

## **WOMEN AND LEGISLATION: EBB AND FLOW OF THE STRUGGLE TO ESTABLISH POST-REFORM VIOLENCE ELIMINATION POLICY**

**Mohammad Fauzan Ni'ami, Mufidah Ch**

*UIN Maulana Malik Ibrahim Malang*

[Niamifauzan01@gmail.com](mailto:Niamifauzan01@gmail.com) , [fidah\\_cholil@syariah.uin-malang.ac.id](mailto:fidah_cholil@syariah.uin-malang.ac.id)

### **Abstract**

*This research is motivated by the struggle of women in fighting for policies to eliminate violence against women in post-reformation Indonesia. The position of women in the public sphere has good bargaining power to produce national laws. The implication is the presence of Law Number 23 of 2003 concerning Domestic Violence, the Draft Law on Justice and Gender Equality, and Law Number 12 of 2022 concerning the Crime of Sexual Violence which seeks to be a representation of pro-women policies. This research tries to trace the genealogy of the emergence of policies to eliminate violence against women after reform by presenting struggles involving women. By using normative juridical research and genealogical and philosophical approaches, we argue that there are ups and downs in women's struggles. The factor causing the decline in women's struggle in advocating for these policies is the existence of patriarchal politics. Meanwhile, the factor that triggered the birth of women's struggle activities was hegemony with the aim of mass mobilization to support the ratification of Law Number 23 of 2003 concerning Domestic Violence, the Draft Law on Justice and Gender Equality, and Law Number 12 of 2022 concerning Actions. Criminal Sexual Violence. This study has implications for the development of research on the genealogy of women's struggles in producing national laws.*

**Keyword:** *Hegemony, Violence, Women, Patriarchal Politics.*

### **Abstrak**

Riset ini dilatarbelakangi oleh perjuangan perempuan dalam memperjuangkan kebijakan penghapusan kekerasan terhadap perempuan di Indonesia pasca reformasi. Posisi perempuan di ruang publik memiliki daya tawar yang baik untuk memproduksi hukum nasional. Implikasinya adalah kehadiran Undang-Undang Nomor 23 Tahun 2003 Tentang Kekerasan Dalam Rumah Tangga, Rancangan Undang-Undang Keadilan Dan Kesetaraan Gender, dan Undang-Undang Nomor 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual yang berupaya menjadi representasi dari kebijakan pro perempuan. Riset ini mencoba melacak geneologi munculnya kebijakan penghapusan kekerasan terhadap perempuan pasca reformasi dengan menghadirkan pergulatan yang melibatkan kaum perempuan. Dengan menggunakan jenis penelitian yuridis normatif dan pendekatan genealogi (*genealogical approach*) dan filosofi (*philosophy approach*), kami berargumentasi bahwa terjadi pasang surut perjuangan perempuan. Faktor yang menjadi penyebab surutnya perjuangan perempuan dalam mengadvokasi kebijakan tersebut adalah adanya politik patriarki. Sedangkan faktor yang menjadi pemicu lahirnya aktivitas perjuangan perempuan adalah hegemoni dengan tujuan mobilisasi massa supaya mendukung pengesahan Undang-Undang Nomor 23 Tahun 2003 Tentang Kekerasan Dalam Rumah Tangga, Rancangan Undang-Undang Keadilan Dan Kesetaraan Gender, dan Undang-Undang Nomor 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual. Kajian ini berimplikasi kepada pengembangan riset geneologi perjuangan perempuan dalam memproduksi hukum nasional.

**Kata Kunci:** *Hegemoni, Kekerasan, Perempuan, Politik Patriarki.*

## Introduction

After reform, the situation in the Indonesian state began to show signs of change in terms of political engineering. Freedom of opinion and expression is starting to be opened widely to all groups, both men and women. This is intended so that all groups can make the reform era a success with a democratic constellation. In his research, Indra stated that the reform era was a moment when women increased their participation in the public sphere and also as actors to determine the direction of political policy to create policies that were pro-women.<sup>1</sup>

In the post-reformation era, women's involvement is very significant, namely being able to compete in Indonesia's democratic political constellation.<sup>2</sup> Women have even become an inseparable part of the reform movement. This was marked by the increase in women's participation in politics and women's representation in parliament in the 2000s.<sup>3</sup> One of the reasons for women's struggle to strengthen their existence in Indonesian politics

was the low number of women elected as members of parliament in 1999. This shocked women activists considering that in the 1990s there were many women's movements such as the "Perempuan Mahardhika", "Koalisi Perempuan Indonesia", "Gerakan Solidaritas Perempuan", and others who loudly voice criticism and aspirations towards state life, especially in the context of policy making related to violence against women.<sup>4</sup>

Some research suggests that women's struggles in Indonesia are suspected of being influenced by patriarchal values in social life which have implications for policy.<sup>5</sup> Then the politics of women's domestication also becomes a historical value,<sup>6</sup> power that normalizes gender violence, and the lack of gender-responsive policies is also one of the factors in strengthening women's activities as agents of change during the reform era.<sup>7</sup> Therefore, post-reform women's activities focus on the issue of violence against women in the domestic and public spheres.

<sup>1</sup> Indra Fauzan, "Politik Dan Perempuan Di Indonesia Pasca Reformasi," *Jurnal Ilmiah Mimbar Demokrasi* 17, no. 1 (2017): 15–88, <https://doi.org/https://doi.org/10.21009/jimd.v17i1.8760>.

<sup>2</sup> Fathurrosi, "Sejarah Perkembangan Politik Perempuan Di Indonesia (Analisis Masa Orde Lama-Reformasi Dan Perspektif Al-Qur'an)," *Raheema* 5, no. 2 (2019): 133–126, <https://doi.org/https://doi.org/10.24260/raheema.v5i2.1259>.

<sup>3</sup> Philips J. Vermonte, "Political Engineering for Women in Indonesian Governance," *Jurnal Perempuan* 19, no. 4 (2014): 257–64, <https://doi.org/https://doi.org/10.34309/jp.v19i4.61>.

<sup>4</sup> Edward Aspinall, Sally White, and Amalinda Savirani, "Women's Political Representation in Indonesia: Who Wins and How?," *Journal of Current Southeast Asian Affairs* 40, no. 1 (2021): 3–27, <https://doi.org/10.1177/1868103421989720>.

<sup>5</sup> Aspinall, White, and Savirani.

<sup>6</sup> Wasisto Raharjo Jati, "Historisitas Politik Perempuan Indonesia," *Paramita* 24, no. 2 (2014): 200–210, <https://doi.org/https://doi.org/10.15294/paramita.v24i2.3123>.

<sup>7</sup> S. Laurel Weldon et al., "Feminist Waves, Global Activism, and Gender Violence Regimes: Genealogy and Impact of a Global Wave," *Women's Studies International Forum* 99, no. April (2023): 102781, <https://doi.org/10.1016/j.wsif.2023.102781>.

In the late 90s, data on violence obtained by the Indonesian Women's Association for Justice (APIK) and the National Commission on Violence Against Women (Komnas Perempuan) showed that acts of violence did not have concrete legal certainty. Meanwhile, during the New Order era, regulations regarding violence against women in the domestic sphere were not effective in providing justice to victims.<sup>8</sup> Munir in his research stated that for many years the issue of violence was not given special attention by the old New Order government so that women activists, especially Non-Governmental Organizations (NGOs) took strategic steps to create policies regarding violence in the domestic or public sphere.<sup>9</sup> Sriwidodo explained that the argument built by the women's group was that every citizen has the right to feel safe and free from all kinds of violence. This is because violence against women is a violation of human rights.<sup>10</sup>

Efforts to initiate policies to eliminate violence against women seemed very difficult,

because at that time women's access to politics was still limited. The strategy used by women is to fight to enter the political realm to adopt legal policies that are pro-women, because the legal system is still gender biased.<sup>11</sup> Therefore, in the early 2000s, the women's movement, which initially had a social direction, began to transform into a movement that had political output. This is characterized by the existence of coalitions and alliances of women activists who seek to take part in determining the direction of public policy.

Women's activities in the political field led to the formation of the Parliamentary Women's Caucus of Republic of Indonesia (KPP RI), which is a forum for women's struggles and women activists.<sup>12</sup> The implication contained in women's activism in the public sphere is to be active in decision-making institutions that can influence the resulting legal products.<sup>13</sup> Afrianty explained that women become agents in mobilizing a movement, intervening in a policy, and responding to the needs of women victims of

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<sup>8</sup> Anita Dhewy and Bella Sandiata, "Political and Legal Novelty as the Contribution of Indonesian Women's Movement in the Advocacy on Affirmative Policy in Election and Law on the Abolition of Domestic Violence," *Jurnal Perempuan* 24, no. 1 (2019): 77–87, <https://doi.org/http://dx.doi.org/10.34309/jp.v24i2.324>.

<sup>9</sup> Lily Zakiyah Munir, "Domestic Violence in Indonesia," *Muslim World Journal of Human Rights* 2, no. 1 (2005): 1–37, <https://doi.org/10.2202/1554-4419.1031>.

<sup>10</sup> Joko Sriwidodo, *Pengantar Hukum Kekerasan Dalam Rumah Tangga* (Yogyakarta: Kepel Press, 2021). Hlm. 45

<sup>11</sup> Hanafi Arief, "Domestic Violence and Victim Rights in Indonesian Law Concerning the Elimination of Domestic Violence," *Journal of Legal, Ethical and Regulatory Issues* 21, no. 4 (2018): 1.

<sup>12</sup> Hardiman Wirahmat and Nur Alfiyani, "The Political Existence of Women After the Independence of Indonesia," *SPECTRUM: Journal of Gender and Children Studies* 2, no. 2 (2022): 114–31, <https://doi.org/https://doi.org/10.30984/spectrum.v2i2.463>.

<sup>13</sup> Ida Fauziyah, *Geliat Perempuan Pasca-Reformasi; Agama, Politik, Dan Gerakan Sosial* (Yogyakarta: LKiS, 2015). hlm. 50.

violence.<sup>14</sup> Therefore, women's organizations are pushing for women to be able to enter parliament to intervene and introduce measures to punish all acts of violence against women that occur in public or private spaces.<sup>15</sup>

The involvement of women in making decisions is an effort to encourage public policies that have a gender perspective and are pro-women. In her research, Fauziyah argued that a policy or law will have a female character if subjectively the person advocating the policy is a woman. For this reason, women's struggle in the public sphere after reform continues by guarding and advocating for laws that target women to improve welfare.<sup>16</sup>

Several previous studies have suggested that women have good bargaining power to produce national laws.<sup>17</sup> Not only that, Wolbrecht and Campbell emphasized that women's struggles are considered to greatly influence national legal engineering because women who struggle in the public sphere become catalysts for the process of political

socialization.<sup>18</sup> This is proven by the many policies initiated by women. Some of these are policies related to violence against women. Then Hilman revealed that the journey of Indonesian women in fighting for gender influenced the dynamics of legislation in Indonesia.<sup>19</sup> Vermonte in her research also explained that women engineer politics which has implications for policy.<sup>20</sup>

Over the course of approximately 20 years, women's struggle regarding the elimination of violence or discrimination has been manifested in several legal policies, namely Law Number 23 of 2003 concerning the Elimination of Domestic Violence (hereafter Domestic Violence Law), Gender Equality and Justice Bill (hereafter Gender Equality Bill), and Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence (hereafter Sexual Violence Criminal Law). It's just that the discussion of the Gender Equality Bill has reached an impasse until now, and is not included in the 2023 Prolegnas.

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<sup>14</sup> Dina Afrianty, "Agents for Change: Local Women's Organizations and Domestic Violence in Indonesia," *Bijdragen Tot de Taal-, Land- En Volkenkunde* 174, no. 1 (2018): 24–46, <https://doi.org/10.1163/22134379-17401024>.

<sup>15</sup> Puja Kapai, "Minority Women: A Struggle for Equal Protection against Domestic Violence", in: Beverley Baines, ed. *Feminist Constitutionalism: Global Perspectives*, ed. Daphne Barak-Erez and Tsvi Kahana Beverley Baines (Cambridge: CambridgeUniversity Press, 2012), 336–56.

<sup>16</sup> Fauziyah, *Geliat Perempuan Pasca-Reformasi; Agama, Politik, Dan Gerakan Sosial*.hlm. xxvi

<sup>17</sup> Fauzan, "Politik Dan Perempuan Di Indonesia Pasca Reformasi."

<sup>18</sup> Christina Wolbrecht and David E. Campbell, "Female Members of Parliament Example : By Leading Role as Political Models," *American Journal of Political Science* 51, no. 4 (2007): 921–39, <https://doi.org/https://doi.org/10.1111/j.1540-5907.2007.00289.x>.

<sup>19</sup> Ben Hillman, "The Limits of Gender Quotas: Women's Parliamentary Representation in Indonesia," *Journal of Contemporary Asia* 48, no. 2 (2018): 322–38, <https://doi.org/10.1080/00472336.2017.1368092>.

<sup>20</sup> Vermonte, "Political Engineering for Women in Indonesian Governance."

This research aims to complement the shortcomings of previous research which has not fully discussed women's struggles in initiating policies on eliminating violence against women after reform by mapping years of struggle based on the dynamics of women's struggles. The author argues that women's struggle in initiating and advocating for policies related to violence against women has had its ebb and flow. This is due to the existence of a patriarchal political culture that still dominates and also the hegemony of women to dominate and control policies that support women.

This research is a development of previous research which discussed post-reform women's struggles in producing anti-violence policies against women. By using a juridical-normative type of research, this research will focus on the ups and downs of women's struggle in forming the Domestic Violence Law, Gender Equality Bill, and Sexual Violence Criminal Law. Meanwhile, the approach used is a historical approach which functions to trace the historical roots of the emergence of policies with women as actors and a philosophical approach which functions to find the meaning of emerging policies

### **Periodization of the ebb and flow of Women's Struggle to Eliminate Post-Reform Violence**

The emergence of policies to eliminate violence against women<sup>21</sup> cannot be separated from the role of women in parliament and women in public circles. The role of women compared to the New Order era was very different from the reform era. During the New Order, important issues related to gender were not yet widely discussed, even during the New Order, formal political discussions and transfers of power were not worth discussing. Meanwhile, the reform period brought a change at the level of the political system in Indonesia, namely politics from an authoritarian system to a democratic system. This is marked by the strengthening of recognition of Human Rights and the existence of reform agendas regarding gender and women's rights.<sup>22</sup>

The reform era opened up political space and civil society involvement to encourage the democratization of the country, so that the women's movement saw that this was a moment to advocate for women's agenda on the political stage. Sigiro said that the democratic agenda had finally opened up women's circles, represented by feminists, to

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<sup>21</sup> In the context of this research, what is meant by the policy of eliminating violence against women is Law Number 23 of 2003 concerning the Elimination of Domestic Violence (UU PKDRT), the Bill Law on Gender Equality and Justice (RUU KKG), and the Law

Number 12 of 2022 concerning Crime of Sexual Violence (UU TPKS)

<sup>22</sup> Dhewy and Sandiata, "Political and Legal Novelty as the Contribution of Indonesian Women's Movement in the Advocacy on Affirmative Policy in Election and Law on the Abolition of Domestic Violence."

question whether substantive women's involvement could be realized. Furthermore, feminists began to develop strategies in the reform era with the concept of critical actors which encouraged a collective feminist movement to realize policies with a gender perspective.<sup>23</sup>

Women's open activities in public spaces in the reform era paved the way and also influenced legal policy in Indonesia. Starting from the emergence of the Domestic Violence Law in 2004 to the TPKS Law in 2022, women have strong power to create legal products in a democratic system. However, there were ups and downs when women tried to initiate and produce laws to eliminate violence against women. To prove this hypothesis, the researcher divides three brief periods of women's struggles in the field which are adapted to the policies being fought for, namely the ups and downs of the TPKS Law, then the Gender Equality Bill, and the TPKS Law.

### **Period of Ebb and flow the Domestic Violence**

The initiative for the emergence of the Domestic Violence Law actually emerged in 1997, this was felt by women because of the

need for a special law that criminalizes violence against women in the domestic realm. Because this problem did not receive special attention by the old order government. So the victims feel they have no protection due to the violence they suffer.<sup>24</sup> This is supported by the case of Neneng who experienced domestic violence in 1997 and then asked for help from the Legal Aid Institute of the Indonesian Women's Association for Justice (LBH APIK) to take the violence to legal action. However, proof is very difficult because domestic violence is not specifically regulated by law.<sup>25</sup>

Neneng's case became a milestone in proposing the Elimination of Domestic Violence Bill which was supported by the findings of many cases of domestic violence such as beatings, domestic rape and neglect.<sup>26</sup> Domestic Violence Bill was proposed in November 1997 due to the struggle of the Legal Aid Institute of the Indonesian Women's Association for Justice (LBH APIK) which held the first workshop with law enforcers, religious leaders, academics and victims' assistants. There are at least two results from the workshop, namely; 1). Agreement to mobilize a law criminalizing domestic violence, 2). Adopt a religious interpretation to support victims of

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<sup>23</sup> Atnike Nova Sigiro, "Strengthening Substantive Representation of Women through the Engagement Model of the Women's Movement with the DPR and DPRD in Indonesia," *Jurnal Perempuan* 24, no. 2 (2019): 115–23.

<sup>24</sup> Munir, "Domestic Violence in Indonesia."

<sup>25</sup> Nur Janti, "Mula KDRT Diusut," *Historia; Masa Lampau Selalu Aktual*, 2019, <https://historia.id/politik/articles/mula-kdrt-diusut-P140I/page/1>.

<sup>26</sup> Janti.

domestic violence. After that, LBH APIK prepared legal drafting by conducting comparative studies of several countries regarding policies to eliminate violence against women.<sup>27</sup>

The fall of the Soeharto regime in May 1998 opened up women's enthusiasm to continue advocating for the TPKS Bill because in the old order women activists realized the lack of programs to prevent violence against women.<sup>28</sup> The cause was the New Order era which limited political choices and an authoritarian, centralized government.<sup>29</sup> The tragedy of the collapse of the Soeharto regime gave birth to National Commission on Violence Against Women (Komnas Perempuan), which was formed in October 1998, whose aim was to eradicate violence and all forms of discrimination against women.<sup>30</sup> The emergence of the National Commission on Violence Against Women is a demand made by

women activists for the government to handle issues of sexual violence.<sup>31</sup>

After the fall of the New Order regime, it was a sign that women began to greatly influence the dynamics of social and political life, although there was still influence from the New Order circles.<sup>32</sup> Even so, the influence on the New Order group did not discourage them from fighting for the women's agenda. With a pro-women spirit, in 2000 women formed a community called the Parliamentary Women's Caucus of Republic of Indonesia (KPP RI). The main aim is to synergize women's struggles, provide access and effective communication in encouraging gender responsive policies.<sup>33</sup> In fact, women's struggle accompanied the democratization of the Indonesian state. The issuance of Presidential Instruction Number 9 of 2000 concerning Gender Mainstreaming in national development provides significance for the realization of gender equality and justice in the life of society and the country.<sup>34</sup> Davies in

<sup>27</sup> Munir, "Domestic Violence in Indonesia."

<sup>28</sup> Munir.

<sup>29</sup> The New Order era can be said to be a period with an authoritarian bureaucratic system format featuring the military as a partner to oversee development and have full control over the policies issued. See Faryda Ruslan, "Politik Hukum Islam Masa Orde Baru Dan Produk Perundang-Undangannya," *Al Qisthas: Jurnal Hukum Dan Politik* 10, no. 2 (2020): 53–76, <https://doi.org/10.37035/alqisthas.v10i2.2347>.

<sup>30</sup> The history of the National Commission on Violence Against Women began with demands from the Anti-Violence Society against Women which included three things, namely 1). Demanding an investigation into the May 1998 riots in which there were many attacks on women, 2). Demand that the perpetrator be tried strictly, 3). Demanding President B.J. Habibie to condemn the act of rape and apologize to the victim in public. See Siti

Nurwati Hodijah et al., "Komnas Perempuan 1998-2001: Proses Pembentukan Lembaga Negara Untuk Penghapusan Kekerasan Terhadap Perempuan Dan Pencarian Identitasnya," in *Rekam Juang Komnas Perempuan 16 Tahun Menghapus Kekerasan Terhadap Perempuan*, ed. Neng Dara Afiffah (Jakarta: Komnas Perempuan, 2014), 35, [www.komnasperempuan.or.id](http://www.komnasperempuan.or.id).

<sup>31</sup> Komnas Perempuan, "Komisi Nasional Anti Kekerasan Terhadap Perempuan," 2019.

<sup>32</sup> Aditya Perdana and Delia Wildianti, "Women Political Movements After 20 Years of Reformasi in Indonesia," *Jurnal Perempuan* 24, no. 1 (2019): 43–52.

<sup>33</sup> Andriana Venny, *Ada Untuk Membawa Perubahan: Refleksi Pengalaman Perempuan Anggota Parlemen Periode 2004-2009* (Jakarta: UNDP Indonesia, 2010).

<sup>34</sup> Presidential Instruction No. 9 of 2000 pioneered by Abdurrahman Wahid (Gus Dur), he wanted to provide an understanding that the state should place women

his research revealed that the presence of Presidential Instruction Number 9 of 2000 had a great influence on gender equality in development. The reason is so that there is an integration of the experiences of women and men in taking government policies.<sup>35</sup>

Therefore, the year 2000 was a time when women found the momentum to advocate more intensively for the TPKS Bill. This moment was carried out by holding a second workshop. The result was an agreement to form an Advocacy Network for the Eradication of Domestic Violence (Jangkar) which was made up of 15 organizations, including the Women's Crisis Center, the Organization of former Women's Police (mantan polisi Wanita), Women's religious organizations, Fatayat NU, Muslimat NU, Rifka Annisa Yogyakarta, Savi Amira Surabaya, Kalyanamitra, Gembala baik, Derapwarapsari,, and others. What is of concern is that in the period towards democracy, namely in the early 2000s, women activists, especially NGOs that implemented

anti-violence laws against women, actively carried out campaigns to support the birth of pro-women policies. As a result, in 2002, the Policy Advocacy Network for the Elimination of Violence Against Women (Jangka PKTP) was formed to replace Policy Advocacy Network (Jangka).<sup>36</sup>

LBH APIK mobilized the draft Domestic Violence Bill which was then continued by the PKTP Term for revision and then lobbied the government.<sup>37</sup> On the one side, they also developed a strategy to promote the draft bill proposal to the legislative body in several ways, namely; 1). Framing domestic violence as a public issue, 2). Conduct research and publish it, 3). Expanding advocacy networks with religious and community leaders, 4). Campaign on the impact of domestic violence, 5). Doing demonstrations, 6). Lobbying against parliament, and 7). Monitoring parliamentary deliberations regarding the Domestic Violence Bill.<sup>38</sup>

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equally in national development. See NU ONLINE, "Kenapa Gus Dur Banyak Dikagumi Perempuan?," NU ONLINE, 2018, <https://www.nu.or.id/daerah/kenapa-gus-dur-banyak-dikagumi-perempuan-x3iaR>.

<sup>35</sup> Sharyn Graham Davies and Nurul Ilmi Idrus, "Participating in Parliamentary Politics: Experiences of Indonesian Women 1995-2010," *Journal of Indonesian Social Sciences and Humanities* 3, no. 1 (2018): 81–97, <https://doi.org/10.14203/jissh.v3i1.47>.

<sup>36</sup> Sri Wiyanti Eddyono et al., "When and Why the State Responds to Women's Demands: Understanding Gender Equality Policy Change in Indonesia," *United Nations Research Institute for Social Development* (Switzerland, 2016), [https://unrisd.org/80256B3C005BCCF9/\(httpAuxPag](https://unrisd.org/80256B3C005BCCF9/(httpAuxPag)

es)/695474BA6D066870C1257FF60053961A/\$file/Indonesia%20claims%20making%20report.pdf. 37.

<sup>37</sup> The contents of the draft PKDRT Bill are still a very serious concern, namely related to the definition of violence, definition of family, protection of victims and criminalization of perpetrators, as well as prevention of violence. This was discussed internally so that all parties could agree on it and minimize internal opposition. lihat Eddyono et al.

<sup>38</sup> Dhewy and Sandiata in their research stated that a very influential strategy is the network advocacy strategy. This strategy emphasizes efforts to build networks with women's organizations in various regions in Indonesia which is then followed by communal campaigns. See Dhewy and Sandiata, "Political and Legal Novelty as the Contribution of Indonesian Women's Movement in the

After mobilizing the Domestic Violence Bill, in 2002 the LBH APIK association, which is also a member of the House of Representatives (DPR) and the the Policy Advocacy Network for the Elimination of Violence Against Women (Jangka PKTP), submitted the Domestic Violence Bill to parliament. This received support from the Parliamentary Women's Caucus of Republic of Indonesia (KPP RI) and made efforts to lobby political parties to push the Domestic Violence Bill into parliament. On March 21 2002, Legislation Committee (Baleg) held a Public Hearing (RDPU) which resulted in the reformulation and improvement of the July 6 2002 version of the text.<sup>39</sup> The lobbying carried out by LBH APIK and the National Commission on Violence Against Women (Komnas Perempuan) was effective and the Domestic Violence Bill was included in the initiative law which will be discussed in the parliamentary plenary session. on January 27 2003. Members of parliament who were pro against the bill helped women's groups to meet with Commission VII of the House of Representatives (DPR).<sup>40</sup>

Even though it has entered parliament, the Domestic Violence Bill has not received a completely positive response, but has also received negative responses from several government agencies. So contradictions arose in parliament which resulted in the parliamentary plenary session on the bill being postponed until May 2003.<sup>41</sup> The reason was that several members of parliament advised the chairman of commission VII not to discuss the bill. The pressure to immediately discuss the bill made parliament continue to hold a session in May 2003 which resulted in approval of the bill and a request for a presidential mandate (Ampres).<sup>42</sup>

The obstacle to women's struggle was that there were many political agendas that would be implemented in 2004. So the results of the trial in May 2003 were not published and were postponed until the 2004 election period. Bearing this in mind, women's activists pushed for more and started targeting the media so that they continued to intensively report on the continuation of the Domestic Violence Bill. Megawati Soekarnoputri<sup>43</sup> stated that the reason behind the delay was that the bill needed

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<sup>39</sup> Hukum Online, "Proses Advokasi RUU KDRT Sudah Digagas Sejak 1997," Hukum Online, 2004, <https://www.hukumonline.com/berita/a/proses-advokasi-ruu-kdrt-sudah-digagas-sejak-1997-hol10410?page=2>.

<sup>40</sup> Eddyono et al., "When and Why the State Responds to Women's Demands : Understanding Gender Equality Policy Change in Indonesia." 39.

<sup>41</sup> Dhewy and Sandiata, "Political and Legal Novelty as the Contribution of Indonesian Women's Movement in the Advocacy on Affirmative Policy in Election and Law on the Abolition of Domestic Violence." 83.

<sup>42</sup> The majority of factions approved the Secual Violence Criminal Bill and received notes from several Islamic party factions. Lihat Dhewy and Sandiata.

<sup>43</sup> She was the first female president in Indonesia who served from 2001-2004. Megawati was elected on July 23 2001 to replace the previous president, Abdurrahman Wahid (Gus Dur). See Dini Safitri, "Woman and

to be discussed carefully and wait for the 2004 election period. Another reason was that the Domestic Violence Bill had not yet received a consensus from several groups, including the Ministry of Religion, which opposed it.<sup>44</sup>

the Policy Advocacy Network for the Elimination of Violence Against Women (Jangka PKTP) term continues to push for the bill to be passed immediately before the election, because after the election there is no guarantee that the Domestic Violence Bill will be passed and it is very possible to advocate from the start with the elected parliament. Bearing this in mind, the the Policy Advocacy Network (Jangka) period looking at the candidacy of Megawati Soekarnoputri as president was the right moment to urge the issuance of a mandate. On the one hand, women activists threatened not to elect Megawati as president for the 2004-2009 period if she did not pass the Domestic Violence Bill. Women's struggle also moved in the mass mobilization sector, namely by carrying out a thousand umbrellas action on May 31 2004 in front of the state palace which was facilitated by the National Commission on Violence Against

Women (Komnas Perempuan) and the the Policy Advocacy Network. This action demanded the ratification which had been fought for since 1997 and questioned President Megawati's concern for the fate and dignity of women.<sup>45</sup>

Finally, at various pressures from parties pro the Domestic Violence Bill, President Megawati issued a mandate regarding the bill in June 2004. Parliament had until September 2004. One of the ways of advocating for the Domestic Violence Bill by women activists after the mandate was to publish debates on the draft openly and observe deliberations, or the parliamentary hearing on the "Fraksi Balkon". The result was that the bill was passed by the House of Representatives (DPR) as Law Number 23 of 2004 concerning the Elimination of Domestic Violence on 14 September 2004.<sup>46</sup>

### **Period of Ebb and Flow of the Gender Equality Bill**

After the 2004 election, women's relations with the consolidation of democracy in the reform era have also begun to strengthen. After the ratification of the Domestic Violence

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Political Communication: Megawati Dan Pemimpin Simbolik," *Jurnal Komunikasi* 9, no. 1 (2014): 49–58, <https://doi.org/10.20885/komunikasi.vol9.iss1.art4>. Lihat juga Kuswanto Kuswanto, "Transisi Kekuasaan Dari Abdurrahman Wahid Ke Megawati: Sebuah Cara Pandang Berbeda," *Refleksi Hukum: Jurnal Ilmu Hukum* 6, no. 2 (2022): 127–42, <https://doi.org/10.24246/jrh.2022.v6.i2.p127-142>.

<sup>44</sup> Eddyono et al., "When and Why the State Responds to Women's Demands : Understanding Gender Equality Policy Change in Indonesia." 40.

<sup>45</sup> Detik News, "Aksi Seribu Payung Tuntut UU Anti Kekerasan Rumah Tangga," Detik News, 2004, <https://news.detik.com/berita/d-159173/aksi-seribu-payung-tuntut-uu-anti-kekerasan-rumah-tangga>.

<sup>46</sup> Eddyono et al., "When and Why the State Responds to Women's Demands : Understanding Gender Equality Policy Change in Indonesia." 40.

Law, many gender issues emerged, so that products during this period were not free from gender sensitivity in them. In his research, Fadli shows the large influence of women in public policy, such as the emergence of Law no. 12 of 2006 concerning Protection of Witnesses and Victims, Law no. 21 of 2008 concerning Prevention of the Crime of Human Trafficking, Law no. 44 of 2008 concerning Pornography, to Law no. 36 of 2009 concerning Health.<sup>47</sup> Soetjipto also argued that this kind of policy must be accompanied by changes in the party system, the quality of women, and constituent networks.<sup>48</sup>

In 2010, an internal government movement emerged that pushed for a law on gender equality and justice, namely the Ministry of Women's Empowerment and Child Protection (KPPA). Positive responses came from various NGOs such as the Indonesian Women's Coalition (KPI) which believed they could overcome gender-based discrimination

and violence.<sup>49</sup> Not only that, the Pro-Women Prolegnas Working Network (JKP3) also gave a positive response to the formulation of the Gender Equality Bill and supported the performance of Commission VII to speed up its ratification.<sup>50</sup> There are several reasons why they are fighting for the bill, namely; 1). There is a gap in terms of women's welfare in various fields such as education, politics, culture and economics,<sup>51</sup> 2). In practice, anti-discrimination and violence against women policies have not been implemented properly,<sup>52</sup> 3) Eliminating discriminatory and violent practices in all sectors. Meanwhile, in her research, Sari, citing the Academic Nakah, stated that there are five objectives of the bill, namely; 1). Realizing relations between women and men who are equal in access, control and participation, 2). Creating a harmonious life, 3). Eliminate all forms of gender discrimination and violence, 4). Accelerate the achievement of substantive equality in all fields.<sup>53</sup>

<sup>47</sup> Yusuf Fadli, "Islam, Perempuan Dan Politik: Argumentasi Keterlibatan Perempuan Dalam Politik Di Indonesia Pasca Reformasi," *Journal of Government and Civil Society* 1, no. 1 (2017): 41–63.

<sup>48</sup> Ani Widayanti Soetjipto, *Politik Perempuan Bukan Gerhana* (Jakarta: Kompas, 2005).

<sup>49</sup> Gadis Arivia and Nurulfatmi Amzy, "Rejection on Gender Equality Draft Legislation: A Neglect against Indonesian Women's Cultural History," *Jurnal Perempuan* 20, no. 3 (2015): 231–40, <https://doi.org/10.34309/jp.v20i3.46>.

<sup>50</sup> Hukum Online, "JKP3 Desak DPR Loloskan RUU KKG," *Hukum Online*, 2014, <https://www.hukumonline.com/berita/a/jkp3-desak-dpr-loloskan-ruu-kkg-lt535619b06b776>.

<sup>51</sup> According to the Global Gender Gap Index (GGI), Indonesia obtained a GGI score of 0.6631 from the economic participation and opportunity component,

then 0.9574 from educational attainment, 0.9663 from health and survival, and 0.1334 from political empowerment. See Ayu Anastasia et al., *Representasi Politik Perempuan: Rancangan Undang-Undang Kesetaraan Dan Keadilan Gender* (Jakarta: Women Research Institute, 2014).

<sup>52</sup> Ayu Anastasia et al.

<sup>53</sup> Anita Aprilia Sari, "Perempuan Dan Politik Peran Kaucus Perempuan Parlemen Republik Indonesia (KPP RI) Periode 2009-2014 Dalam Mendorong Perumusan Rancangan Undang-Undang Kesetaraan Dan Keadilan Gender (RUU KKG)," *Repository UIN Syarif Hidayatullah Jakarta* (UIN Syarif Hidayatullah Jakarta, 2018), [http://repository.uinjkt.ac.id/dspace/handle/123456789/44470%0Ahttp://repository.uinjkt.ac.id/dspace/bitstream/123456789/44470/3/ANITA APRILIA SARI-FISIP.pdf](http://repository.uinjkt.ac.id/dspace/handle/123456789/44470%0Ahttp://repository.uinjkt.ac.id/dspace/bitstream/123456789/44470/3/ANITA%20APRILIA%20SARI-FISIP.pdf).

The struggle to draft the Gender Equality Bill began in 2010, KPPPA created an academic text and was optimistic that it would soon be submitted to parliament due to the increase in women's representation in parliament after the 2009 election.<sup>54</sup> Finally, the Gender Equality Bill was taken over by the Indonesian House of Representatives (DPR RI) for the 2009-2014 period, which was initiated by Commission VIII in charge of the issue of women's empowerment.<sup>55</sup>

Research conducted by the Women Research Institute (WRI) explains that increasing women's representation in parliament has an influence on the progress of the Gender Equality Bill in parliament. The Indonesian House of Representatives (DPR RI) included the bill in the 2012 Prolegnas list as a priority bill before the working period ended in 2014. Since 2012, women have carried out various activities, including holding Public Hearing Meetings (RDPU) and consulting with

NGOs.<sup>56</sup> Women's struggle for legalization is not without obstacles, after the emergence of the academic text, pros and cons began to emerge, so that the Gender Equality Bill underwent six revisions in the period 2011-2014.<sup>57</sup> Two changes in 2011 and 2013 and four changes in 2013 and 2014.<sup>58</sup> There are two important points regarding the pros and cons that arise in the Gender Equality Bill, namely; 1). There is contestation in the 2014 elections in parliament, 2). Islamist parties and conservative Islamic organizations that question gender equality.<sup>59</sup> However, reason number two really influences the legislative process.<sup>60</sup>

The results of 2012-2013 session show a map of supporters and opponents. The party map that supports is Hanura, Democrat, Gerindra, PAN and PKB. The map of government institutions showing a pro attitude towards the bill is the Director General of Social Empowerment of the Indonesian Ministry of Social Affairs, the Ministry of

<sup>54</sup> In this period, women had quite significant political involvement, this was based on the increase in women who began to understand politics and join political parties. In this period, women's representation in parliament increased compared to the previous period. There are 101 women (18.10%) in parliament. See Sandy Diana Mardlatillah, "Perempuan Dan Politik: Peran Perempuan Dalam Dunia Politik Periode 2009-2019," *Equalita: Jurnal Studi Gender Dan Anak* 4, no. 2 (2022): 161-67, <https://doi.org/10.24235/equalita.v4i2.12901>.

<sup>55</sup> Sari, "Perempuan Dan Politik Peran Kaukus Perempuan Parlemen Republik Indonesia (KPP RI) Periode 2009-2014 Dalam Mendorong Perumusan Rancangan Undang-Undang Kesetaraan Dan Keadilan Gender (RUU KKG)." 61.

<sup>56</sup> Ayu Anastasia et al., *Representasi Politik Perempuan: Rancangan Undang-Undang Kesetaraan Dan Keadilan Gender*. 29.

<sup>57</sup> Sari, "Perempuan Dan Politik Peran Kaukus Perempuan Parlemen Republik Indonesia (KPP RI) Periode 2009-2014 Dalam Mendorong Perumusan Rancangan Undang-Undang Kesetaraan Dan Keadilan Gender (RUU KKG)." 55.

<sup>58</sup> Sari.

<sup>59</sup> Agus Moh. Najib, "Menakar Ruu Kkg Dari Perspektif Kajian Hukum Islam," *Musāwa Jurnal Studi Gender Dan Islam* 11, no. 2 (2012): 197-212, <https://doi.org/10.14421/musawa.2012.112.197-212>.

<sup>60</sup> Rizky Bangun Wibisono, "Pencapaian Identitas Politik Perempuan Di Indonesia," *Jurnal Mengkaji Indonesia* 1, no. 1 (2022): 67-80, <https://doi.org/10.59066/jmi.v1i1.61>.

Women's Empowerment and Child Protection (Kemenpppa), the National Commission on Violence Against Women (Komnas Perempuan), the Indonesian Child Protection Commission (KPAI), and the ministry of health (Kemenkes). Women's organizations pro the Gender Equality Bill are NGOs consisting of WRI, the Indonesian Women Entrepreneurs Association (IWAPI), as well as the Center for Women's Studies (PSW) which includes Syarif Hidayatullah State Islamic University Jakarta, and Sunan Kalijaga State Islamic University Yogyakarta. Support also comes from religious-based organizations such as Indonesian Hindu Dharma Women, Indonesian Catholic Women, Indonesian Buddhist Women, PP Fatayat NU.<sup>61</sup>

Meanwhile, opponents of the Gender Equality Bill also came from political parties such as Partai Keadilan Sejahtera (PKS). Then from the Islamic institution the Indonesian Ulema Council (MUI). Then the Islamic organizations that refused consisted of the Indonesian Women's Islamic Organization Deliberative (BMOIWI), the Indonesian Young Intellectual and Ulama Council (MIUMI), the Institute for the Study of Islamic Thought and Civilizations (INSISTS), Hizbut Tahrir

Indonesia (HTI), and Muslimat Hidayatullah.<sup>62</sup> Then the parties that are still confused about whether they support it or not are Golkar, PPP and PDIP.

The differences of opinion which are pros and cons involve at least four discussions, namely; 1). Regarding the definition of gender contained in the Gender Equality Bill, 2). Regarding the concept of equality between men and women, 3). Regarding the freedom to choose a wife or husband, 4). Arrangement of equal roles and responsibilities as husband and wife.<sup>63</sup> These four discussions were strongly opposed by Islamic organizations such as Msulimat Hidayatullah, INSIST, MIUMI. They argued that was contrary to Islamic teachings and also that gender understanding intersects with liberalism and Marxism.<sup>64</sup>

Many opinions from various regarding the legislative process for the Gender Equality Bill has not dampened the desire of women to advocate and oversee the legislative process for the Bill. Those who support carry out intensive communication with the Parliamentary Women's Caucus of Republic of Indonesia (KPP RI) to open up discussion space and become an intermediary between the House of

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<sup>61</sup> Gadis Arivia and Nurulfatmi Amzy, "Rejection on Gender Equality Draft Legislation: A Neglect against Indonesian Women's Cultural History," *Jurnal Perempuan* 20, no. 3 (2015): 231–40, <https://doi.org/https://doi.org/10.34309/jp.v20i3>.

<sup>62</sup> Kafil Yamin, "Indonesia: Islamists Stall Gender Equality Bill," Global Information Network, 2012, <https://www.proquest.com/docview/1011640468>.

<sup>63</sup> Ayu Anastasia et al., *Representasi Politik Perempuan: Rancangan Undang-Undang Kesetaraan Dan Keadilan Gender*. 32.

<sup>64</sup> Arivia and Amzy, "Rejection on Gender Equality Draft Legislation: A Neglect against Indonesian Women's Cultural History," 2015. 234.

Representatives (DPR) and civil society. However, within the Parliamentary Women's Caucus of Republic of Indonesia (KPP RI), problems were encountered which slowed down the flow of advocacy for the Gender Equality Bill. Veny in his research stated that the problems are; 1). Members are busy with work as council members, 2). Lack of coordination and cooperation between members, 3). There is an element of seniority and elements of political parties in it, 4). Lack of solidarity when holding meetings, 5). The lack of funds has an impact on program implementation.<sup>65</sup>

The many tensions and contestations from both internal and external parties have resulted in the Gender Equality Bill being postponed. In September 2014 the House of Representatives (DPR) approved the bill to be discussed and decided in plenary session, however the the House of Representatives (DPR) term of office ended in October 2014. Then the KKG Bill was included in the 2015-2019 Prolegnas, but during 2015-2017 the House of Representatives (DPR) was not a priority for discussion.<sup>66</sup> The Women's

Coalition in a 2017 press release stated that this shows the the House of Representatives (DPR) weak commitment for the 2014-2019 period in realizing the gender equality law. Therefore, the Women's Coalition is pushing to re-enter the Gender Equality Bill into the 2018 National Legislation Priority List and review comprehensively.<sup>67</sup> In fact, until 2023, Legislation Committee (Baleg) did not include the Gender Equality Bill in the 41 priority bills for 2023.<sup>68</sup>

### **The Ebb and Flow of the Sexual Violence Criminal Law**

The beginning of the Sexual Violence Criminal Law actually began to appear in 2010, the content of the material began to be designed and used as discussion in legal discourse within certain groups. The increasing cases of sexual violence, such as sexual, physical and psychological, which have implications for victims, have led communities and NGOs to take the initiative to submit the Law on the Elimination of Sexual Violence (RUU PKS), currently known as the Sexual Violence Criminal Law. Not only that, from a legal culture perspective, law enforcers' assessments

<sup>65</sup> Andriana Veny, *Ada Untuk Membawa Perubahan* (Jakarta: UNDP Indonesia, 2010). 59-60.

<sup>66</sup> Koalisi Perempuan, "Seminar Pentingnya Keadilan Dan Kesetaraan Gender Di Indonesia," Koalisi Perempuan, 2017, <https://www.koalisperempuan.or.id/2017/01/22/sem-inar-pentingnya-keadilan-dan-kesetaraan-gender-di-indonesia/>.

<sup>67</sup> Koalisi Perempuan, "Siaran Pers Hari Perempuan Internasional 2017," Koalisi Perempuan, 2017,

<https://www.koalisperempuan.or.id/2017/03/08/siar-an-pers-hari-perempuan-internasional-2017/>.

<sup>68</sup> Badan Legislasi, "Baleg Bersama Pemerintah Tetapkan 41 RUU Prioritas Tahun 2023," DPR RI, accessed July 26, 2023, <https://www.dpr.go.id/berita/detail/id/41994/t/Baleg-Bersama-Pemerintah-Tetapkan-41-RUU-Prioritas-Tahun-2023>.

of women as victims of sexual violence forget the victim's perspective. The growing stigma is as if women are at fault for every sexual crime. The rapid growth of the community accompanied by a parliamentary political climate that supports gender equality means that the PKS Bill is being discussed more intensely, but the consequences of the democratic climate are starting to become visible. The large number of aspirations showing pros and cons makes the PKS Bill progress very slowly in finding the right formulation in the dynamics of legislation.

In 2016, the National Commission on Violence Against Women and the forum providing services for victims of sexual violence (FPL) submitted the academic text of the Sexual Violence Bill to Committee III Regional Representatives Council (DPD). The proposers were Nihayatul Wafiroh (F-PKB) and Ammy Amalia (F-PAN) who were supported by Rahayu Saraswati (F-Gerindra) and Diah Pitaloka (F-PDIP).<sup>69</sup> The draft PKS Bill which was signed by 70 members of the House of Representatives (DPR) was then followed up in 2017 with number LG/06211/DPR RI/IV/2017. Legislation Committee (Baleg) then completed harmonization of the text with several laws and

agreed that the PKS Bill would be included in the 2016-2019 national legislative program. The response to the Sexual Violence Bill also came from the president through letter number R.25/Pres/06/2017 which assigned the Ministry of Women's Empowerment and Child Protection (kemenpppa), the Ministry of Social Affairs (kemensos), the Ministry of Home Affairs (kemendagri), the Ministry of State Apparatus Empowerment (Kemenpanrb), Ministry of Law and Human Rights (Kemenkumham), and Ministry of Health (Kemenkes) took part in discussing and drafting the Sexual Violence Law.<sup>70</sup>

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<sup>69</sup> Cakra Wikara Indonesia, "10 Tahun Perjalanan RUU TPKS Menjadi UU TPKS," *Cakra Wikara Indonesia* (Jakarta Selatan, 2022), <https://cakrawikara.id/wp-content/uploads/2022/05/15-Apr-2022-10-Tahun-Perjalanan-RUU-TPKS-menjadi-UU-TPKS.pdf>.

<sup>70</sup> ICJR, "Perjalanan (Panjaaaang) Menanti RUU Penghapusan Kekerasan Seksual Bagaimana Perjalanannya Dan Apa Yang Harus Didorong Ada Dalam RUU PKS" (Jakarta Selatan, 2022), <https://icjr.or.id/wp-content/uploads/2022/01/final-to-upload-draft-progress-report-RUU-TPKS-.pdf>.

**WOMEN AND LEGISLATION: EBB AND FLOW OF THE STRUGGLE TO ESTABLISH POST-REFORM**  
 Mohammad Fauzan Ni'ami, Mufidah Ch

In 2017 the the Ministry of Women's Empowerment and Child Protection (kemenpppa) and Commission VIII of the the House of Representatives began discussing the PKS Bill, in the meeting at least four points were produced, namely: 1). Regarding the main points of discussion of the Sexual Violence Bill, 2). Regarding the Problem Inventory List (DIM) of the Sexual Violence Law in the permanent category, changes to the articles and substance which will be discussed by the Working Committee (Panja), 3). Regarding the agreement that the Problem Inventory List (DIM) of the Sexual Violence Bill has an editorial category which will be discussed by the Drafters and submitted to the Working Committee (Panja), 4). Regarding the formation of the PKS Bill Working Committee. Thus, in December 2017 the Sexual Violence Bill was included in the 2018 priority National Legislation Program.<sup>71</sup>

Since 2018, discussions have become more intensive, advocacy continues to be carried out by NGOs, political party cadres, women's activists by opening Forum Group Discussions (FGD), scientific studies, discussions, seminars and so on. However, the debate still continues among academics, activists and political parties in parliament. Throughout 2018-2019, discussion of the bill in

Commission VIII the House of Representatives (DPR) was still tough. This can be seen in the timeline table below;

Date	Actor	Discussion
January 23, 2018	Working Committee Commission VIII the House of Representatives (DPR RI), The National Commission on Violence against Women (Komnas Perempuan), and the Service Providers Forum (FPL)	<ul style="list-style-type: none"> <li>➤ Confirmation of the definition of sexual violence.</li> <li>➤ Elements of gender relations.</li> <li>➤ Sexual harassment phrase.</li> <li>➤ Harmonization with the Draft Criminal Code.</li> <li>➤ Accuracy of the title of the Bill on the Elimination of Sexual Violence.</li> </ul>
January 29, 2018	Working Committee Commission VIII the House of Representatives (DPR RI), and Jurist: Prof. Dr. Ir. Euis Sunarti, M.Si, Dr. Chairul Huda, M.H., Prof, Dr. Topo Santoso, M.H.	<ul style="list-style-type: none"> <li>➤ Paradigm and approach to the Bill on the Elimination of Sexual Violence.</li> <li>➤ Techniques for formulating criminal law norms.</li> <li>➤ The legal framework for sexual violence.</li> <li>➤ Systematic Bill on the Elimination of Sexual Violence.</li> </ul>
31 Januari 2018	Working Committee Commission VIII the House of Representatives (DPR RI), and Family Love Alliance (ALLA), Hindu Dharma woman (Wanita Hindu Dharma)	<ul style="list-style-type: none"> <li>➤ Definition of sexual violence.</li> <li>➤ Forms of sexual violence.</li> <li>➤ LGBT issues are affirmed in the Bill on the Elimination of Sexual Violence.</li> </ul>
January 31, 2018	Working Committee Commission VIII the House of Representatives (DPR RI), and religious forums (MUI, PGI, WALUBI, KUPI)	<ul style="list-style-type: none"> <li>➤ Simplification of the definition of sexual violence.</li> <li>➤ Description of forms of sexual violence.</li> <li>➤ Criminal synchronization with the Criminal Code (KUHP).</li> <li>➤ Dimensi pencegahan, pemulihan</li> <li>➤ The content of the principle of personality validity in the Bill.</li> <li>➤ The content of procedural law is to make it easier for victims to get their rights.</li> </ul>
October 25, 2018	Working Committee Commission VIII the House of Representatives (DPR RI), and psychologist (DR. Ikhlan Gumilar, DR. Bagus Priyono), and health professional (Dr. Dewi Inong Irana)	<ul style="list-style-type: none"> <li>➤ Sexual intercourse that can transmit infection.</li> <li>➤ homosexual acts.</li> <li>➤ Highlight sexual desire phrases.</li> <li>➤ Criticism of the Bill on the Elimination of Sexual Violence Article 153 with the definition of a child's age.</li> <li>➤ Affirmative criticism of pedophilia.</li> </ul>
July 18, 2019	Working Committee Commission VIII the House of Representatives (DPR RI)	<ul style="list-style-type: none"> <li>➤ Agreement on substance such as title, definition of sexual violence, and types of sexual violence taking into account input from various groups.</li> <li>➤ Agreement on the Problem Inventory List (DIM) in the shortest possible time</li> </ul>

**Table 1 timeline of dialogue for discussion of the 2018-2019 Sexual Violence Bill<sup>72</sup>**

In 2019, the Sexual Violence Criminal Bill was still being discussed and at the same time the Indonesian Ulema Council requested that be discussed in more detail by taking into account the religious values that exist in Indonesia.<sup>73</sup> Meanwhile, several political party

Tirto.id, 2019, <https://tirto.id/ruu-pks-belum-disahkan-tak-ada-jaminan-dibahas-dpr-periode-depan-eibt>.

<sup>71</sup> ICJR.

<sup>72</sup> ICJR.

<sup>73</sup> Fadiyah Alaidrus, "RUU PKS: Belum Disahkan & Tak Ada Jaminan Dibahas DPR Periode Depan,"

factions suggested that Bill be integrated with Pancasila values, not the western paradigm. This condition was further slowed down by the postponement of the Sexual Violence Bill until the end of the 2019 Election.<sup>74</sup> However, in December 2019 that bill was included in the 2020 Priority Prolegnas. The difficult discussion and the search for a formulation that was agreed upon by all parties meant that the Sexual Violence Bill was excluded from the 2020 priority Prolegnas by Legislation Committee (Baleg). This makes all groups fighting feel very disappointed amidst the increasing cases of sexual violence.

In 2020, female initiators and actors such as National Commission on Violence Against Women (Komnas Perempuan), women's activists, and the Parliamentary Women's Caucus of Republic of Indonesia (KPP RI) made improvements to the draft Sexual Violence Bill which was then brought to the Legislative Council to become a bill proposed by the the House of Representatives (DPR). The draft changes were finally successful and was re-entered into the National Legislation Program, which was proposed by the Nasdem faction (Taufik Basari), the PDIP faction (Diah Pitaloka), and the PKB faction (Luluk Nur Hamidah) in March 2021. On the

one hand, developments were also initiated by the government by forming Task Force for Discussion of the Sexual Violence Bill which is coordinated directly by the President's staff. During its development, the Elimination Sexual Violence Bill changed its name to the Sexual Violence Bill in September 2021 and was continued with a Working Committee (Panja) meeting to discuss.

In December 2021, the Legislative Council has completed the draft of the Sexual Violence Bill, but there are still factions of political parties who are pro and against so that contestation between political parties arises again. Of at least 9 political party factions, there is 1 faction that rejects it, namely the PKS faction, 1 faction that wants a delay in ratification, namely Golkar, while the PPP, PDIP, PAN, Gerindra, Demokrat, Nasdem and PKB factions agree. This has implications in that the Sexual Violence Bill was not discussed at Plenary Session to be ratified as a initiative.<sup>75</sup> As a result of contestation between factions, women activists held demonstrations to urge it to be legalized immediately, considering the increasing number of cases of sexual violence.<sup>76</sup>

Pressure emerged, on January 4 2022, President Joko Widodo encouraged the

<sup>74</sup> Cakra Wikara Indonesia, "10 Tahun Perjalanan RUU TPKS Menjadi UU TPKS."

<sup>75</sup> Cakra Wikara Indonesia.

<sup>76</sup> Fathiyah Wardah, "Aktivis Perempuan Dorong Pembahasan & Pengesahan RUU TPKS Segera," VOA

Indonesia, 2021, <https://www.voaindonesia.com/a/aktivis-perempuan-dorong-pembahasan-pengesahan-ruu-tpks-segera/6349501.html>.

acceleration of the ratification, through Deputy V, the Presidential Chief of Staff, explaining the government's commitment to consistently push for the ratification of the TPKS Bill to protect victims of sexual violence. The President asked the Ministry of Law and Human Rights (Kemenkumham) and the Ministry of Women's Empowerment and Child Protection (kemenpppa) to consult with the House of Representatives (DPR) to speed up ratification. The President also asked the Government's Duties to immediately prepare a Problem Inventory List (DIM) for the draft from the the House of Representatives (DPR).<sup>77</sup> The President's statement made the Problem Inventory List (DIM) discussed with the Working Committee. Then on April 5 2020 the Formulation Team and Synchronization Team examined the harmonization of the substance of the Sexual Violence Criminal Bill which finally entered the Plenary Meeting in Legislation Committee (Baleg) by approving to become the

Sexual Violence Law. On April 12 2020, a Plenary Session of the House of Representatives (DPR) was held to ratify.

### **Factors in the Ebb and Flow of Women's Struggle: From Patriarchal Politics to Women's Hegemony.**

Discussing women's struggle to eliminate violence after reform will show the dynamics of ups and downs in it. Women as minority actors in parliament have to deal with men who have more quotas than women. In fact, the law regulates through article 65 paragraph (1) of Law Number 31 of 2003 concerning Elections which affirms a 30% quota for women legislators.<sup>78</sup> Then Law Number 2 of 2008 concerning Political Parties (UU Political Parties) article 2 paragraphs (2) and (5) which talks about representation in political parties.<sup>79</sup> However, women have never reached the 30% quota in House of Representatives (DPR).<sup>80</sup>

<sup>77</sup> Kantor Staf Presiden, "Tindak Lanjut Pernyataan Presiden Tentang RUU TPKS," Kantor Staf Presiden (Jakarta, 2022), <https://www.ksp.go.id/en/tindak-lanjut-pernyataan-presiden-tentang-ruu-tpks.html>.

<sup>78</sup> "(1) Each Election Contesting Political Party may nominate candidates for Member of the DPR, Provincial DPRD, and Regency/City DPRD for each Electoral District by taking into account the representation of women of at least 30%." DPR RI, "Undang-Undang No. 12 Tahun 2008 Tentang Pemilihan Umum Anggota DPR, DPRD, Dan DPD," Pub. L. No. 12 Tahun 2003, <https://peraturan.bpk.go.id/Home/Details/43012> (2003), bisnis ritel - ekonomi.

<sup>79</sup> "(2) The establishment and formation of Political Parties as referred to in paragraph (1) includes 30% (thirty percent) representation of women. (5) The management of political parties at the central level as referred to in paragraph (3) is

*structured to include a minimum of 30% (thirty percent) female representation.*" DPR RI, "Undang-Undang No. 2 Tahun 2008 Tentang Partai Politik," Pub. L. No. 2 Tahun 2008 (2008), <https://peraturan.bpk.go.id/Home/Details/38859/uu-no-2-tahun-2008>.

<sup>80</sup> In the 1999 elections there were 9% women in the legislature. 2004 election increased to 11.8%. The 2009 election reached 17.86%. The 2014 election fell to 17.32%. The 2019 election reached 20.52%. This means that until now the 30% quota has not been reached and the rest is dominated by men. See Eva Mazrieva, "Mengapa Perempuan Tak Kunjung Capai Kuota 30% Di DPR?," VOA Indonesia, 2022, <https://www.voaindonesia.com/a/mengapa-perempuan-tak-kunjung-capai-kuota-30-di-dpr-/6452476.html>.

Suwono stated that the low participation of women in parliament is a product of patriarchal politics, so that men dominate in expressing opinions and negotiating the emergence of policies.<sup>81</sup> Patriarchal politics is a massively structured system of male domination over women. Walby paints a picture of patriarchal politics as public patriarchy which stereotypes men as those who fill public spaces, including the realm of state politics.<sup>82</sup> Because patriarchal politics is formed through ideology and culture, the political map views and places women in a non-central position.<sup>83</sup>

The existence of patriarchal politics is the main cause of obstacles to the ratification of anti-violence policies against women. In the drafting of the Domestic Violence Law, for example, it took almost 6 years for it to become law. This is due to the lack of intensive support from the majority of parliament for the ratification of this law because it is considered to be in a vulnerable zone and requires caution. Domestic violence at that time was a sensitive issue in a society that adhered to a patriarchal culture. When viewed from the theory of patriarchy put forward by Walby, the criminalization of perpetrators of domestic

violence greatly injures husbands, considering that in the context of patriarchy men are the ones who dominate and commit violence against women.<sup>84</sup>

Likewise with the Gender Equality Bill which has not yet been ratified. Policy material with gender content is still not accepted by the majority of society, especially in the context of the political map and legislation in Indonesia. The large number of groups who oppose the Gender Equality Bill on the grounds that it is not in accordance with Islamic norms shows that they are concerned about the collapse of male dominance in the public sphere and conservative circles who reject the concept of gender. As the argument put forward by the Muslimat Hidayatullah Organization rejected the issue of equality on the grounds that men are women's leaders. Likewise, HTI believes that the Gender Equality Bill is very dangerous because it will reduce men's authority.<sup>85</sup> Inequality relations between supporters and opponents are evidence of the contested interests of each gender in the political arena.

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<sup>81</sup> Nurbaity Prastyananda Yuwono, "Perempuan Dalam Kungkungan Budaya Politik Patriarkhis," *Muwazah* 10, no. 2 (2018): 96–115, <https://doi.org/10.28918/muwazah.v10i2.1781>.

<sup>82</sup> Sylvia Walby, *Theorizing Patriarchy* (London: Wiley Blackwell, 1991). 24.

<sup>83</sup> Walby. 90

<sup>84</sup> Sylvia Walby, *Gender Transformations* (New York: Routledge, 1997). 175

<sup>85</sup> In 2009-2014, women's representation in parliament was only 101 while men were 459, then in 2014-2019 the number of women in parliament was only 97 and men dominated with a total of 463, then in 2019-2024 the number of women increased slightly, namely 118 and 457 men. See Juniar Laraswanda Umagapi, "Women's Representation In The 2019 Parliament Election: Challenges And Opportunities," *Journal Kajian*, 2020, 19–34, <https://doi.org/10.22212/kajian.v25i1.1886>.

This is as stated by Walby in his book entitled "Gender Transformations".<sup>86</sup>

Not only that, patriarchal politics is also the cause of the decline in the discussion of the Sexual Violence Law. This law was initiated in 2010 and passed in 2022. It took 12 years for women to advocate and negotiate policies to eliminate sexual violence against women. In the context of patriarchal politics, male domination in parliament hampered the flow of approval and was briefly expelled from the National Legislation Program because it was not included in the 2020 priority bill by Legislation Committee (Baleg). In his research, Umagapi describes the percentage of women in parliament as being inversely proportional to the percentage of men. The imbalance in the number of men and women in parliament makes negotiations on the Sexual Violence Criminal Law difficult because of the quantity struggle in parliament. This was stated by Rahmanto et al who emphasized that the lack of women's representation in parliament will lead to a reduction in policies with a gender perspective.

Thus, patriarchal politics becomes a major obstacle for women to fight for policies against violence against women. A political

map dominated by men and a male-dominated parliament influences the dynamics of the Domestic Violence Law, Gender Equality Bill and Sexual Violence Criminal Law. Ultimately, the resulting contestation also resulted in a lack of parliamentary empathy and attention to the policy. Wayan and Nyoman in their research also stated that the lack of empathy and attention to gender-based policies is a characteristic of patriarchal politics which has become a system in Indonesia.<sup>87</sup> The slow progress of the Domestic Violence Law, the Gender Equality Bill and the Sexual Violence Criminal Law reflects the existence of patriarchal politics, in this case patriarchy has an interest in perpetuating the power structure it has through the reduction of gender-based policies.

In connection with the presence of patriarchal politics, it also seems to be a trigger for women to continue to push forward and fight for pro-women policies. In this research, women's struggles show the importance of building women's awareness about the obstacles they have faced but also building awareness about making changes. In this case, hegemony is a strategic step taken by women to defeat and fight male domination in parliament.

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<sup>86</sup> Fajar Rahmanto et al., "Women's Representation through Political Parties in Parliament Period of General Election 2019-2024," *Politik Indonesia: Indonesian Political Science Review* 6, no. 3 (2021): 336–59, <https://doi.org/10.15294/ipsr.v6i1.22666>.

<sup>87</sup> Krisna Yuda I Wayan and Subanda Nyoman, "Political Phenomenon of Women in Culture Patriarchy

in Gianyar, Bali," *Budapest International Research and Critics Institute (BIRCI-Journal): Humanities and Social Sciences* 3, no. 3 (2020): 2158–64, <https://doi.org/10.33258/birci.v3i3.1148>.

In the perspective of hegemony, women's awareness to fight for policies to eliminate violence against women is the result of the intensity of political awareness, which projects women's interests above men's.<sup>88</sup>

In the perspective of hegemony theory, Gramsci stated that hegemony is a consensus carried out to achieve victory.<sup>89</sup> In this context, hegemony when applied to women who are a minority in parliament refers to the agenda used to win power that tends to be patriarchal. The hegemony carried out by women to pass the Domestic Violence Law, the Gender Equality Bill and the Sexual Violence Criminal Law is to interact with the community to unite to form a power conjuncturally until they can control the parliamentary arena with the votes they get.

The hegemony used by women also functions to mobilize the masses to voice opinions in public spaces, such as taking to the streets to carry out demonstrations, as was done to press for the ratification of the Domestic Violence Law and the Sexual Violence Criminal Law. This is in line with Tezcür's research which revealed that mass mobilization was used to exercise control and lead public opinion to support women.<sup>90</sup> Therefore, holding workshops, discussions and advocacy is part of

attracting community sympathizers and building networks to support these policies. Dhewy in his research also said that networking has the function of expanding networks and synergizing with civil society organizations, academics, state institutions, political parties and parliament.<sup>91</sup>

Not only that, women's hegemony for women's political representation in policies to eradicate violence does not only involve their identity as women. Rather, it is about bringing women's identity as a guide to the direction of a country's policies so as not to give rise to gender-biased policies. Women's struggle against the elimination sexual conveys a message about the position of women who experience violence. For this reason, it can be said that the culmination of women's struggle represents hegemony over policy direction. This is relevant to Gramsci's theory of hegemony regarding the expansion of control over existing political strategy images in a patriarchal political environment.

## Conclusion

Based on discussions regarding women's struggle for the legalization of eliminating violence against women after reform, we found that there were ups and downs

<sup>88</sup> Antonio Gramsci, *Selections from the Prison Notebooks* (New York: International Publisher, 1971). 245

<sup>89</sup> Gramsci. 181

<sup>90</sup> Güneş Murat Tezcür, "A Path out of Patriarchy? Political Agency and Social Identity of Women

Fighters," *Perspectives on Politics* 18, no. 3 (2020): 722–39, <https://doi.org/10.1017/S1537592719000288>.

<sup>91</sup> Dhewy and Sandiata, "Political and Legal Novelty as the Contribution of Indonesian Women's Movement in the Advocacy on Affirmative Policy in Election and Law on the Abolition of Domestic Violence." 85.

in the configuration of the formation of policies to eliminate violence against women. We describe a policy periodization map based on women's struggles in initiating and advocating for these policies, namely the periodization of the ups and downs of the Domestic Violence Law from 1997 to 2004, the Gender Equality Bill from 2010 to 2023, and the Sexual Violence Criminal Law from 2010 to 2022. We argue that in the advocacy process, women have various kinds of obstacles. The factor that causes the decline of women's struggle is the ingrained patriarchal political culture. The dominance of men in parliament makes women a minority and in a less central position. So the negotiation process proceeded very slowly because it collided with patriarchal political ideology. In Walby's patriarchal perspective, men dominating parliament will cause struggles which have implications for the struggle for the central political arena for producing policies. Not only that, the presence of the conservative Isla group has also become an obstacle to pro-women policy negotiations. Meanwhile, the factor that escalated women's struggle in forming policies to eliminate violence was the hegemony exercised by women. In Gramsci's hegemony perspective, women's awareness to fight for policies to eliminate violence against women is the result of the intensity of political awareness that projects women's interests above men's. Hegemony carried out by women is interacting with society to unite to form

power conjuncturally until they can control the parliamentary arena with a large number of votes. Women's hegemony functions to mobilize the masses to support steps to ratify the policy in public spaces by holding demonstrations.

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