quota of women refers to the provision of number and percentages in organizations, candidates, assembly, committee, and even government. The basic idea of this system is to ensure that women get involved in politics as well as ensuring that

the involvement of women in politics is not just a symbol. This political provision, in particular to countries with limited representation of women, should be well organized under legislation. The involvement of women in politics is known as affirmative action toward women in that field after the amendment of the Constitution 1945, since the establishment of Act No. 12/2003 about the election of legislative assembly.

The development of women representatives is conducted by asking political parties to consider women as the representatives of their parties in election, at least 30% from the total candidates. Article 65 subsection (1) Act No. 12/2003 about the Election of legislative assembly mentions that: Each political party may propose their candidates of legislative assembly, whether in central, provincial, and regional level, by considering women as their representatives, at least 30% of the total number.

By time, affirmative action in politics toward women is improving. It is apparent with the legislative assembly design the national bill of political package for holding the election in 2009. It is Act No. 22/2007 about the organization of election; Act No. 2/2008 about political parties; and Act No. 10/2008 about the election of legislative assembly.

Act No. 22/2007 about the organization of election regulates the composition in organizing an election by considering women as the representatives, at least 30% tile. Article 6 subsection (5) of that Act mentions that "The composition of affiliation in central, provincial, and regional KPU should consider women to be represented at least 30% tile." Affirmative action also requires every political party to involve women at least 30% of the total affiliation in their organization and management in top level. Act No. 2/2008 about Political Party regulates the criteria of organizing a political party. The article 2 of this act mentions that "the organization of political parties, as mentioned in subsection (1), provides 30% of the total portion for women to be represented."

The Construct of Gender in Papuans' Philosophy

Derived from the concept of gender equality, it is apparent at glance that in Papuan's history, especially their kinship and marriage, the concept of "modern" gender equality (I say so) seems to refuse such kinship and marriage model as the reflection of gender equality. How come? When a leader of some regions in Papua has many wives, it shows that gender discrimination exists as it does not meet a 'one-and-one comparison'. However, such marriage model, in which a man may have more than

one wives, will definitely lead to the difference of attention, roles, and love in among their family. Besides, it may cause psychological violence among the wives.

The general pattern of leadership and kinship in the system of Papuan culture is a part of *the living law* and it unites into Papuan lives (J.R.Mansoben,2003). *Keret* (*a clan*) is the social unity and kinship are so much crucial for them, especially in Biak and generally in Papua. It consists of *sim* (The smallest clan in *Keret* which has more relatives with Biak people, generally with Papuan) - *batih* family - which is called as *manibob* in the system of kinship. In order to strengthen and preserve the existing relation, a marriage is held between two parties. A friendship that initially derives from a sale partnership and further be strengthened by other particular interests for unknown period of time between two individuals is known as *manibob system*. Within this system, the relatives and families of both parties may safely exchange their things to one another. This happens due to the existence of mutual understanding and trust among them based on their *manibob* system and kinship.

That is individuals who have relations and succeed fulfilling the interests of their relatives in various transactions. they may elevate their own prestige in one hand, and it may also lead them to a recognition of their leadership in another hand. With such recognition, an individual may perform as a leader for his/her people.

However, the primary need in terms of marriage (i.e., having more than one wives) aims to keep an individual's power as a leader in nurturing and protecting his custom and social function. it is even broadly recognized and accepted by each of his wives by living in harmony, taking care to one another in conducting their roles and tasks, including taking care for children, gardening, farming, etc.

Another example that relates to the payment system of custom sentence based on Biak people is known as "*bin babyak*". It is defined as "paying with women" (Hendrik.H.J.Krisifu, 2014). Once upon a time, for instance, there was a murder by a *keret* clan to a member of another *keret* clan. In this case, such system of payment is not applied as killing others is an action against the tenet of any religion and refers to the violence of human right. Thus, it is normal that the perpetrator must be sentenced with serious penalty. In Christian, "don't kill others" is one of God's law that should be upheld by all the Christians since killing others is considered as the biggest sin which sentence is death. In extreme context, killing others is similar to being ready of accepting death for themselves.

The national criminal law follows the principle of legality that clearly mentions an action of killing others as a crime and the perpetrator must be sentenced based on the crime they did - Act 338 of Criminal Code "whoever intentionally taking away others' life, they will be sentenced by fifteen years in jail at most." The principle of legality actually sets that no action can be sued but based on the provision of the existing criminal law. Thus, killing others is a kind of crime that is clearly forbidden by law and it will be sentenced based on the crime.

Toward the provision of sentence as a weight measure of a crime, the history of human criminology discipline noted that Hammurabi code (Tuti Nonka's Veranda, 2017) mentioned "*eye for eye; tooth for tooth*". It indicates that when a crime refers to losing eyes, it must be paid by eyes, as well as life. In Indonesia legal system, however, the most serious sentence threatened to the perpetrator is 20 years in jail.

Thus, in the context of "*bin babyak*" and as previously described, individuals killing others must be sentenced based on what they did. However, it is an interesting note in gender study that women as the close relatives of the perpetrator are used to pay the sanction toward the victim. Women, in the process of custom kinship, will be given to the victim's family as a payment of crime.

From the perspective of feminism theory, it is a kind of gender discrimination, referring to violence toward women's right (basic right) as they have rights to decide their own life and future without having to be used as "a payment tool". Looking this issue more deeply into the aspect of value, however, it may reveal the value of latent "equality".

Most Papuans follow a strong kinship system. It is the "point" that leads them to the development of culture and makes them able to be broad across the globe. For instance, when a man will pay a dowry - It is one of custom rituals in Papuan marriage in general. The payment of dowry is not seen as a ransom making the woman become "property", but as manifestation of togetherness from the men hoping that the woman "paid" through that ritual of dowry may become a "mother" for all who have participated to collect wealth in that ritual. Besides, the ritual of paying dowry will be continued in which the women will have moral responsibility toward her man and relatives if someday she encounters the similar situation to other relatives, in which she and her family should collect wealth as the manifestation of togetherness -, the presence of all his relatives in that ritual is important. When a success (victory) is obtained in "a war"- success in every aspect, in current day, refers to the achievement

of education (having the highest level in education), a success in work, building house, and having high-value properties such as car, etc., the presence of all relatives in "ritual" is important since the message to be shared is that "one's success is mutual success, one's happiness is mutual happiness" This underlies the value of kinship in Papuan relatives system.

Therefore, when the existence of women in the aspect of gender equality is aimed to strengthen a harmonious kinship, it should not be seen as gender discrimination. When a woman becomes a wife of a headman, it indicates that she is the symbol of unity and love in a kinship system. Furthermore, when a woman becomes "*bin banyak*" in Biak's kinship, it is actually the manifestation of her love toward her brother and other relatives and as a "bridge" of high-value unity to end any conflict among them due to a murder.

In this current development, Papuans tend to be individualism. It is normal as they are having and changing their mind set. However, their 'life track' is "the value of kinship". Thus, the emerging perspective of gender equality derived from European style (following the system of individualism) may violate the value of kinship.

One "test" to measure the content of feminism theory in Papuan's life is the establishment of Act No. 23/2013 about the Abolition of Domestic Violence. In juridical context, this act may protect women, who often become victims in their family. It indicates that by protecting women from any domestic violence, men (implicitly mentioned in that Act) will be afraid of giving violence toward women and others due to the sentence.

The provision of sentence in criminal law is actually compelling, known as *the ultimum remmidium*". it implies that this is the final attempt by the government through legal apparatus to uphold the law for the sake of social order. Similar to the concept of gender equality, UU PKDRT is one "attempt of struggle" to provide justice in juridical manner toward women having discrimination in their domestic field.

The existence of UU PKDRT has provided legal assurance toward women. In factual context, however, it is almost every day we find violence toward women both physically and psychologically. Moreover, in case of domestic relationship, UU PKDRT has "succeeded" reaching its mission by it remains neglected on children who are also the victims of the domestic violence. The absence of harmony in family may often lead to divorce.

Another “test” is by seeing the women’s participation in politics, known as “quota for women” which at least 30% of the total number. This juridical fact is a part of women’s life in Papua, in which the ratio of legislation from the legal opinion is providing access for women to be involved in politics. Noted that politics has been always dominated by men, since Plato up to recent days. It is a classic reason that women are incapable in politics. The social gender construction uses the natural trait of women as a “weapon” to weaken women in politics. Thus, when women take participation in politics, they should compete with men, as well as the social gender construction. And, this is used to weaken women in politics.

The provision of policies in quota for women is basically aimed to provide access for women in politics and other aspects of life. Implicitly, the ratio of legislation “30% quota” helps women to go through a competition in politics. Nevertheless, one question then arises, are women capable to play the roles of feminism in the “value of kinship” to Papuan’s social life which contains values of kinship, togetherness, and love? It is afraid that “arrogance” may exist due to the understanding of gender and social life, including domestic area, as if resulting in an attitude “sa juga keja mo”- In Papuan’s everyday dialect, it refers to “I also work” in obtaining income. Furthermore, Papuan’s social condition which has rapidly developed along with the dynamic of local development tends to lead the people into individualism.

Therefore, toward the theory of feminism that carries “individualism”, when it is implemented in Papuan’s life with lots values of kinship, the values of love will be disturbed. In this case, the aspect of feminism in Papuan women is another important part which shoe their prestige, competence, and development in society. However, it should be in the track of philosophical value of togetherness and unity as the living law in Papuan’s life.

Conclusion

Overall, the important ‘message’ to be shared in this article is that the understanding of the theory of feminism should be consistent with the custom and cultural values of Papuan, including the value of kinship, togetherness and love. Hence, when the radical feminism derived from the construct of “individualism” spreads out more broadly someday, it may not affect the existence of the principle of feminism itself in terms of cultural values among Papuan. However, Papuan women will be able to survive in career, but still remains with the value of kinship as their basic cultural value as Papuans. Furthermore, the appreciation and respect toward

women in social kinship may suppress the level of gender discrimination due to the equality of roles in social relationship based on the value of kinship. The development and dynamic of women emancipation for Papuan women keeps running as they have family and social community with full of love and togetherness. Thus, the principle of appreciating, respecting, and supporting each other may emerge.

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