



Juridical Review of the Restriction of Women's Rights in Leading Customary Villages from a Gender Perspective

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Abstract

This study aims to conduct a juridical analysis of how statutory regulations govern and restrict women's rights to perform leadership roles, to examine the legal implications of such restrictions, and to assess the forms of legal protection available to women who experience limitations on their leadership rights within customary village structures. The analysis adopts a gender equality and non discrimination perspective within Indonesia's national legal system. The research employs a normative juridical approach, treating law as an autonomous set of norms and the main object of inquiry. This approach focuses on analyzing codified legal norms as contained in statutory provisions. This research used two principal approaches: the Statute Approach and the Analytical and Conceptual Approach. The findings show that, juridically, there is no provision in Indonesia's national law that explicitly prohibits women from holding leadership positions. However, when viewed from a gender perspective, the obstacles faced by women largely originate from social constructions, entrenched patriarchal cultural dominance, and the absence of affirmative policies in sectoral regulations. Therefore, a gender justice oriented legal approach and capacity building for women are essential strategies to promote inclusive and transformative leadership. In the context of customary village leadership, structural inequalities remain evident and are underpinned by patriarchal norms that impede women's access to leadership positions. This situation contradicts the equality principles enshrined in national and international legal instruments, such as the 1945 Constitution, the Village Law (UU Desa), and the ratification of CEDAW, which affirm women's rights to full participation in public life and decision making.

I. Introduction

Women are frequently perceived not as autonomous individuals of equal importance but rather as complements created for the benefit of men. In reality, women are created as equal partners intended to complement one another so that societal functions can be

fulfilled holistically.¹ Social perceptions of gender remain deeply influenced by biological characteristics, particularly those related to reproductive functions. Within this social construction, women are often portrayed as gentle, more emotional than men, affectionate, and nurturing, while men are characterized as physically stronger, rational, decisive, and in a position of superiority.² On the basis of these biological distinctions, roles, functions, and responsibilities between men and women have been distributed historically. In this construction, men tend to be placed in the public sphere, whereas women are considered more suitable for domestic roles.³

Although gender equality has gained global attention and has been demanded across many countries, efforts to realize it continue to encounter complex obstacles. One of the primary factors impeding progress is the influence of long standing patriarchal cultural constructions that have institutionalized gendered role distinctions across generations. This cultural system is highly resistant to fundamental change. While opportunities to achieve gender equality remain, transformation requires time because altering deeply rooted cultural values is difficult. The enactment of policies on women's representation in political parties has opened avenues for women to enter political arenas, yet their participation within formal institutional structures has not reached expected levels.⁴

Since gender became an established field of study, women's roles in development have shifted significantly. Indonesian women have historically contributed to various spheres, including political movements and social struggles to secure rights such as education, equal employment opportunities, and protection from gender based violence. Women possess multifunctional capabilities that allow them to succeed as scholars, spouses, and active participants in community life. Technological progress and professionalization have substantially supported women in fulfilling domestic tasks that previously restricted their mobility, thereby opening up broader opportunities for public participation. To ensure adequate representation in decision making and policy formulation, recognition of women's roles must be institutionalized at all levels of government, from local to national.⁵

In recent developments, an increasing number of women occupy leadership positions across sectors, shouldering dual roles as household caretakers and public leaders. Indonesia's reform era has been a turning point, expanding opportunities for women who had long faced restrictions. The rise of women in the globalization era has reshaped social patterns and influenced development trajectories. Today, women perform a wide

¹ Anak Agung Putu Wiwik Sugiantari et al., "Hak Perempuan Dalam Pencalonan Kepemimpinan Desa Adat," *Jurnal Hukum ...*, 2022, <https://e-journal.unmas.ac.id/index.php/JHS/article/view/5944%0Ahttps://e-journal.unmas.ac.id/index.php/JHS/article/download/5944/4529>.

² Hanifa Maulida, "Perempuan Dalam Kajian Sosiologi Gender: Konstruksi Peran Sosial, Ruang Publik, Dan Teori Feminis," *Journal of Politics and Democracy* 1, no. 1 (2021): 71-79, <https://doi.org/10.61183/polikrasi.v1i1.6>

³ Rahim Abdul, "Peran Kepemimpinan Perempuan Dalam Perspektif Gender," *Jurnal Al-Maiyyah* 9, no. 2 (2016): 268-69.

⁴ I Wayan Budiarta, "Kepemimpinan Perempuan Dalam Sistem Kekerabatan Purusa: Legitimasi Sejarah Atas Kepemimpinan Politik Perempuan," *Jurnal Ilmiah Ilmu Sosial* 8, no. 1 (2022): 23-33, <https://doi.org/10.23887/jiis.v8i1.40982>.

⁵ Hikmatul Hasanah and Suprianik Suprianik, "Kepemimpinan Perempuan Perspektif Islam Dan Gender," *An-Nisa Jurnal Kajian Perempuan Dan Keislaman* 12, no. 1 (2019): 22-44, <https://doi.org/10.35719/annisa.v12i1.6>

variety of roles and their identities are no longer confined to traditional positions as wives or mothers. Women now leverage their potentials and existential qualities as empowered individuals in social orders.⁶ Women's leadership in the global context is reflected in the presence of several prominent female figures who have held positions as heads of state. In Pakistan, Benazir Bhutto served as Prime Minister for two terms, from 1988 to 1990 and from 1993 to 1996. Bangladesh, which gained independence from Pakistan in 1971, has been led by two women: Khaleda Zia (1991–2006) and Sheikh Hasina, who has served two terms from 1996 to 2001 and again from 2009 to the present. In other parts of Asia, notable female national leaders include Gloria Macapagal Arroyo and Corazon Aquino in the Philippines, Queen Elizabeth II as the monarch of the United Kingdom, and Park Geun hye, who once served as President of South Korea.⁷

Women's leadership is no longer merely a novel topic or public trend. Historically, women have served as heads of government since early centuries, and their visible role has expanded in the modern era particularly in the twenty first century through active participation in state structures. Leadership competence should be determined by qualifications and access to opportunity rather than by gender. Nonetheless, many women remain reluctant to display their potential due to social constructions that restrict their roles.⁸ Despite ongoing challenges, significant progress has been made in the inclusion of women in strategic leadership positions. Generally, women exhibit leadership characteristics such as patience, empathy, multitasking capability, and skill in building and maintaining social networks, which are important foundations for negotiation and decision making.⁹ In the context of decision making, various studies indicate that men tend to possess strengths in systematic and analytical abilities, whereas women are generally more adept in verbal skills. Moreover, women often demonstrate a distinctive combination of leadership characteristics firmness accompanied by gentleness, patience in formulating objectives, and sensitivity in understanding social situations, particularly when making decisions that concern the collective interest.

Emancipation in Indonesia does not solely focus on removing covert discrimination against women but also on confronting ideologies that underlie negative perceptions constraining women's access to equality. Women's contributions have evolved across

⁶ Herviyanto Yusuf and Khoyrul Anwar, "Gaya Kepemimpinan Perempuan Dalam Proses Kemajuan Pembangunan Di Desa," *Jurnal Strategi Dan Bisnis* 11, no. 1 (2023): 29, <https://doi.org/10.19184/jsb.v11i1.39427>

⁷ Yuminah Rohmatullah, "Kepemimpinan Perempuan Dalam Islam: Melacak Sejarah Feminisme Melalui Pendekatan Hadits Dan Hubungannya Dengan Hukum Tata Negara," *Jurnal Ilmu Hukum Dan Pemikiran* 17 (2017): 86–113

⁸ Hastuti Hastuti and M. Ridwan Said Ahmad, "Persepsi Masyarakat Terhadap Kepemimpinan Kepala Desa Perempuan Di Desa Alesipitto Kecamatan Ma'rang Kabupaten Pangkep," *Pinisi Journal of Sociology Education Review* 2, no. 3 (2022): 1, <https://doi.org/10.26858/pjser.v0i0.27322>.

⁹ Neny Marlina Aisyah Fieta Pambayun, Puji Astuti, "ANALISIS KEPEMIMPINAN KEPALA DESA PEREMPUAN DALAM PROSES PENGAMBILAN KEPUTUSAN (STUDI PADA DESA GUWOKAJEN KECAMATAN SAWIT KABUPATEN BOYOLALI)," *Journal of Politic and Government Studies* 14, no. 1 (2024): 295–310, <https://ejournal3.undip.ac.id/index.php/jpgs/article/view/48733>.

development and labor sectors, broadening the scope of gendered engagements.¹⁰ Realizing equality between women and men requires intensive struggle by women themselves, supported by individuals and groups, and must be pursued continuously until substantive justice is experienced by all community members. As social dynamics change, cultural value systems also shift; traditions and customary practices can adapt to contemporary needs. A critical attitude toward customary norms is not intended to reject cultural heritage but to reinterpret it so that it remains relevant.

Accordingly, this study is both relevant and contributes a distinct scholarly novelty by offering an integrated and in depth analysis of the interplay between central and local government policies and the evolving social dynamics within customary village settings. Previous research by Nora Aisa (2024), entitled "*Restrictions on Women's Political Rights According to the Ikhwanul Muslimin*,"¹¹ examines the limitation of women's political participation, particularly the prohibition against women assuming leadership roles within the Ikhwanul Muslimin framework. Similarly, Muhammad Falih Iqbal et al. (2023), in their study "*The Transformation of Rural Women's Roles within the Constraints of Patriarchal Culture*,"¹² analyze the evolving roles of rural women under persistent patriarchal structures. Their analytical framework identifies shifts in women's status and roles across political, educational, economic, familial, and socio cultural dimensions. The novelty of the present study lies in its simultaneous examination of juridical dimensions and gender perspectives in assessing the restriction of women's rights within prominent customary villages. Distinctively, this research focuses on the limitation of women's leadership rights in customary village governance from a gender perspective, while also critically evaluating women's capacity to influence local policymaking processes. This study is expected to make a theoretical contribution to the advancement of gender studies and community based development, as well as to produce context sensitive policy recommendations aimed at strengthening women's inclusion in development processes within customary village communities. In this regard, the researcher is interested in discussing how does legal study in statutory regulations govern the restriction of women's rights to leadership? And How is the legal protection against the restriction of women's right to lead traditional villages viewed from a gender perspective?

2. Research Methods

This study employs a normative juridical approach, which regards law as an autonomous set of norms and places it as the principal object of study. This approach is adopted as the research focuses on analyzing written legal norms codified within statutory provisions. In this perspective, law is viewed as a self contained system whose validity is determined by its internal structure and logic rather than external factors. Based on this framework, law is assumed to be whole and final, and can be applied

¹⁰ Dwi Prasetyoningsih and Agus Satmoko Adi, "Strategi Perempuan Kepala Desa Dalam Menerapkan Gaya Kepemimpinan Yang Demokratis Di Desa Kendal Sewu Kecamatan Tarik Kabupaten Sidoarjo," *Kajian Moral Dan Kewarganegaraan* 03, no. 4 (2016): 1136-52.

¹¹ Nora Aisa, "Pembatasan Hak Politik Perempuan Menurut Ikhwanul Muslimin," *Madania: Jurnal Hukum Pidana Dan Ketatanegaraan Islam* 14, no. 1 (2024): 58-65, <https://journals.fasya.uinib.org/index.php/madania/article/view/572>.

¹² Muhammad Falih Iqbal, Sugeng Harianto, and Pambudi Handoyo, "Transformasi Peran Perempuan Desa Dalam Belunggu Budaya Patriarki," *Jurnal ISIP: Jurnal Ilmu Sosial Dan Ilmu Politik* 20, no. 1 (2023): 95-108, <https://doi.org/10.36451/jisip.v20i1.13>.

directly to resolve legal issues. The normative juridical method enables the researcher to construct legal rules systematically based on prevailing normative provisions.¹³ The normative juridical method in this research functions as an analytical approach aimed at formulating legal norms as solutions to various emerging legal issues. This research is classified as normative legal research, as it conceptualizes law as an autonomous and self-contained system whose validity is derived from the internal legal framework rather than from external influences.¹⁴ Law constitutes a set of norms that regulate individual behavior within society and possesses a formally binding nature. As a regulatory instrument, law cannot be disregarded, as its validity derives from the authority of legitimate regulations. Non-compliance with legal provisions results in the imposition of sanctions as a means of enforcing legal norms. Within this construct, law functions as an entity endowed with the highest authority, while society is obligated to submit to and implement legal commands as an expression of adherence to the principle of the rule of law.¹⁵

Therefore, societal behavior should consistently align with legal provisions, as law functions as a normative guideline possessing the highest authority within the social system. The principle of the rule of law affirms that all actions of citizens must conform to the prevailing legal order as a manifestation of respect for a legitimate and just system.¹⁶ The research applies two main approaches: the Statute Approach and the Analytical and Conceptual Approach. These approaches are used to examine statutory provisions and to analyze relevant legal concepts. The study also considers the potential role of customary villages in managing community-based initiatives from a sociological perspective to understand the relationship between legal norms and local social dynamics. Data for the study were collected through library research, utilizing primary legal materials such as statutory regulations, and secondary materials comprising scholarly books, journal articles, and media sources. The literature study aims to gather comprehensive references as the basis for in-depth and contextual legal analysis.¹⁷ The literature study method in this research is employed to collect various relevant references and materials to support the analytical process. Through this approach, the researcher is able to identify and integrate both primary and secondary legal materials, which serve as the conceptual and supporting foundation for the implementation of the study.

3. Result and Discussion

3.1. Legal Analysis of Statutory Regulations Regarding the Restriction of Women's Rights as Leaders

Contemporary advances and achievements of women in various fields are increasingly visible. Women occupying leadership positions in institutions and organizations are no

¹³ Zulfadli Barus, "Analisis Filosofis Tentang Peta Konseptual Penelitian Hukum Normatif Dan Penelitian Hukum Sosiologis," *Jurnal Dinamika Hukum* 13, no. 2 (2013): 307-18.

¹⁴ Muhaimin, M, 2020, *Metode penelitian hukum*, Mataram-NTB: Mataram, 1, h. 46.

¹⁵ Wilamarta M Dan Barus Z, "Manfaat Analisis Yuridis Dan Sosiologis Yang Bersifat Komplementer Dalam Perjanjian Kredit Untuk Meminimalisir Resiko Bank Sebagai Kreditor," *Yustisia* 1, no. 2 (2012): 151-68.

¹⁶ Taufiqurrohman Syahuri, "Politik Hukum Perekonomian Berdasarkan Pasal 33 UUD 1945," *Jurnal Konstitusi* 9, no. 2 (2016): 243, <https://doi.org/10.31078/jk921>.

¹⁷ *Op.Cit.* h. 141

longer rare. In Indonesia, discourse on women's leadership in the public sphere continues to be polemical, particularly within customary villages. Nevertheless, alongside rising awareness of gender equality, feminist figures have begun to occupy strategic workspaces, including in politics, reflecting notable progress in Indonesia's governance system.¹⁸ Women face both structural and cultural challenges, notably social constructions that place women in subordinate positions relative to men. Cultural views that privilege male leadership have become a significant barrier to women's continuation in leadership roles. Although an increasing number of women now occupy strategic positions, society continues to maintain a patriarchal mindset that places men as the dominant figures in leadership a social legacy that has been deeply rooted since the past.¹⁹

To address cultural problems where men dominate leadership relative to women, legal rules have been established concerning the rights and positions of men and women under statutory law. The Constitution of the Republic of Indonesia (1945) provides fundamental guarantees. Article 28D(1) states that *"everyone has the right to recognition, guarantees, protection, and legal certainty and equal treatment before the law."* This provision ensures equality and legal certainty, guaranteeing that all individuals are treated equally before the law without discrimination. The State has an obligation to provide just and transparent legal protection and to reject the exclusion of women from leadership roles as a form of social exclusion that conflicts with the substantive justice principle demanding recognition of diverse identities in decision making.

Article 28D (3) further provides that *"every citizen has the right to equal opportunity in government."* This clause operates as a constitutional basis to resist domination by any particular group, including male dominance in political and bureaucratic leadership structures, and underscores that public leadership should be based on competence and constitutional rights rather than gender or exclusive social constructions. Article 28H(2) is also relevant: *"Every person shall have the right to receive special facilities and treatment in order to obtain equal opportunities and benefits to achieve justice."* This provision indicates the State's constitutional duty to provide special treatment to vulnerable groups such as women and indigenous communities to ensure their equal rights. Such efforts include guaranteeing equitable access to resources, public services, and socio economic opportunities as affirmative strategies to address structural inequalities and systematic discrimination.

The issue of women's unequal rights has elicited a global response through the CEDAW convention, an international instrument aimed at protecting and expanding women's rights and urging policymakers to improve women's status in society. CEDAW functions as a legal framework intended to eliminate discrimination against women by correcting biased understandings of rights and duties. The Indonesian government ratified CEDAW through Law No. 7 of 1984 on the Ratification of the Convention on the Elimination of All Forms of Discrimination against Women. The enactment was adjusted to the demands of the times and influenced by social and cultural dynamics in

¹⁸ Moch. Tohet and Lathifatul Maulidia, "Kepemimpinan Perempuan Perspektif Mufassir Nusantara," *Jurnal Islam Nusantara* 2, no. 2 (2018): 211, <https://doi.org/10.33852/jurnalin.v2i2.100>.

¹⁹ Nur Ika Mauliyah and Ella Anastasya Sinambela, "Peran Kepemimpinan Perempuan Dalam Pengambilan Keputusan Bisnis," *An-Nisa Jurnal Kajian Perempuan Dan Keislaman* 12, no. 1 (2019): 45-57, <https://doi.org/10.35719/annisa.v12i1.7>.

Indonesia, which have transformed the patterns of relations between men and women.²⁰ Although Law No. 7 of 1984 does not explicitly contain an article that prohibits women from becoming leaders, it reflects the government's commitment to eliminating gender based discrimination, including in leadership.

Article 7 of Law No. 7 of 1984 guarantees women's right to participate in governance and political decision making. The provision secures women's equality in politics and public life, including the right to vote and be elected in general elections, to participate in policy formulation ranging from the highest levels of government to customary community regulations (such as *awig-awig* or *pararem*), and to occupy public office and exercise government functions at all levels. This provision mirrors the international commitment to eliminate gender based discrimination and to strengthen women's role in political decision making as part of creating inclusive democratic governance.

Article 14 of Law No. 7 of 1984 specifically addresses the rights of rural women, including the right to participate in development, access public services, and be involved in decision making at the local level. The article recognizes that rural women face double vulnerabilities due to limited access to resources and public services. Therefore, the State is obliged to secure rural women's full rights, including rights to education, health, employment, political participation, and access to technology. The provision reflects the principles of spatial and social justice and calls for affirmative policies responsive to the specific needs of women in remote and agrarian areas.

Likewise, Law No. 6 of 2014 concerning Villages does not contain a clause explicitly restricting women from leading villages, including customary village leadership. Several relevant provisions indicate that women have equal rights to participate in village governance, including as leaders. Article 33 of Law No. 6 of 2014 regulates eligibility criteria for village head candidates and does not mention sex as a disqualifying requirement. Other provisions concerning community participation in village governance are normatively inclusive and non discriminatory toward women. However, the practical implementation of these provisions is often influenced by social structures and cultural norms that may limit women's access to leadership positions, particularly in areas strongly influenced by patriarchal customary systems. Thus, Law No. 6 of 2014 formally opens opportunities for women to be active in village development and governance.

Guarantees of equal opportunity for women's participation in political life, including in customary village politics, are normatively legitimized by human rights provisions. Women's leadership in politics often represents the category of "achieved women politicians", those who attain political positions based on intellectual capacity and organizational skills rather than inheritance or privilege.²¹ In relation to restrictions on women's rights to lead customary villages, Article 49(1) of Law No. 39 of 1999 on Human Rights states that "*women have the right to vote, to be elected, to be appointed in employment, positions, and professions according to statutory requirements and regulations.*" In

²⁰ Failin Failin, Anny Yuserlina, and Eviandi Ibrahim, "Protection of Children'S Rights and Women'S Rights As Part of Human Rights in Indonesia Through Ratification of International Regulations," *JCH (Jurnal Cendekia Hukum)* 7, no. 2 (2022): 312, <https://doi.org/10.33760/jch.v7i2.557>.

²¹ Rahmani Timorita Y, "Kepemimpinan Wanita Di Indonesia Perspektif Budaya Dan Agama," *Unisia*, 2004, 190-200, <https://journal.uui.ac.id/Unisia/article/view/5378/4743>.

academic terms, this provision represents the universal and inclusive principle of political rights that rejects discrimination based on gender, social status, or cultural background and serves as a normative foundation for recognizing and protecting women's rights to participate in public decision making and promoting democratic governance with gender justice.

Therefore, juridically, there is no national legal provision in Indonesia that explicitly prohibits women from occupying leadership positions. Nevertheless, in practice women continue to face structural and cultural barriers that produce de facto restrictions on their access to leadership. The national legal framework guarantees equality between men and women in leadership. Yet, from a gender perspective, obstacles are predominantly sourced from social constructions, patriarchal cultural dominance, and the absence of affirmative policies within sectoral regulations. Hence, a legal approach oriented toward gender justice and capacity building for women is required as a primary strategy to foster inclusive and transformative leadership. The discussion may be examined through the perspective of Liberal Feminism Theory, which emphasizes that women and men possess equal rights, opportunities, and positions in all aspects of life, including within the spheres of politics and leadership. Liberal feminist theory views any restriction on women's access to leadership positions as a manifestation of injustice that contradicts the principles of equality and non discrimination.²² Therefore, when women continue to encounter obstacles in attaining leadership positions, such conditions are essentially not caused by normative restrictions within the national legal framework, but are instead influenced by the persistence of patriarchal culture, gender biased social constructions, and discriminatory practices that continue to develop within society.

3.2. Legal Protection against Restrictions on Women's Rights to Lead Customary Villages from a Gender Perspective

Leadership is an essential competence that should be available to any individual occupying strategic positions within an organization. A leader's effectiveness depends on the ability to influence, direct, and constructively nurture organizational members. Leaders play a central role in shaping motivation, creating a sense of security, improving the quality of work life, and driving organizational performance. A leader, in essence, is an individual who possesses specific skills and distinct competencies, particularly in relevant fields, thereby enabling them to inspire and motivate others to actively engage in the implementation of various organizational activities.²³ The discourse on women's leadership remains a persistently relevant issue and has long been a subject of debate across different periods. Social constructions have traditionally framed leadership as an exclusive domain of men, grounded in the assumption that women, being gentle and emotionally inclined, lack the characteristics required for leadership namely firmness and rationality. As a result, a stigma has emerged that relegates women to subordinate positions in leadership selection processes. Normatively, however, women hold equal rights to assume leadership roles. In this regard, leadership should be determined not by

²² Marita and Yustisia Pratiwi Pramesti, "Feminist Legal Theory as a Review of Legal Philosophy: Its Relation with Gender Equality in Indonesia," *Journal of Transcendental Law* 5, no. 2 (2023): 82-90, <https://doi.org/10.23917/jtl.v5i2.4160>.

²³ Ica Putri Cahyaningsih et al., "Peran Kepemimpinan Wanita Di Era Modern," *Al Yasini: Jurnal Keislaman, Sosial, Hukum Dan Pendidikan* 5, no. 36 (2020): 168-81, <https://ejournal.kopertais4.or.id/tapalkuda/index.php/alyasini/article/view/3793>.

gender identity, but by individual capacity, integrity, responsibility, and the ability to effectively fulfill the mandate of leadership.²⁴

Legal protection for women in the context of customary village leadership is part of the State's structured effort to realize the principles of equality and social justice grounded in human rights values. The primary objective of this protection is to guarantee equal rights between men and women in public spheres, particularly regarding access to leadership positions and participation in local decision making processes. Legal protection also aims to eliminate gender based discrimination that is often legitimized by patriarchal and exclusionary customary norms. In this regard, national law functions as a normative instrument that encourages social transformation by aligning customary practices with universal human rights principles.

Thus, legal protection must be more than declarative; it must be concretely realized through affirmative policies, institutional reforms, and capacity building for women within customary communities. The normative basis for legal protection of women's leadership can be found in several national legal instruments that explicitly guarantee equality and freedom from discrimination. Constitutionally, the 1945 Constitution of the Republic of Indonesia through Articles 28D(1) and 28I(2) asserts that every citizen has the right to equal treatment before the law and freedom from discrimination, including on gender grounds. This is reinforced by Law No. 7 of 1984 on the Ratification of CEDAW, which obligates the State to take strategic measures to ensure women's participation in all fields of life, including local politics and leadership. Moreover, Law No. 6 of 2014 on Villages provides normative space for women to be actively involved in village governance as both participants in deliberative forums and as village leaders. Together, these three instruments form an important foundation to promote social and legal transformation toward inclusivity and to assert that restrictions on women's rights to lead customary villages contradict national legal principles and Indonesia's international commitments.

From a gender perspective, restrictions on women's leadership in customary villages reflect institutionalized structural inequalities within social and cultural systems. Patriarchal customary norms have historically placed women in subordinate positions, often regarding them as second class citizens lacking legitimacy to hold leadership roles or participate in collective decision making. Such inequalities have tangible consequences on women's access to resources, power, and political participation at the local level. The absence of female representation within customary institutions reinforces marginalization because women are frequently excluded from customary deliberative forums that determine community policy and social life. Women's presence in these forums is crucial to ensure their perspectives and needs are equitably considered.

Gender justice requires not only numerical equality or representation but also substantive recognition of women's roles, capacities, and contributions to leadership. Achieving gender justice demands systemic social transformation that enables women to participate fully, meaningfully, and equally within customary power structures rather than serving merely as token representatives. This principle echoes the provisions of CEDAW ratified by Indonesia, which affirms equality in public life, decision making,

²⁴ Shalahuddin Al Syaifullah, Putri Anggun Bhakti Insanitaqwa, and Mufidah Mufidah, "Kepemimpinan Pendidikan Islam," *Cerdika: Jurnal Ilmiah Indonesia* 1, no. 7 (2021): 840-47, <https://doi.org/10.59141/cerdika.v1i7.126>.

and political participation.²⁵ Therefore, a gender based approach to analyzing the restriction of women's leadership in traditional villages must be able to uncover unequal power relations and promote systemic change that upholds the principles of inclusivity and equality.

Protective strategies for women's leadership in customary villages should be comprehensive and sustainable, addressing normative legal reform as well as social and cultural transformation at the community level. One key strategy is to reform customary legal practices through a participatory human rights based approach. Such reform must involve all community elements, including women as legal subjects, to review discriminatory customary norms and adapt them to equality and justice values. Participatory reform ensures that changes are not top down interventions but deliberative outcomes reflecting the community's aspirations and needs.

A primary strategy adopted by women village leaders is inclusive and collaborative leadership. They emphasize active community participation in decision making and involve various social groups, including women's groups and youth, from planning to program implementation. This participatory approach strengthens leaders' legitimacy and increases collective ownership of policies. Female leaders proactively enhance their leadership and administrative competencies through trainings provided by local governments and civil society organizations. Beyond personal capacity building, they cultivate more harmonious relations with customary village apparatus through open dialogue and strengthened internal cooperation, which contributes to more effective and responsive village governance.

In confronting social resistance and external pressures, women leaders leverage their social capital, such as interpersonal closeness with community members and external networks built through NGOs and women's organizations. Social capital serves as an essential support mechanism that strengthens their leadership position and facilitates access to resources and broader social legitimacy.²⁶

Gender equality education at the community level is a strategic instrument for building collective awareness about the importance of women's roles in leadership and decision making. Transformative education can dismantle long standing gender stereotypes and help customary communities understand that leadership is not an exclusive male prerogative but a capacity that any person can possess regardless of sex. Another strategic approach is to establish synergistic collaboration between the government, traditional authorities, and women's organizations in designing and implementing a more equitable and inclusive customary legal framework. Such collaboration seeks to foster a constructive dialogue in which traditional values are harmonized with contemporary principles of human rights and gender equality. Consequently, the legal protection of women in the context of traditional villages should not be viewed solely as

²⁵ Lidwina Inge Nurtjahyo, "Partisipasi Perempuan Dalam Proses Pengambilan Keputusan Di Dewan Adat Terkait Dengan Penyelesaian Kasus-Kasus Kekerasan Terhadap Perempuan: Kisah Dari Atambua, Sumba Timur, Rote Dan Labuan Bajo," *Jurnal Hukum & Pembangunan* 50, no. 1 (2020): 106, <https://doi.org/10.21143/jhp.vol50.no1.2485>.

²⁶ Nanik Mandasari and Eka Septiani, "Peran Dan Tantangan Perempuan Dalam Kepemimpinan Desa: Analisis Di Kecamatan Gunung Raya, Kabupaten Kerinci," *Parlementer: Jurnal Studi Hukum Dan Administrasi Publik* 1, no. 2 (2024): 65-76, <https://doi.org/10.62383/parlementer.v1i2.133>.

the responsibility of the state, but as a collective commitment of all societal actors in building a more democratic and just social order.

From the perspective of Feminist Legal Theory, law is understood as a product of patriarchal social construction which, in practice, often gives rise to injustice and discrimination against women.²⁷ Consequently, legal reconstruction grounded in a gender sensitive approach is necessary to ensure that women obtain equal opportunities, recognition, and legal protection, both in social life and within traditional leadership structures. Furthermore, another strategic approach may be realized through the development of synergistic collaboration among the government, customary authorities, and women's organizations in formulating and implementing a more just and inclusive customary legal framework. Such collaboration is directed toward fostering constructive dialogue aimed at harmonizing traditional values with the principles of human rights and gender equality. The participation of indigenous women in the process of formulating both national and customary law is therefore of significant importance, as women's experiences and perspectives may contribute to the establishment of legal norms that are non discriminatory in nature.²⁸ Thus, legal protection for women within the context of customary villages should not merely constitute the responsibility of the state, but should also represent a collective commitment of all elements of society in realizing a democratic, just, and gender equitable social order.

4. Conclusion

Based on the foregoing discussion, it can be understood that women continue to face various structural and cultural barriers rooted in the persistence of patriarchal culture and social constructions that position men as the dominant actors in leadership. Such conditions result in restrictions on women's rights to lead customary villages being influenced more by social and cultural factors than by normative legal provisions. Therefore, the reformulation and adjustment of customary laws that remain discriminatory toward women are necessary in order to align them with human rights principles and national legal provisions. Although, from a juridical perspective, Indonesian national law fundamentally does not recognize any prohibition against women occupying leadership positions, including within the leadership structure of customary villages. This is reflected in various national legal instruments, such as the 1945 Constitution of the Republic of Indonesia, Law Number 7 of 1984 concerning the Ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Law Number 6 of 2014 concerning Villages, and Law Number 39 of 1999 concerning Human Rights, all of which substantively guarantee equal rights, opportunities, and participation for women in both the public and governmental spheres.

Furthermore, when examined from a gender perspective, restrictions imposed on women in customary village leadership constitute a manifestation of structural inequality that contradicts the principles of gender justice and respect for human rights.

²⁷ A. Sakti R.S. Rakia and Wahab Aznul Hidayat, "Aspek Feminist Legal Theory Dalam Peraturan Perundang-Undangan Di Indonesia," *Amsir Law Journal* 4, no. 1 (2022): 69-88, <https://doi.org/10.36746/alj.v4i1.104>.

²⁸ Kunthi Tridewiyanti et al., "Participation of Women From Indigenous Peoples in the Formation of National Law," *Sasi* 29, no. 2 (2023): 269, <https://doi.org/10.47268/sasi.v29i2.1229>.

Therefore, efforts to provide legal protection for women should not be limited merely to normative recognition, but must also be realized through concrete measures, such as the reform of customary law, the implementation of affirmative policies, the strengthening of gender equality education, and the enhancement of women's leadership capacities. The implementation of these protective strategies must be carried out participatively through synergy among the government, customary leaders, and women's organizations in order to establish a more inclusive, democratic, and gender-equitable social and customary legal system. Consequently, women may obtain equal opportunities to participate in and occupy leadership positions within customary communities without experiencing gender-based discrimination.

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